



MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, NOVEMBER 15, 2021

LAND USE PUBLIC HEARING

The Board of County Commissioners met at 6:30 p.m., with Matt Lafferty, Principle Planner. Chair Kefalas presided, Commissioner Stephens and Commissioner Shaddock-McNally were present. Also, present were Jenn Cram, Community Development; Lesli Ellis, Community Development Director; Daylan Figgs, Department of Natural Resources Director; Mark Peterson, County Engineer; Elizabeth Garvin, Consultant-Clarion Associates; Frank Haug, Assistant County Attorney; and Deirdre O'Neill, Deputy Clerk.

1. AMENDMENTS TO THE LAND USE CODE REGARDING DEVELOPMENT STANDARDS (ELECTRIC VEHICLE PARKING): This is a request to amend article 4.0 development standards by adding standards for electric vehicle parking spaces to section 4.6., off-street parking and loading.

Matt Lafferty, Principal Planner, explained to the Board that on September 27, 2021, the Board of County Commissioners' land use hearing, staff presented code amendments regarding parking, landscaping, and buffering standards. Included in the code amendments were suggested Electric Vehicle (EV) parking standards, which included provisions for EV-Capable, EV-Ready and EV-Installed parking spaces. However, the standards as proposed did not necessitate any of the required parking spaces for a property to be EV- Installed. Because the BCC believed that new parking lots should be designed to include some EV-Installed spaces, not just EV-Capable or EV-Ready spaces, the Board opted to continue their decision to November 15, 2021, allowing staff and the consulting team to evaluate how other communities are implementing EV standards.

Based upon research by the consultants of other communities throughout Colorado and other western states, staff is proposing revised EV parking standards. The revised standards propose that 5% percent of the overall EV spaces for multi-family and nonresidential developments be EV-Installed, and the remaining required EV spaces be EV-Capable or EV- Ready. Additionally, the proposed standards require that new single-family developments include a provision that one of the two required off-street parking spaces include an EV-Installed station.

REVIEW CRITERIA

Amending the text of this Code is a matter committed to the legislative discretion of the Board of County Commissioners. To approve a change in the code text, the Planning Commission in their review and recommendation, and the County Commissioners in their review and decision, shall consider whether the proposed change is consistent with the Comprehensive Plan and the intent and purpose of this Code.

The primary objective of these code amendments is to align the Land Use Code with the objectives of the Comprehensive Plan adopted in 2019, which included formulating modernized regulations that respond to context of land use applications, as well as the evolving technological design feature of current developments. Staff believes that the proposed EV parking standards react to current parking trends and provide flexibility regarding the urban and rural diversity of the County.

Mr. Lafferty gave a brief presentation explaining the differences between EV-Capable Spaces, EV-Ready Spaces and EV-Installed Spaces. He went over the number of spaces required in a single-family detached and duplex dwelling as well as all other household living uses.

The Commissioners did have questions of staff relating to mobile home parks

Chair Kefalas opened the hearing for public comment.

No members of the public either in person or online addressed the Board.

Chair Kefalas closed public comment.

The Commissioners thanked the staff for all their hard work with adding more infrastructure into our community. They also commented on ozone levels and one of the biggest sources is the emissions from automobiles. This is a reasonable and tangible update to our Land Use Code to incentivize and encourage the use of electric vehicles.

RECOMMENDATION

The Community Development Department recommends that the Board of County Commissioners approve Land Use Code Amendments to Article 4.0. Development Standards by adding Section 4.6.7.H. Electric Vehicle Parking Spaces found in File 21-LAND0258 – Development Standards Code Amendments and Attachments A (redline version) and B (clean version) as proposed and subject to the following condition:

1. The effective date of the regulations shall be December 15, 2021.

MOTION

Commissioner Stephens moved that the Board of County Commissioners, approve the Land Use Code Amendments for Electric Vehicle Parking Spaces, File #21-CODE0258, as proposed by the Community Development Department, with the following condition:

The effective date of the regulations shall be December 15, 2021.

Motion carried 3-0

2. LAND USE CODE AMENDMENTS TO ARTICLE 10, AREAS AND ACTIVITIES OF STATE INTEREST 1041 REGULATIONS, FILE NO. 21-CODE0260: This is a request to repeal and replace article 10, areas and activities of state interest of the Land Use Code and amend related section 6.4.4, location and extent, section 6.7.2 procedures, and section 20.3 definitions to align with the changes in article 10.

