



MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, APRIL 12, 2021

ABATEMENT HEARING

The Board of County Commissioners met at 9:00 a.m. with Kevin Reed, Appraiser. Chair Kefalas presided and Commissioner Stephens and Commissioner Shaddock-McNally were both present. Also present were Debra Unger, Commissioner's Office; and Deirdre O'Neill, Deputy Clerk

1. PETITION FOR ABATEMENT OF TAXES FOR 2019/2020 TAX YEARS (SCHEDULE #R1446452 and #R0473336): Kevin Reed, Appraiser, addressed the Board and presented a packet of information detailing the method in which the Assessor's Office arrived at their current valuation of \$300,000 for 2019 and 2020 tax years on parcel 0412000052, R1446452 located at 6502 Kiva Ridge Drive. Mr. Reed also presented his current valuation of \$300,000 on parcel #0412000053, R1473336 located at 6200 Kiva Ridge Drive in the town of Berthoud.

Mr. Reed stated that both parcels consist of 35-acres. The subject property has been classified as Residential for assessment purposes. The petitioner purchased parcel #0412000053 on August 2, 2015, for \$300,000 and parcel #0412000052 for \$400,000. Mr. Reed went over comparable, recent sales as well as explained the data collection period which is set by state statute. The comparable lots are within 34-36-acres and the medium adjusted sale price is set to June 30, 2018.

The Commissioners did have some questions on the comparable property that sold for \$235,000 and why this property sold at this price. Mr. Reed explained that the property was within six miles of the valued property and similar in physical attributes and sometimes it is what someone is willing to pay within a given time. The Commissioners also had some questions on a higher valued property along the Thompson River. Mr. Reed explained that it runs along a ditch but there is no evidence of water rights.

Mr. Reed did give an updated possible evaluation of between \$300,000 and \$330,000.

The petitioner, Loren Conn, was not in attendance but the Commissioners did read over the packet that was received from the petitioner and did agree that some of his comparable sales were outside the data collection period.

MOTION

Commissioner Stephens moved that the Board of County Commissioners deny the petitioners request and uphold the Assessor's values for the subject property located at 6502 Kiva Ridge Drive, parcel #0412000052, R1446452 valued at \$300,000.

Motion carried 3-0

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners deny the petitioners request and uphold the Assessor's value for the subject property located at 6200 Kiva Ridge Drive, parcel #0412000053, R1473336 valued at \$300,000.

Motion carried 3-0

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m. with Don Threewitt, Principal Planner. Chair Kefalas presided. Commissioner Stephens and Commissioner Shadduck-McNally were present. Also present were: Jen Cram, Tracy Hicks, Tawn Hillenbrand, Matt Lafferty, Community Development; Lesli Ellis, Community Development Director; Mark Peterson, Engineer; Steven Rothwell, Connor Sheldon, Traci Shambo, Devin Traff, Engineering; Frank Haug, County Attorney; and Deirdre, Deputy Clerk.

Chair Kefalas opened the hearing with the Pledge of Allegiance and noted that the following items were on the consent agenda and would not be discussed unless requested to do so by the Board, staff, or members of the audience.

ITEM TO BE TABLED

COVEY SPECIAL EXCEPTION, FILE NO.18ZONE2425-DATE UNKNOWN

TABLED ITEM FROM PREVIOUS MEETING:

1. SQUIRES RLUP LOT 5 BUILDING ENVELOPE AMENDED PLAT, FILE NO.21-LAND 4092: This is a request to amend a plat to expand the platted building envelope to the east-southeast to construct an accessory storage building.

The applicant/property owner requests an amendment to the platted building envelope for Lot 5 of the Squires RLUP located at 5646 Squires Place, east of the intersection of N. County Road 3 and E. County Road 58, in Fort Collins, CO. Specifically, the request would expand the platted building envelope to the east-southeast to construct a new accessory storage building. The applicant/owner

has indicated that the proposed location of the storage building is in close proximity to the existing residence and garage and is the most level area anywhere near the home; therefore, the proposed location will require the least amount of earthwork. The proposed location allows the applicant/owner to maintain functional circulation from the existing access point and existing vehicular roundabout and maintain existing view corridors to the south and west. Additionally, the existing on-site septic system is located to the north of the residence, eliminating any possibility of constructing the storage building to the north while also being within a relatively close distance to the residence and existing garage.

The final plat for the Squires RLUP was recorded in 2006. Of the five platted residential lots, only Lots 4 and 5 contain building envelopes. The original Findings & Resolution for the Squires RLUP indicates that the building envelopes on Lots 4 and 5 shall be designated to avoid the Northern Colorado Water Association (NCWA) water line easement and the building envelope for Lot 5 shall be designated to keep all structures at least 400-feet (400-foot setback) from the north property line of the property immediately south of the Squire's property. A copy of the original Squires Findings & Resolution is attached to this report.

REVIEW CRITERIA

The Larimer County Land Use Code (Section 5.7.3) allows for the approval of an Amended Plat if the following review criteria are met:

- A. No additional lots will be created by the amended plat.
- B. The resultant lots will meet the required minimum lot size of the applicable zoning district and the lot dimension ratio required by subsection 8.14.1.H. If any of the lots are nonconforming with respect to the minimum lot size or the lot dimension ratio, the Amended Plat must not increase the nonconformity.
- C. The amended plat will not create a nonconforming setback for any existing building.
- D. The resultant lots will meet the requirements of subsection 8.14.1.I. Lots cannot be divided by a municipal or county boundary line, road, alley, or another lot.
- E. The amended plat will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area.
- F. Any covenants, deed restrictions or other conditions of approval that apply to the original lots must also apply to the resultant lots and be noted on the final plat, except those changes to condition or note on a plat that are approved with this application. The County Commissioners shall consider the original reason or circumstance for a condition or note on a plat when approving a change.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of Squires RLUP Lot 5 Building Envelope Amended Plat, File #21-LAND4092, subject to the following conditions:

1. The property will be subject to all restrictions, covenants, and conditions as set forth in the plat of record for the Squires RLUP.
2. Any future uses on Lot 5 shall obtain approval through the applicable review procedure as established in the Larimer County Land Use Code prior to commencement of the use.
3. The Findings and Resolution shall be a servitude running with the property. Those owners of the property or any portion of the property who obtain title subsequent to the date of recording of the Findings and Resolution, their heirs, successors, assigns or transferees, and persons holding under shall comply with the terms and conditions of this amended plat approval.

PUBLIC HEARING CONSENT ITEMS:

1. LITTLE CACHE DITCH HEADGATE PREVIOUS CONSTRUCTION ACTIVITIES-FLOODPLAIN SPECIAL REVIEW: This is a request to permit previous construction activities at the existing Little Cache Ditch Headgate within the Cache La Poudre Floodway Special Review.

The Larimer and Weld Reservoir Company is requesting approval of a Floodplain Special Review to permit construction activities that occurred in 2007 at the existing Little Cache Ditch Headgate located west of Overland Trail and south of CR 54G, in the SW 1/4 of Section 29, Township 8 North, Range 69 West, Larimer County. The proposed project is within the Cache La Poudre Floodway Zoning District.

The Land Use Code requires a recommendation from the Flood Review Board with a final approval from the Board of County Commissioners through a Floodplain Special Review for water control structures within the Floodway Zoning District.

REVIEW CRITERIA

The following review criteria for Floodplain Special Reviews are found in the Land Use Code under Section 4.2.2.G.6. These criteria were evaluated relative to the 100-year regulatory flood event.

- A. The proposal meets all applicable criteria outlined in the General Standards.
- B. No danger to life and property may reasonably be expected to result from increased flood heights or velocities caused by encroachments upstream or downstream within the floodplain.
- C. No danger to life or property may reasonably be expected to result from substantial solid debris being carried down the stream by floodwaters.

- D. There is no danger of materials being swept away onto other lands or downstream to the injury of others in the event of a flood may reasonably be expected.
- E. Proposed water supply and sanitation systems have been designed to prevent disease, contamination and unsanitary conditions in the event of a flood.
- F. The proposed use is consistent with the flood management program for the area in question.
- G. The expected heights, velocity, duration, rate of the rise and sediment transport of floodwater at the proposed location is consistent with the proposed use.
- H. Any modification of the terrain within the FW-Floodway Zoning District will not result in a rise in overall flood heights at any location.
- I. Any modification of the terrain within the FW-Floodway Zoning District will not result in reduced stability of the river channel or floodplain.

STAFF RECOMMENDATION

The Larimer County Engineering Department recommends approval of Little Cache Ditch Headgate Previous Construction Activities - Floodplain Special Review.

The Larimer and Weld Reservoir Company is requesting approval of a Floodplain Special Review to permit emergency repairs to the north and south wingwalls of the existing Laporte Diversion Structure, located west of Overland Trail and south of CR 54G, in the SW 1/4 of Section 29, Township 8 North, Range 69 West; NW 1/4 of Section 32, Township 8 North, Range 69 West, Larimer County.

The proposed project is within the Cache La Poudre Floodway and Flood Fringe Zoning Districts. The Land Use Code requires a recommendation from the Flood Review Board with a final approval from the Board of County Commissioners through a Floodplain Special Review for water control structures within the Floodway Zoning District.

2. LAPORTE DIVERSION STRUCTURE EMERGENCY WINGWALL REPAIR WORK-FLOODPLAIN SPECIAL REVIEW: This is a request to permit emergency repairs of the north and south wingwalls at the existing Laporte Diversion Structure within the Cache Poudre Floodway and Flood Fringe Zoning Districts.

REVIEW CRITERIA

The following review criteria for Floodplain Special Reviews are found in the Land Use Code under Section 4.2.2.G.6. These criteria were evaluated relative to the 100-year regulatory flood event.

- A. The proposal meets all applicable criteria outlined in the General Standards.

- B. No danger to life and property may reasonably be expected to result from increased flood heights or velocities caused by encroachments upstream or downstream within the floodplain.
- C. No danger to life or property may reasonably be expected to result from substantial solid debris being carried down the stream by floodwaters.
- D. There is no danger of materials being swept away onto other lands or downstream to the injury of others in the event of a flood may reasonably be expected.
- E. Proposed water supply and sanitation systems have been designed to prevent disease, contamination and unsanitary conditions in the event of a flood.
- F. The proposed use is consistent with the flood management program for the area in question.
- G. The expected heights, velocity, duration, rate of the rise and sediment transport of floodwater at the proposed location is consistent with the proposed use.
- H. Any modification of the terrain within the FW-Floodway Zoning District will not result in a rise in overall flood heights at any location.
- I. Any modification of the terrain within the FW-Floodway Zoning District is environmentally sound.
- J. Any modification of the terrain within the FW-Floodway Zoning District will not result in reduced stability of the river channel or floodplain.

STAFF RECOMMENDATION

The Larimer County Engineering Department recommends approval of Laporte Diversion Structure Emergency Wingwall Repair Work - Floodplain Special Review

3. CYO SPECIAL EVENT APPEAL, FILE NO.21-GNRL0509: This is an appeal to Section 7.2.B., 7.2.D., and 7.3.B.1 of the Larimer County Land Use Code to allow the applicant to host special events on a property that has a land use approval, to host more than three events in a year, and to allow than one event per calendar month.

The applicant is seeking an appeal approval from the Board of County Commissioners to sections of the Larimer County Land Use Code. Those sections from the Code in effect through Mar. 31, 2021, are:

- 7.2.B (no more than three special events allowed on a property in a calendar year);
- 7.2.D (no more than one special event allowed on a property in a calendar month);
- 7.3.B.1 (excluding [Section 7 of the Code applying to] gatherings on property that has received and is subject to an existing land use approval that limits the number, type and nature of gatherings to be held on the property).

The Special Exception 2008 approval for the property allows for a number of large gatherings, including:

- “maximum visits on a single day of 260, a few times per year,”
- “about 18 days per year with more than 110 people on site,” and
- “special events or fund raisers three to five times per year with about 200 people.”

It also outlines allowances for fishing, archery, skeet and trap, administration, overnight camping, seasonal hunting, indoor shooting, and outdoor education with over 13,160 visits per year, and multiple days with fewer people on site.

In 2021, Colorado Youth Outdoors (CYO) plans to continue its regularly scheduled large special fundraising events and other activities consistent with what is permitted through the 2008 Findings and Resolution and representations in the original project description.