Lesli Ellis, Community Development Director stated that Larimer County started updating its regulations in spring 2021 with comparisons and analysis of other jurisdictions regulations and discussion with the Planning Commission and Board of County Commissioners. Since that time, staff and consultants have been incorporating input from public comments and work sessions held from June through October. The webpage has included information and resources such as the analysis and comparisons to other jurisdictions and previous discussion drafts from June through August. Additionally, the following events provided opportunities for the public to provide comments:

- Two virtual open houses
- Invitation to submit written comments
- The Environmental Science Advisory Board (ESAB) discussed the September draft and provided comments
- The Open Lands Advisory Board (OLAB) briefly learned about and discussed the process and potential impacts and mitigation related to natural areas

In general, the public comments from the meetings and written submissions provided helpful input on clarity of terms/language and applicability and insights on specific interests, concerns, or projects.

1041 Regulations are delegated powers from the State of Colorado to local jurisdictions to regulate specific geographically defined areas or specific types of activities of state interest where the impacts and benefits may extend beyond one county and therefore are subject to state oversight. In 1974, HB 74-1041 was introduced at the legislature to address issues surrounding land use planning in Colorado and was enacted that year as the Areas and Activities of State Interest Act. The Act defines a set of activities and areas of state interests and delegate's power to local governments to regulate such areas or activities.

1041 Regulations are tightly guided by state statutory authority and C.R.S. §24-65.1-101 et seq. which describe how a local government may invoke its 1041 powers. For instance, a local government must hold a public meeting to designate areas, and the statutes set forth the time periods for holding meetings and publishing notice. They also list the specific Areas and Activities for Designation for which the regulations may apply. Local jurisdictions may designate certain Areas of State Interest (i.e.,

mineral resource areas; natural hazard areas; historic, natural, or archaeological resources of statewide importance; and areas around key facilities) (C.R.S. §24-65.1-201). Areas must be designated with a map.

The county first adopted its 1041 regulations designating most of the activities that are currently regulated except for water transmission lines and solar energy power plants. In December 2009, the county amended the regulations to add siting development of new or extended domestic water or sewer transmission lines, and in 2010, the county added regulations for siting and development of solar energy power plants.

Ms. Ellis stated that the project goals of the 1041 Regulations were to:

- Revise regulations to include appropriate activities and areas for which the 1041 process is the best tool for Larimer County.
- Update the activity/area review criteria as needed to ensure a comprehensive application review to address environmental, community, and financial issues.
- Comply with statutory parameters
- Integrate best practices for best outcomes
- Clarify how Larimer County addresses post-permitting issues, such as financial guarantees.

Elizabeth Garvin, Consultant went over the public comments that have been received from various sources such as City of Fort Collins, City of Thornton, Environmental Science Advisory Board (ESAB), East Larimer County Water District, North Weld Water districts as well as individuals. The comments provided helpful input on clarity of terms and language applicability. Some comments were contradictory to work session feedback and statutory requirements. Some comments focused on ideas and changes, improvements, and insights on specific interests. There were also comments on the removal of the Intergovernmental Agreement (IGA) from the draft.

Ms. Ellis went over the New Community Definition – “Establishment of an urbanized growth center consisting of 100 homes or more with supportive commercial and other services in unincorporated areas outside of established growth management areas.”

The Planning Commission on October 20, 2021 recommended the removal of the New Community sections (Section 10.3.1.M and Section 10.10.88).

The proposed changes to Article 10 include multiple suggested edits and clarifications throughout and presents more substantive new language for the following sections:

1. 10.1, Purpose- The specific purpose and intent statements are more expansive to align with county goals and policies.
2. 10.3, Designated Matters of State Interest- The activities are clarified, and new activities are proposed to be added (highways and interchanges and new communities).

Additionally, new areas (natural resources and historical or archaeological resources of statewide importance) are included.