Additionally, CYO would like to host a series of up to eight small scale, socially distanced events that would involve live music and staging to be organized by the Bohemian Foundation. Attendance could be in the 250-to-500-person range and will align with County Health Department COVID requirements for gatherings at the time. The usage would allow live music for the community during this challenging time in manner that creates minimal impact on the site and surroundings.

Approval of the appeal would allow the applicant to move forward and submit an application for the Special Events even though the property has a preexisting land use approval and, if so, to be able to exceed three events per year and one per calendar month. The events, if approved, would enable the applicant to test new activities on the site (live music and staging) in support of the community and to continue fund raising while concurrently applying for an amendment to the 2008 Special Exception approval to clarify and extend allowed activities on the site and meet all standards. On March 26, 2021, the applicant also applied to amend their Special Exception approval.

REVIEW CRITERIA

APPEAL TO DEVIATE FROM THE STANDARDS OR REQUIREMENTS: When considering whether to approve an appeal to deviate from standards or requirements of this Code, other than minimum lot size requirements, the County Commissioners may grant the appeal subject to safeguards and conditions consistent with their findings concerning the following factors. The County Commissioners will consider each of the following factors and make findings pertaining to each one which, in their discretion, applies to the appeal:

- A. Approval of the appeal will not subvert the purpose of the standard or requirement.
- B. Approval of the appeal will not be detrimental to the public health, safety or property values in the neighborhood.
- C. Approval of the appeal is the minimum action necessary.

- D. Approval of the appeal will not result in increased costs to the general public.
- E. Approval of the appeal is consistent with the intent and purpose of the Code.

DEVELOPMENT SERVICES TEAM RECOMMENDATION

The Community Development Director requests and recommends approval of this appeal for the Special Event permit application because the applicant is seeking to host an increase in fund raising activities and community-benefiting events during a challenging time and will comply with all standards. Additionally, the applicant seeks to amend an existing Special Exception approval and has applied for that amendment. This appeal could allow them to move forward and demonstrate the feasibility of such events prior to a decision about that amendment. If allowed to apply for the Special Events permit, events will be subject to review and conditions of approval that are consistent with input from the reviewer and referral agencies.

4. LONGVIEW R.L.U.P. RESIDUAL LOT A, AMENDED PLAT, FILE NO.21-LAND4089: This is a request to relocate a Building Envelope.

The Cure property consists of 53.21 acres and is a part of the Longview R.L.U.P., which was created in 2002. There are two existing structures on the property—a single family home and a one-story pole barn. Both structures were built in 2014.

The Cure's would like to put an addition on the southeastern side of their home. To accomplish this, the building envelope will need to be moved slightly to the south. The existing 2 acre building envelope sits in the middle, upper third of the Cure property. The existing home is located within the southern section of the existing location building envelope.

REVIEW CRITERIA

The Larimer County Land Use Code (Section 5.7.3) allows for the approval of a lot consolidation if the following review criteria are met

- A. No additional lots will be created by the amended plat.
- B. The resultant lots will meet the required minimum lot size of the applicable zoning district and the lot dimension ratio required by subsection 8.14.1.H. If any of the lots are nonconforming with respect to the minimum lot size or the lot dimension ratio, the amended plat must not increase the nonconformity.
- C. The amended plat will not create a nonconforming setback for any existing building.
- D. The resultant lots will meet the requirements of subsection 8.14.1.I. Lots cannot be divided by a municipal or county boundary line, road, alley, or another lot.

- E. The amended plat will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area.
- F. Any covenants, deed restrictions or other conditions of approval that apply to the original lots must also apply to the resultant lots and be noted on the final plat, except those changes to a condition or note on a plat that are approved with this application. The county commissioners shall consider the original reason or circumstance for a condition or note on a plat when approving a change.

DEVELOPMENT SERVICES TEAM RECOMMENDATION

The Development Services Team recommends approval of the Longview R.L.U.P. Residual Lot A Amended Plat, File Number 21-LAND4089 with the following conditions:

1. All conditions of approval shall be met and the final plat recorded by October 12, 2021, or this approval shall be null and void.
2. The lot is subject to all covenants, deed restrictions, or other conditions that apply to the original lots in the subdivision.
3. Prior to the recordation of the Final Plat the applicant shall make the following changes to the plat:
 - Please update the Surveyor's Certificate statement to have the correct title "Longview R.L.U.P. Residual Lot A, Amended Plat"
 - Buildings need to be removed prior to the final plat.
 - The Township and Range cited in the Certificate of Ownership and Dedication does not match the Township and Range of the property depicted on the Plat. Please update accordingly.

5. LOT 2 LAKE SHORE GARDENS PLANNED LAND DIVISION A REPLAT OF LOT 101 AMENEDDED PLAT AND EASEMENT VACATION, FILE NO.21-LAND4087:

This is a request to amend a plat to vacate the 20-foot shared access and utility easement on lot 2 of the Lake Shore Gardens Planned Land Division. Both easements are proposed to be relocated to the north on Lot 2.

The Lake Shore Gardens Lot 101 Planned Land Division and Rezoning to Planned Development were approved by the Board of County Commissioners on February 21, 2006 and recorded on July 11, 2007.

The portion of North Monroe Avenue where the property takes access has been annexed into the incorporated limits of the City of Loveland. The properties surrounding Lot 2 have been developed with single-family residences. The underlying zoning is noted above.

Lot 2 is currently vacant. The property owner would like to relocate the access and utility easement to better serve the proposed development of the property with a residence and shop for personal use.

REVIEW CRITERIA

- A. No additional lots will be created by the amended plat.
- B. The resultant lots will meet the required minimum lot size of the applicable zoning district and the lot dimension ratio required by subsection 8.14.1.H. If any of the lots are nonconforming with respect to the minimum lot size or the lot dimension ratio, the amended plat must not increase the nonconformity.
- C. The amended plat will not create a nonconforming setback for any existing building.
- D. The resultant lots will meet the requirements of subsection 8.14.1.I. Lots cannot be divided by a municipal or county boundary line, road, alley, or another lot.
- E. The amended plat will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area.
- F. Any covenants, deed restrictions or other conditions of approval that apply to the original lots must also apply to the resultant lots and be noted on the final plat, except those changes to a condition or note on a plat that are approved with this application. The Board of County Commissioners shall consider the original reason or circumstance for a condition or note on a plat when approving a change.

DEVELOPMENT SERVICES TEAM RECOMMENDATION

The Development Services Team recommends Approval of the Lot 2 Lake Shore Gardens Planned Land Division Amended Plat and Easement Vacation, File #21-LAND4087, subject to the following condition(s):

1. All conditions of approval shall be met, and the final plat recorded by October 12, 2021, or this approval shall be null and void.
2. Prior to the recordation of the final plat the applicant shall make any required technical corrections noted by referral agencies.
3. The resultant lots are subject to any and all covenants, deed restrictions, or other conditions that apply to the original lots.

6. RED ROCK LAND LLC APPEAL, FILE NO 21-GNRL0503: This is a request for an appeal to Section 5.3 of the Larimer County Land Use Code to be exempt from the Conservation Development standards to create two legal lots divided by Interstate 25.

This request is an appeal to Section 5.3 of the Land Use Code which requires land divisions that are a minimum of 30 acres and located outside of a Growth Management Area to use the Conservation Development process to create additional legal lots.

The property is an approximately 48-acre parcel according to the Assessor divided by Interstate 25 (I-25). The parcel has been described as two tracts of land on the east and west sides of I-25 since the State obtained the right-of-way sometime in the 1950s, but there is no evidence that the two tracts were ever legally conveyed as two separate lots. A legal lot is defined by the Larimer County Land Use Code as: “A lot, parcel or tract of land created by a legal conveyance of said lot, parcel or tract prior to May 5, 1972; a lot, parcel or tract shown on a subdivision plat which was approved and recorded prior to May 5, 1972 according to the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by approval of the County Commissioners in conformance with the subdivision regulations in effect at the time of approval; or any parcel of 35 acres or more, which when created, did not cause a parcel of less than 35 acres to remain.”

Both tracts and the surrounding area are zoned O-Open. Both Tracts are currently vacant. The surrounding area is primarily open agricultural land with a few single-family residences.

Tract 2 is further bisected by Indian Creek and has mapped floodplain associated with the creek.

The applicants are requesting an appeal to Section 5.3 to make the two tracts legal lots without going through the required Conservation Development process. The approval would allow the two legal lots to be developed with one allowable primary use per lot.

REVIEW CRITERIA

22.2.3 REVIEW CRITERIA FOR APPEALS TO DEVIATE FROM STANDARDS OR REQUIREMENTS OTHER THAN MINIMUM LOT SIZE

When considering whether to approve an appeal to deviate from standards or requirements of this Code, other than minimum lot size requirements, the County Commissioners may grant the appeal subject to safeguards and conditions consistent with their findings concerning the following factors. The County Commissioners will consider each of the following factors and make findings pertaining to each one which, in their discretion, applies to the appeal.

- A. Approval of the appeal will not subvert the purpose of the standard or requirement.
- B. Approval of the appeal will not be detrimental to the public health, safety or property values in the neighborhood.
- C. Approval of the appeal is the minimum action necessary.

D. Approval of the appeal will not result in increased costs to the public.

E. Approval of the appeal is consistent with the intent and purpose of the Code.

DEVELOPMENT SERVICES TEAM RECOMMENDATION

The Development Services Team recommends approval of the Red Rock Land LLC Appeal, File #21-GNRL0503 with the following condition:

1. Future development will meet all Land Use Code standards in effect at the time of application.

Chair Kefalas asked if any members of the Board or any member of the public would like to remove any consent agenda items for a full hearing. Members of the public asked for consent items one, two and five be removed from the consent agenda.

MOTION

Commissioner Stephens moved that the Board of County Commissioners approve the remaining items on the Consent Agenda for April 12, 2021 subject to the conditions in the staff report and further moves authorizing the Chair to sign the Findings and Resolutions.

Motion passed 3-0

Chair Kefalas explained that we will have a presentation by staff for each item pulled from the consent agenda and then the applicant will speak as well as public comment. The Commissioners will ask any questions of staff and then deliberate with a possible motion.

Devin Traff, Engineering gave a brief presentation on Little Cache Ditch Headgate Previous Construction Activities-Floodplain Special Review and Laporte Diversion Structure Emergency Wingwall Repair Work-Floodplain Special Review. Mr. Traff stated that the first item is for improvements that were completed during 2007 by the applicant within a regulatory floodplain without the county's floodplain approval. The second agenda item is for emergency repairs to the headgate wingwalls that were damaged during the re-construction of the dam.

Mr. Traff presented aerial photos of the Little Cache Ditch Headgate and gave a background on the project. The construction activity was completed in 2007 but the floodplain approvals were not obtained by the applicant. The project elements include replacement of four slide gates, concrete apron improvements, installation of retaining wall and block wingwall extensions on the east side. The project also includes fill placement between the wingwalls on the east side ditch embankment.

Mr. Traff also went over the floodplain requirements explaining that mitigation would be required if the requirements are not met. There were three hearings held beginning on August 27, 2020, with public comment and resolutions. The main concerns seemed to be the potential for flooding, fill

material and topographical data. This item was recommended for approval by the Board of County Commissioners.

The flood review board did meet with the homeowners who had concerns and these concerns resulted in the applicant voluntarily lowering the fill elevation headwall, which was not a requirement. Before and after photos were shown to the Board of County Commissioners.

In summary, after a lengthy review of the project, and keeping in mind the impacts on the neighbors, it is recommended that the Commissioner approve the Special Review without any conditions.

Chair Kefalas invited the applicant to address the Board.

Scott Parker, Anderson Consulting Engineers, explained that he agreed with the presentation by Mr. Traff and that he did want to point out that the structure was under repair and the headgates have been there since 1909. The project was completed in 2007 by the owners, which brought the Engineers on board to complete the permitted work for both the headgates and the emergency repair of the structure.

Commissioner Shadduck-McNally asked for clarification for the upcoming repairs scheduled for this Fall.

Mr. Parker showed the section for repairs on the wingwall using the aerial photos.

Chair Kefalas opened the hearing for public comment.