3. 10.4, Exempt Development Activities- This section mostly includes refinements and clarifications to make ongoing operations and maintenance exempt.
4. 10.5, Designation Process -The designation process is defined by statute, and this section includes clarification around a few procedures within statutory limitations. It clarifies that the county may adopt a moratorium on permit applications or temporarily stop review if it is being considered for designation.
5. 10.9, General Requirements for Approval of a 1041 Permit Application-The draft includes general review criteria to address environmental, climate, social, financial, and other impacts.
6. 10.10, Additional Specific Review Criteria and Standards-The draft includes additional specific review criteria for power plants, arterial and collector highways and interchanges, water, and sewer projects, historical or archaeological resource areas, public conservation land or open space areas, geologic hazard areas, and new communities.
7. 10.11, Financial Guarantees-This section is new and enables the county to require an applicant to file a guarantee of financial security and notes the specifics of amount, form, release, and substitution of such guarantee.
8. 10.12, Term of Permit- These sections also are expanded to clarify the terms of the permit and post approval requirements, technical revisions, and permit administration and enforcement.

Additional edits will be necessary in Section, 6.4.4 for Location and Extent (L&E) in Sec. A to exclude from local roads “certain highway and interchange projects” that are required to follow the 1041 process not the L&E process, and Section 6.7.2.B.2.a. to specify that the standard time frame for filing an appeal is 30 days “unless a different timeframe is specified for individual processes.” Sec. 20.3, Definitions, “Small Solar Energy Facility,” will need a change to the size limit to note “10 or fewer acres,” instead of 5 acres. These changes will align the new proposed Article 10 with those parts of the code. Finally, the application packet list will be refined and revamped to reflect what is required in Article 10, so that applicants will provide the necessary documentation for review as part of the application.

REVIEW CRITERIA

Amending the text of the Land Use Code is a matter committed to the legislative discretion of the County Commissioners. To approve a change in the Code text, the Planning Commission and the County Commissioners in their review and decision, shall consider whether the proposed change is consistent with the Comprehensive Plan and the intent and purpose of this Code.

The intent of these proposed amendments to Article 10 are to align the Land Use Code and the specific 1041 regulations with the 2019 Comprehensive Plan policies, and the standards are consistent with the intent of the Larimer County Land Use Code.

STAFF FINDINGS AND RECOMMENDATIONS

The Community Development Department recommends that the Board of County Commissioners approve the request to repeal and replace Article 10 and amend parts of section 6.4.4., section 6.7.2.B.2.a, and definitions in section 20.3 to be consistent with the amended article.

The Commissioners had several questions for staff including but not limited to the removal of the New Communities section and why it is being removed in section 10.10.8.F. Frank Haug, Assistant County Attorney, stated that it creates a false impression about the county regulating new communities when in fact, the Comprehensive Plan does not. There were also questions and comments on the financial guarantee section.

The Commissioners asked for some clarification on the IGA that was removed from the draft. Mr. Haug explained that this has been used in various counties throughout the State of Colorado, but the issue is there is no statutory authority to execute a 1041 project.

There was discussion on Section 10.6, Relationship to Other County, State, and Federal Requirements; Section 10.5, Designation Process for Matters of State Interest; Section 103.1.I Activities of State Interest on site selection and development of new or extended water and sewer. There were questions on the 1041 Application and Review Process including timeframes.

Miss Ellis went over the Application process.

Chair Kefalas opened the hearing for public comment.

The following members of the public addressed the Board: Eric Reckentine, District Manager for North Weld Water District; Mike Scheid, General Manager for East Larimer County Water District; Scott Hollwick, on behalf of Fort Collins/Loveland Water District; Karen Kalavity, Patrick McMeekin-Hartford Homes via teleconference; Barry Feldman, No Pipe Dream via teleconference. The districts remain concerned that the proposed amendments introduce substantial uncertainty in an applicant's ability to comply with regulations not grounded in quantifiable metrics. Specifically, the districts primary concern with the proposed amendments is that smaller, local projects with minimal impacts will be unnecessarily delayed and will increase costs to county residents. The districts have been working on the third and final phase of the North Weld County and East Larimer County Water Districts Water Transmission Pipeline Project (NEWT) for several years, and believe that it could be finalized, appropriately approved, and constructed pursuant to an approved Intergovernmental Agreement (IGA) with the county as previously allowed. There was a concern on the removal of mapping as well as mention of new applicants having to include their entire project at the time of application.

Chair Kefalas closed public comment.

Staff did address some of the comments and concerns. Mr. Haug explained that the county, as a subsidiary entity of the state, only has the powers delegated to it from the state. In other words, an IGA is not delegated, it is not in statute, but Ms. Ellis suggested that they could look at the exemption option for smaller local projects in 10.3.1.I Ms. Ellis also mentioned the timelines are bound by statute as well as the clarification that the maps are not being removed just the language about hypothetical maps. Ms. Ellis and Miss Garvin also went over the application and review process including the recipient of easements.

The Commissioners did have quite a few questions for staff on direction of 10.3.I and 10.7.4.D, site selection and development of new and existing water and sewer transmission lines with revised language. The Commissioners would also like to see 10.1.2.D language revised to include greenhouse gasses and to leave in "beauty and quality of life".

The Commissioners asked for clarity on the process of approving amendments while asking for revised language. Frank Haug, Assistant County Attorney, stated that they may adopt amendments with the understanding of modifications to those amendments that would be presented on the December 13, 2021, hearing if that were the direction the Board would like to proceed with.

The Commissioners each thanked staff for all their hard work and gratitude for their diligent research and expertise. They thanked the public who engaged in the process that enabled the county to strengthen the 1041 regulations. The Commissioners did have a discussion between themselves on the addition or removal of "New Communities."

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the request to repeal and replace Article 10, Areas and Activities of State Interest (1041 Regulations, File #21-CODE0260), and minor amendments in Section 6.4.4., Section 6.7.2.B.2.a, and definitions in Section 20.3., as detailed in the staff report and shown in attachment A (clean and redline versions) and as recommended by Community Development Department staff with changes as recommended by the Planning Commission along with additions in changes that was added at this hearing including 10.1.2. D to change the language to reduce redundancy and add greenhouse gasses and 10.1.2.G to keep the quality-of-life language and staff will look at 10.3.1.i and 10.7.4.d. with a continuance of the hearing to December 13, 2021, to refine the Findings and Resolutions and any other proposed changes. The effective date is December 15, 2021.

Motion 3-0

The Board adjourned at 9:50 p.m.

TUESDAY, NOVEMBER 16, 2021

ADMINISTRATIVE MATTERS MEETING

The Board of County Commissioners met at 9:00 a.m. with Linda Hoffmann. Chair Kefalas presided. Commissioner Stephens and Commissioner Shadduck-McNally were present. Also, present were Austin Harvill, Commissioner's Office, and Deirdre O'Neill, Deputy Clerk.

1. PUBLIC COMMENT: The following members of the public addressed the Board pertaining to their opposition to the public health mask mandate: Jim Winebrenner, Carmen Degnan, James Rudd, Jim Rudd, Robbie Rose, Lisa Hecker, Nick Lance, Pamela Douglas, Tara Miller, Elizabeth Ca roll, Michele Neils, Judy Blum, Matt Schlitzer and Charlie Meserlian. Patrick Murphy spoke in support of the mandate and Chris Eikenberg spoke about issues in her apartment complex.

Chair Kefalas closed public comment and each Commissioner thanked the public for engaging in this process and stated that they respected their right to speak and protest. The Commissioners explained that their decisions are based on the safety and welfare of Larimer County Residents. Chair Kefalas commented on some of the statements that were addressed to the Board.

2. APPROVAL OF THE MINUTES FOR THE WEEKS OF NOVEMBER 8, 2021.

M O T I O N

Commissioner Stephens moved that the Board of County Commissioners approve the minutes for the weeks of November 8, 2021.

Motion carried 3-0

3. REVIEW OF THE SCHEDULE FOR THE WEEK OF NOVEMBER 22, 2021: Mr. Harvill reviewed the upcoming schedule with the Board.

4. CONSENT AGENDA:

AGREEMENTS:

- 1. AMENDMENT ONE TO THE CONTRACT BETWEEN LARIMER COUNTY DEPARTMENT OF HUMAN SERVICES AND SHILOH HOME, INC.**
- 2. CONTRACT BETWEEN LARIMER COUNTY DEPARTMENT OF HUMAN SERVICES AND HOUSE OF NEIGHBORLY SERVICES.**
- 3. OFFICE ON AGING SERVICE CONTRACT BETWEEN LARIMER COUNTY DEPARTMENT OF HUMAN SERVICES AND HEALTH SERVICES DISTRICT OF NORTHERN LARIMER COUTNY DBA HEALTH DISTRICT OF NORTHERN LARIMER COUNTY (HEALTH DISTRICT).**
- 4. OOA SERVICE CONTRACT BETWEEN LARIMER COUTNY DEPARTMENT OF HUMAN SERVICES AND COLORADO LEGAL SERVICES.**

5. GRANT AGREEMENT-LARIMER COUNTY BEHAVIORAL HEALTH SERVICES
GRANT AGREEMENT 21-RES-ESTES PARK SCHOOL DISTRICT.
6. GRANT AGREEMENT-LCBHS GRANT AGREEMENT 21-TP2-SSHP
7. INTERGOVERNMENTAL AGREEMENT RELATED TO RESTRICTIVE
NOTICE REPORTING REQUIREMENTS.