Harry Nequette who lives in the surrounding area explained that the work took place in 2006/2007 without a permit and the location is away from public view, so the issue did not come to light until the last few years. His concern is the work on the headgate on the north side of the dam and how much fill has been added and the added concrete during construction. He believes that the county should hold those responsible for work that was done without a permit and the codes should be enforced. He believes the additional fill has adverse impacts on the neighborhood.

He had comments on sections of the Land Use Code particularly the proposed use and its adverse impacts on other properties in the vicinity in the project area. He believes the added fill as well as the height of the concrete does have an adverse effect on his property. He is asking for conditions of approval that Larimer and Weld remove the fill.

Mr. Nequette addressed the Board for the second item pertaining to the north and south wingwalls for emergency repair. He does not believe these are existing conditions and does not believe it is an emergency since he feels this was a known condition. There was no engineering done and feels the items are related and the repairs were not completed. He stated that he has photos showing the asphalt has been placed in the Poudre River. In addition, there are no references to how to handle waste. The concrete is still on the banks and in the river. He would like to see a waste management plan and believes this has adverse effects on his property.

Chair Kefalas closed public comment.

Chair Kefalas invited Mr. Parker to address some of Mr. Nequette's concerns and comments.

Mr. Parker explained that these types of projects are subject to permitting through multiple avenues. Approval is necessary among several agencies, not just the county. Mr. Parker stated that the only fill that engineers could determine that was already there was the fill that was added in 2006/2007 project. The walls already have been lowered to remove that fill. The plans have been submitted to lower both wingwalls. If the fill is removed it could cause significant problems for neighboring houses downstream.

Mr. Parker addressed the asphalt issue and stated that an engineer could not identify enough asphalt to remove as well as not all of the concrete has come from the ditch company. Mr. Parker feels that they have tried to make accommodations but are constrained from the permits that they have as to what they can do.

The Commissioners had some questions on the comments pertaining to not having a waste management plan and the asphalt in the river. Mr. Parker stated that they could not identify enough asphalt.

Mr. Traff commented on the Land Use Code issue that had been brought up earlier in the hearing. The reference is part of the general land use section referring to an area in the floodplain for review criteria. Mr. Traff read the section to the Commissioners. Mr. Traff announced to the Board that determination of the Flood Review Board that these hazards were not created as a result of either of these projects which is why they have been approved without conditions.

The Commissioners did mention the concern for the lack of permits from the 2006/2007 project and how can we make sure this does not continue. Mr. Traff explained that staff does the best they can being proactive in contacting ditch companies to make them aware of permitting requirements within a flood plain.

Mr. Traff also explained to the Commissioners that the engineers have largely addressed the issues on the riverside of the structure and there is not a safety issue. Mr. Parker also addressed this issue. He did say the ditch side wall is a problem but is not actively moving. The movement, he believes occurred after construction, so in his opinion, it can wait until the fall as it is not in immediate danger.

The Commissioners thanked everyone for their comments and concerns.

The Commissioners mentioned that it is not ideal to permit after construction and appreciates the efforts of the Engineering Department for being proactive with ditch companies for future projects. The Commissioners thanked the homeowners for speaking but do believe the Engineer has addressed many issues that have come up and it would not be possible to return to a condition that we have no way of knowing what the original condition looked like.

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the Little Cache Ditch Headgate Previous Construction Activities - Floodplain Special Review subject to the conditions in the staff report and based on the findings and comments present in the staff report and the evidence and testimony presented at the hearing.

Motion carried 3-0

The Commissioners stated that they do support the repair work and will support the staff recommendation as they are concerned with the movement of the wall as a safety issue.

MOTION

Commissioner Stephens moved that the Board of County Commissioners approve the Laporte Diversion Structure Emergency Wingwall Repair Work - Floodplain Special Review subject to the conditions in the staff report and based on the findings and comments present in the staff report and the evidence and testimony presented at the hearing.

Motion carried 3-0

Chair Kefalas asked staff to present item number five, Lot 2 Lake Shore Gardens Planned Land Division A Replat Of Lot 101 Amended Plat and Easement Vacation, File No.21-Land4087.

Jenn Cram, Community Development briefly presented the request. The property is located at 4680 North Monroe Avenue in Loveland, Colorado. Ms. Cram showed a survey of the area and did mention that the City of Loveland is in support of the proposed location change. Ms. Cram went over the review criteria for an amended plat. Staff is recommending approval with three conditions which are in the staff report.

Chair Kefalas invited the applicant to speak.

Kyle Percy, applicant, explained that he is proposing to build a shop on this lot and then a home in the future. Currently, the easement is in the corner of the lot on a steep hill. He proposes to move it to the center lot which has road frontage which is more feasible than in the corner for accessibility.

Chair Kefalas opened the hearing for public comment.

Susan Gloeckner approached the Board. She stated to the Board that her home is directly south of the proposal which has a shared driveway which is why it is in the corner. She does not want two different driveways off the access road.

The Commissioners asked Mrs. Gloeckner how the proposed changes will impact her property?

Mrs. Gloeckner does not believe it will have a big impact, but she feels that the county had stated that they would have to put in a shared driveway and now feels like the county is allowing driveways to be built anywhere on the property.

The Commissioners asked Mrs. Gloeckner if this would be eliminating a shared driveway and Mrs. Gloeckner explained that she would still have access to the current driveway. The Commissioners had her explain further as they did not fully understand the concern. Mrs. Gloeckner has a concern with the rules as she sees them being changed.

Chair Kefalas closed public comment.

Mr. Percy met with the City of Loveland and was given approval the movement of the driveway and stated that the driveway will not affect the access of his neighbors. Both accesses will be next to each other.

The Commissioners did have some questions for staff on the illegally divided property and why there seems to be a change.

Jenn Cram went over the history of the property and did explain that it is always the desire for the county to limit the amount of access points but in this situation, while creating the two lots they proposed a shared access but now a new owner wishes to develop his property for his needs and therefore he has the ability to apply for an amended plat.

The Commissioners thanked everyone and stated that they will be supporting staff recommendations based on the review criteria.

MOTION

Commissioner Shaddock-McNally moved to approve Lot 2 Lake Shore Gardens Planned Land Division A Replat Of Lot 101 Amended Plat and Easement Vacation, FILE NO.21-LAND4087 subject to the conditions in the staff report and further authorize the Chair to sign the plat when it is presented for signature.