LIQUOR LICENSES

1. HIDDEN LAKES GOLF & TROUT CLUB DBA GOLF CLUB AT FOX ACRES-
RED FEATHER LAKES-HOTEL AND RESTAURANT WITH OPTIONAL
PREMISE
2. THE TAVERN AT RED FEATHER LAKES-RED FEATHER LAKES-
TRANSFER OF OWNERSHIP

RESOLUTIONS

1. RESOLUTION ESTABLISHING COMPENSATION FOR DISTRICT
ATTORNEY APPOINTED INVESTIGATORS
2. RESOLUTION DECLARING LARIMER COUNTY PUBLIC IMPROVEMENT
DISTRICT NO 74 EAGLE CREST ORGANIZED

MOTION

Commissioner Shadduck-McNally moved to approve the Consent Agenda for Tuesday, November 16, 2021.

Motion carried 3-0.

1. COMMISSIONERS GUESTS:

DISCUSSION ITEMS

1 INFORM THE BOARD ABOUT THE SUBMISSION OF A SALES ROOM LIQUOR LICENSE FOR PECULIER ALES: Peculier Ales is a business located at 1831 E Mulberry St Fort Collins, Co 80524. The business is applying for Sales Room Application through the state. Sales Room applications are State Only License/Permits; however, the business still must comply with any local building/zoning/code compliance laws as well as the liquor code before approval. While the county does not issue an approval or denial of the application, the local licensing authority is granted the opportunity to offer support or to object to the application.

Elizabeth Carter and Jared Jaques, Clerk and Recorder's Office explained to the Board that the two-track process is not applicable for these applications. While the county does not issue an approval or

denial of the application, the local licensing authority is granted the opportunity to offer support or to object to the application.

The County may object to the application for the following reasons: (as listed on page one of the applications)

- Issuance of the permit would impact traffic, noise or other neighborhood concerns in a manner that is consistent with local regulations and ordinances.
- The permit would result in violation of the Colorado liquor code or the laws of the local government.
- Issuance of the permit would violate zoning laws.

The Sales Room application for Peculier Ales was received on October 14, 2021. The county is then provided with 45 days to offer support for the application or to object to it.

Once the application was received in the Clerk's Office, it was then routed internally through the following departments: Community Development, Building, Code Compliance, the Health Department, and the Sheriff's Office.

The Clerk's Office did not receive objections from any of these Departments and no concerns have been raised about the application.

Miss Carter did mention that this location was previously owned by C B Potts who sold the building to Peculier Ales but did not sell the business.

The Commissioners thanked Ms. Carter for the presentation.

MOTION

Commissioner Stephens moved to support Peculiar Ales located at 1831 East Mulberry Street, to apply for Sales Room Application through the State of Colorado.

Motion carried 3-0

2. LETTER OF SUPPORT FOR NORTH FRONT RANGE METROPOLITAN PLANNING ORGANIZATION (NFRMPO) GRANT FUNDING REQUESTS BY WELD COUNTY FOR PROPOSED INTERSECTION IMPROVEMENTS AT LCR 18 (WCR54) AND LCR 1 (WCR 13): Mark Peterson and Eric Tracy, Engineering stated that Weld County is submitting two grant applications to the North Front Range Metropolitan Planning Organization (NFRMPO) under the Surface Treatment Block Grant (STBG) and the Congestion Mitigation and Air Quality (CMAQ) call-for-projects process for intersection improvements at the LCR 18 (aka Freedom Parkway) and LCR 1 intersection. Both grants have a local match requirement of about 20 percent. Weld County has requested a letter of support from Larimer County and, if grant funding is awarded, a commitment from Larimer County to provide 10 percent of the 20 percent local match requirement for either one of the grants. Weld County will conduct all design and provide all construction funding required for the intersection improvements that are in excess of the grant awards and Larimer County's 10% of the grant local match requirement. Based on the grant award amounts

being requested, Larimer County's maximum financial contribution to the project would not exceed \$55,000.