Motion carried 3-0

Legal Matters

No Decision Expected

Executive Session Citation: 24-6-402(4)(b) C.R.S. Conference with an attorney for the purpose of receiving legal advice on specific legal questions concerning the interplay of moratoriums a legislative adoption of regulations.

MOTION

Commissioner Stephens moved that the Board enter into Executive Session Citation: 24-6-402(4)(b) C.R.S. Conference with an attorney for the purpose of receiving legal advice on specific legal questions concerning the interplay of moratoriums a legislative adoption of regulations.

Motion carried 3-0

With there being no further business, the Board adjourned at 4:45 p.m.

TUESDAY, APRIL 13, 2021

ADMINISTRATIVE MATTERS MEETING

The Board of County Commissioners met at 9:00 a.m. with Linda Hoffmann, County Manager. Chair Kefalas presided. Commissioner Stephens and Commissioner Shadduck-McNally were present. Also present were Michele Bird, Public Affairs Director; Alisha Jeffers, Commissioners' Office; and Deirdre O'Neill, Deputy Clerk.

Chair Johnson opened the meeting with the Pledge of Allegiance.

1. **PUBLIC COMMENT:** The following members of the public addressed the Board: Deb Bjork addressed the Board in person Chair Kefalas stated that the Commissioners received two emails on Oil and Gas regulations from Dr. Megan Wilder and Charles Kop.

2. **APPROVAL OF THE MINUTES FOR THE WEEK OF APRIL 5, 2021**

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the minutes for the week of April 5, 2021.

Motion carried 3-0.

3. **REVIEW OF THE SCHEDULE FOR THE WEEK OF APRIL 19, 2021:** Ms. Gimeson reviewed the schedule for the upcoming week with the Board.

1. **CONSENT AGENDA:**

**LETTER OF SUPPORT FOR THE NORTH I-25 COALITION AND FIX NORTH I-25
BUSINESS ALLIANCE**

MISCELLANEOUS

LEGAL ACTION FOR CODE COMPLIANCE CASE #18-CCC0113

LEGAL ACTION FOR CODE COMPLIANCE CASE #20-CCC0197

RESOLUTIONS

**RESOLUTION CORRECTING SALARY FOR VICTIM WITNESS DIVISION
MANAGER-DISTRICT ATTORNEY**

M O T I O N

Commissioner Stephens moved that the Board of County Commissioners approve the Consent Agenda for April 13, 2021, and authorize the Chair to sign the Findings and Resolutions.

Motion carried 3-0

5. **COMMENTS FROM COMMISSIONERS' GUESTS:** Patti Schmitt, CSU Community Director, Office of Engagement & Extension and David MacPhee, Ph.D., Human Development and Family Studies.

One important piece of community resilience is the capacity of the community to learn together, plan together, and act together. Colorado State University has developed a new diagnostic tool, the Civic Capacity Index, as a way to assess Larimer County's civic capacity and the use of it to identify priority areas of strengthening how we involve community voice, experience, and strengths for a stronger, more resilient community.

This index will be used in need assessments, as an outcome measure for the various community-based interventions, and in basic research such as community resilience.

The Civic Capacity Index (CCI) measures a community's ability to collectively respond to shared, complex social challenges in cooperative, equitable, and democratic ways. The CCI helps shape and evaluate local community development and intervention strategies such as civic leadership training programs, needs assessment, capacity building initiatives, problem-solving, and technical assistance. This is often referred to as a community's ability for community-driven change.

The CCI is looking out how community members and decision-makers learn, plan, and act together when responding to complex challenges. In short, the Civic Capacity Index is designed to assess and help transform civic culture. The CCI is especially useful to help communities assess their collective

capacity to respond to current and future challenges and to create a deeper understanding of why some communities respond more effectively to challenges than others. Simply put, it taps into key features of community resilience. For a need assessment, it will generate a profile for a group or the community based on seven features of community-driven change. These include collaborative leadership, organic coalitions, confronting racism and injustice, purposeful collaboration, social capital, and trust/cohesion.

Miss Schmitt and Dr. MacPhee gave an overview of the project stating the purpose is to strengthen our approach of working together as a community so that they are more effective in creating lasting change. She introduced the Civic Capacity Index that has been developed with researchers, elected officials, and members of the community. They spoke about the emerging definition of community-driven change. Those would include shared power between community members and decision-makers. The end goal is to have multiple perspectives represented and that the decision-making process is seen as fair, authentic, and transparent while shifting the approach of complex challenges.

The guests spoke about change from the top down including organizations and agencies to neighborhoods, communities, and regions. The nature of the process is agenda-setting, problem-solving, and consensus-building.

Dr. MacPhee gave the background of the project and explained the next steps are to include “Listening Sessions” to collaborate ideas on moving forward.

The Commissioners each thanked Miss Schmitt and Dr. MacPhee for their important work and the Commissioners spoke of examples of community-driven change including recent meetings with residents of the Mesa Mobile Home Park.

The Commissioners did have some questions for Dr. MacPhee on how his reports reach the public. Dr. MacPhee explained the email blast he sends to organizations and to members of the public. The report is available in both English and Spanish.

6. PROCLAMATION DECLARING APRIL 2021 NATURAL CHILD ABUSE PREVENTION MONTH IN LARIMER COUNTY: It is traditional for the Board of County Commissioners to recognize the month of April as Child Abuse Prevention Month in Larimer County.

April is National Child Abuse Awareness month. Help raise awareness and support for over 1,700 children in Larimer County impacted by abuse and neglect. There are over 500 children each year involved in a dependency & neglect court case due to child maltreatment and CASA of Larimer County is only able to provide a court-appointed special advocate to 200 children. Together with local businesses, we are hosting awareness and fundraising events throughout the month of April to raise the resources we need to reach the remaining 300 children who need a CASA volunteer.

Thad Paul, Department of Human Services announced that April 2021 is National Child Abuse Prevention Month and he let the Commissioners know of activities that they have planned for the month of April. This year they have partnered with Realities for Children as the donation site. The

theme is S.U.D.S-Stuff Used Daily. Organizations and members of the community may drop off shampoos, soaps, etc at Realities for Children on April 30, 2021, from the hours of 10 a.m. through 1 p.m.

Mr. Paul presented t-shirts to the Commissioners that were designed by a staff member and her seven-year-old child.

The Commissioners and Linda Hoffmann, County Manager, thanked Mr. Paul and the entire Department of Human Services for their tireless efforts in protecting children especially during a challenging year. They stated that the goal is not to remove children but to make families whole, but the child's safety is the priority and that we all have the responsibility as individuals, families, neighbors, and residents of Larimer County to help parents in creating healthy, safe and nurturing experiences for children.

Commissioner Shadduck-McNally read the proclamation declaring April 2021 National Child Abuse Prevention Month in Larimer County

MOTION

Commissioner Shadduck-McNally moved that the Board proclaim April 2021 National Child Abuse Prevention Month in Larimer County.

Motion carried 3-0

7. PROCLAMATION DECLARING APRIL 18-24, 2021, VICTIMS' RIGHTS WEEK AND UNVEILING OF THE NEW VICTIMS' RIGHTS AND RESOURCE PROGRAM WEBSITE: One of the County's Strategic Goals is to improve and innovate a program for each of the County's service categories. County staff have been working on a program for Protective Services and chose the Victim Rights and Resources program. A web page has been created where victims can get a clear idea of their rights, the process, and resources that are available to them. The web page can be viewed at: www.larimer.org/victim-rightsand-resources

The 40th anniversary of National Crime Victims' rights week will be commemorated April 18-24, 2021. This last year has been challenging for so many. Isolation and strained resources created barriers for crime victims to seek support and for service providers to provide the level of service that they strive for.

Katie Ashby, Manager of Victim Witness Division of the District Attorney's gave an overview of the new Resource Program website which was a strategic goal -adapting a service that creates a website that lists all of our services including resources. The site contains information on what victims can expect during the process with information on law enforcement, district attorney, and criminal justice services. The site also contains resources and links including protection orders.

Commissioner Stephens read the proclamation declaring April 18-24, 2021, Victims' Rights week and unveiling of the new Victim's Rights and Resource Program Website mentioning that the theme is to support victims, build trust, and engage communities, and recognition of Victims' Rights Week provides everyone the opportunity to recommit ensuring that all victims of crime are treated with fairness, dignity, and respect.

MOTION

Commissioner Stephens moved to Proclaim April 18-24, 2021, as Victims' Rights Week in Larimer County.

Motion carried 3-0

The Commissioners and Linda Hoffmann thanked Katie and congratulated her on the website which will help victims through a difficult process.

8. GOVERNMENT FINANCE OFFICERS CERTIFICATE OF ACHIEVEMENT AND MOODY'S ISSUER COMMENTS: The County recently received two positive indications about its financial stewardship. Carol Block, Finance announced the two awards.

First, Larimer County was awarded a "Certificate of Achievement for Excellence in Financial Reporting" for last year's Comprehensive Annual Financial Report. The County is required by State statute to produce an annual report and have it audited by an independent CPA firm. Larimer goes beyond this minimum requirement by also submitting its report to the Government Finance Officers Association (GFOA) certificate program. Financial reports meeting GFOA's rigorous requirements receive the certificate of achievement. The certificate program acknowledges reports that "evidence the spirit of transparency and full disclosure." Fourteen percent of US Counties received the award for their 2019 Report.

Second, Moody's Investors Service completed an "Issuer Comment" report on Larimer County. The Issuer Comment report is a new annual research publication that provides updated credit, demographic, and econometric information about the County. The report states: "Larimer County has an extremely strong credit position. Its AAA rating exceeds the median rating of Aa2 for US counties. Notable credit factors include a very healthy financial position, negligible debt, and pension liabilities, an extensive tax base, and a strong wealth and income profile. "Moody's uses the County's Annual Financial Report as one of the primary sources for their research comments. Thus, having a well-designed report that meets all reporting standards is essential. The County's credit standing influences our ability to borrow funds at reasonable rates.

Alex LaBlanc, Accounting Manager, wanted to acknowledge the hard work of the finance team explaining that it is a rigorous process in collaboration with other departments.

The Commissioners and Linda Hoffmann congratulated the finance team on these outstanding achievements and on being good stewards of taxpayer dollars.

The Board took a brief recess for photos.

The Board returned to session.

9. APPROVAL OF NEW SENIOR LEGAL ASSISTANT FTE: Discussion has evolved over several years. Our office has attempted other solutions for managing workload increases, including restructuring responsibilities and revising protocols and practices, which have been unsuccessful. A summary of increased court processes and workload is attached.

David Ayraud, County Attorney, explained that the paralegal works in the child welfare division. The ongoing and increased court processes that have developed are very beneficial to child protection cases but, the outcome is more workload for those assigned to these cases.

MOTION

Commissioner Shadduck-McNally moved to approve a new Senior Legal Assistant FTE in the County Attorney's Office.

Motion carried 3-0

10. 2021 LEGISLATIVE SESSION UPDATE: The 2021 State of Colorado Legislative session began in mid-February. We would like to update the Board of County Commissioners on two legislative priorities for Larimer County:

HB21-1095 811 LOCATE EXEMPTION FOR COUNTY ROAD MAINTENANCE: Current law requires an individual or entity to notify the statewide notification association of all owners and operators of underground facilities of its intent to engage in excavation so that any underground facilities that the excavation might affect, such as water and sewer pipes, gas lines, and electric or cable lines, can be located and marked before excavation begins. Underground facilities are often located beneath county gravel and dirt roads, normally at a depth of at least 18 inches below the road surface. Counties maintain the profile and surface condition of such county roads and county road rights-of-way by engaging in routine and emergency maintenance activities that do not disturb more than six inches in depth. These maintenance activities currently trigger the excavation notification requirement, and the related requirement that the location of underground facilities be marked, even though they occur above the levels where underground facilities are located. To prevent such activities from triggering the excavation notification requirement, the bill specifies that "excavation" does not include routine or emergency maintenance of right-of-way on county-owned gravel or dirt roads performed by county employees that:

- Does not lower the existing grade or elevation of the road, shoulder, and ditches; and
- Does not disturb more than 6 inches in depth during maintenance operations.

SB21-118: ALTERNATIVE RESPONSE MISTREATMENT AT-RISK ADULTS Concerning the creation of an alternative response pilot program for county departments of human or social services to address a report of mistreatment of an at-risk adult.