Intersection improvements are needed at the Intersection of Larimer County Road (LCR) 18 and LCR 1 and Weld County is proposing a single lane roundabout at this location with an anticipated cost of \$9.7M including design, right-of-way, and construction. Weld County is submitting grant applications under the NFRMPO call-for-projects that would fund between \$1.4 million and \$2.5 million of the total project cost. Construction is anticipated for Fiscal Year 2025. Design, project/construction management and any additional funding will be provided by Weld County.

The Commissioners thanked the Engineering Department for their hard work and had some questions on a previous Intergovernmental Agreement with The Town of Johnstown.

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners authorize the chair to sign a letter of support for grant applications submitted by Weld County for the LCR 18/LCR 1 intersection to the North Front Range Metropolitan Planning Organization. If grant funds are awarded to Weld County, it is further acknowledged that Larimer County is agreeing to provide 10 percent of the local match funding, expected to be between \$30,000 and \$55,000 in the year when grant funds are committed and intersection construction begins.

Motion carried 3-0

6. COUNTY MANAGER UPDATE: Ms. Hoffmann updated the Board on this week's coordination meetings and upcoming projects and activities.

7. COMMISSIONER ACTIVITY REPORTS: The Board detailed their attendance at events during the previous week.

8. EXECUTIVE SESSION: Executive Session pursuant to C.R.S. 24-6-402(4)(b): conference with an attorney for the purpose of receiving legal advice on specific legal questions regarding Atrium Ground Consent Agreement

No Decision Expected

Executive Session pursuant to C.R.S. 24-6-402(4)(b): Conferences with an attorney for the purpose of receiving legal advice regarding The Thompson Area Against Stroh Quarry vs. Board of County Commissioners and Coulson Excavating court case.

No Decision Expected

Executive Session pursuant to C.R.S. 24-6-402(4)(f): Personnel matters; except the affected employee may request an open meeting for requesting a waiver of 331.2 Recruitment Section IV, regarding minimum qualifications for a classification.

Decision Expected

MOTION

Commissioner Stephens moved that the Board enter into Executive Session pursuant to C.R.S. 24-6-402(4)(f): Personnel matters; except the affected employee may request an open meeting for requesting a waiver of 331.2 Recruitment Section IV, regarding minimum qualifications for a classification.

Motion carried 3-0

MOTION

Commissioner Shadduck McNally moved the Board of County Commissioners approve a waiver of Larimer County Recruitment Policy 331.2, Section IV, specifically the requirement for the incumbent employee, Wendy Horst, to meet the minimum requirements of the Accounting Manager job, as the incumbent does not have the required education, but has significant experience performing the required work.

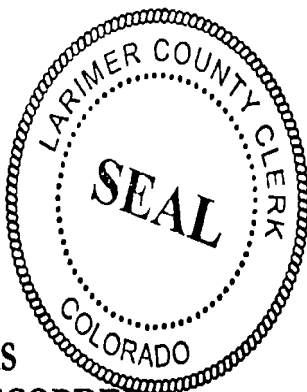
Motion carried 3-0

MOTION

Commissioner Stephens Executive Session pursuant to C.R.S. 24-6-402(4)(b): conference with an attorney for the purpose of receiving legal advice on specific legal questions regarding Atrium Ground Consent Agreement and further move that the Board enter into Executive Session pursuant to C.R.S. 24-6-402(4)(b): Conferences with an attorney for the purpose of receiving legal advice regarding The Thompson Area Against Stroh Quarry vs. Board of County Commissioners and Coulson Excavating court case.

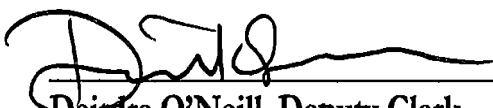
Motion carried 3-0

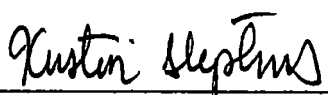
With there being no further business, the Board adjourned at 11:30 a.m.



**ANGELA MYERS
CLERK AND RECORDER**

ATTEST:


Deirdre O'Neill, Deputy Clerk


**KRISTIN STEPHENS, CHAIR PRO TEM
BOARD OF COUNTY COMMISSIONERS**