Current law allows for only one type of response for a county department of human or social services (county department) to follow after a report of mistreatment or self-neglect of an at-risk adult, regardless of the level of risk reported. That type of response requires a full investigation, including unannounced initial in-person interviews, and a finding by the county department.

The bill creates, on or after January 1, 2022, an alternative response pilot program (pilot) that a participating county department can utilize when it receives a report, related to an at-risk adult, of mistreatment or self-neglect, (report) and the report has identified the risk as lower risk, as defined by rules promulgated by the state department of human services (state department).

The state department shall select a maximum of 15 rural and urban county departments to participate in the pilot. Upon receipt of a report, a participating county department will not make a finding nor will it be required to complete unannounced initial in-person interviews, so long as the report has identified the risk as lower risk, as defined by rule of the state department. If upon further review, the participating county department determines the situation is more severe, it shall revert to the process that is currently set forth in law for investigating a report.

The state department shall provide initial training on the pilot to participating county departments, as well as ongoing technical assistance.

The state department shall promulgate rules for the implementation and administration of the pilot. The rules must include, at a minimum, a description of the risk levels and the parameters around unannounced initial in-person interviews.

The state department shall contract with a third-party evaluator to evaluate the pilot's success or failure, including a consideration of the pilot's effectiveness in achieving outcomes over a two-year period.

Each participating county department shall submit a report to the state department, as necessary, regarding the county department's use of the pilot and any data required by the state department to effectively evaluate the pilot.

The state department shall submit a summary report to the health and human services committee of the senate and the public and behavioral health and human services committee of the house of representatives as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" presentations in January 2025 and January 2026.

The pilot is repealed, effective July 1, 2027.

Michelle Bird, Public Affairs Director, updated the Commissioners on four bills. The first two are the Larimer County priority legislative bills that were on Colorado Counties Inc. (CCI) legislative agenda. Both bills have passed out of the Senate committee unanimously and we do not anticipate any roadblocks to moving forward and getting signed. Both Larimer County bills have bi-partisan support.

Additionally, we would like the Commissioners to consider taking a formal position on two bills:

SB21-137: Behavioral Health Recovery Act. The bill contains multiple sections containing 24-pages. There is one specific part that Ms. Bird would like the Commissioners to consider supporting. Counties and Commissioners acting together (CCAT) have reached out for support. The bill provides funding for a wide range of initiatives that strengthen Colorado's Behavioral Health Care System. This enables the state to continue to partner with counties to expand systems of care that are underfunded. CCAT is asking the Board to support the sponsor-initiated amendment that would allow counties direct access to a portion of the American Recovery Plan Act. It is approximately \$9.5 million. Larimer County already has the framework and Master Plan in place. There are some limitations to the \$9.5 million. It must go towards providers that are outside the traditional behavioral health services network.

The Commissioners stated that they would be in support of this bill.

HB21-1222: Regulation of Family Child Care Homes, concerning aligning local governing authority regulations to expand opportunities to access childcare in family childcare homes.

The bill requires that family childcare homes be classified as residences for purposes of licensure and local regulations, including zoning, land use development, fire and life safety, and building codes. The bill also adds a provision stating that whenever the state department of human services reviews and rewrites its rules concerning childcare agencies or facilities, it shall seek advice from the department of public safety when such rules relate to specific types of childcare agencies or facilities.

Eric Fried, Building Code Compliance Director, talked about the impacts and concerns for the family in-home child-care facilities. In some local governments, these types of childcare facilities are seen as commercial facilities which means they would need to provide indoor sprinkler systems as well as handicapped accessibility which can be very costly to in-home providers. This bill would allow Fire Marshalls to inspect the facility for safety issues such as fire extinguishers and exits. He does have some concerns about some of the language in the bill about additional regulations to other residential properties. The bill did pass with 62 in favor and zero opposed.

The Commissioners did have some questions for staff on local jurisdictions for standards that are easier to comply with. Heather O'Hayre, Human Services Director explained that they do not have the opportunity to impose standards on providers because they are licensed at the state level.

The Commissioners stated that they will be in support of this bill.

MOTION

Commissioner Stephens moved that the Board support SB21-137, Behavioral Health Recovery Act and HB21-1222, Regulation of Family Child Care Homes with the amendment that brings the Fire Marshalls into the rule-making process.

Motion 3-0

Chair Kefalas also mentioned SB 21-238 concerning the Front Range Passenger Rail District and he would like to see support on that bill.

12. COVID-19 UPDATES AND DECISIONS: Linda Hoffmann, County Manager announced there is not an update today. There were some questions on the Johnson and Johnson vaccine, and its effects and are these being tracked. Ms. Hoffmann will relay questions to Public Health Director Gonzales for the Covbid-19 update next week.

13. COUNTY MANAGER WORKSESSION: Ms. Hoffmann updated the Board on upcoming projects and activities. Manager Hoffmann stated that there are two letters in draft format in front of the Commissioners to review for grants. One is the Larimer County application for administrative planning grant and the second is a Larimer County application for growing water-smart technical assistance and we will need a motion for the Chair to sign.

MOTION

Commissioner Shadduck McNally moved that the Board authorize the Chair to sign these two letters dated April 13, 2021, with the addition of grammatical corrections on behalf of the Board of County Commissioners. The first letter is supporting Larimer County's Administrative Planning Grant from the Department of Local Affairs Energy/Mineral Impact Assistance Fund Grant to begin the foundational work of preparing a Water Master Plan as an element to our Comprehensive Plan of 2019. The second letter is supporting Larimer County's Water Smart Technical Assistance grant to begin the foundational work of preparing a Water Master Plan as an element to our Comprehensive Plan of 2019.

Motion carried 3-0

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

15. LEGAL MATTERS: None requested

With there being no further business, the Board adjourned at 11:40 a.m.

SPECIAL LAND USE MEETING

The Board of County Commissioners met at 3:30 p.m. with Lesli Ellis, Community Development Director. Chair Kefalas presided. Commissioner Stephens and Commissioner Shadduck-McNally were present. Also present were: Matt Lafferty, Community Development; Frank Haug and Bill Ressue, County Attorney; and Deirdre O'Neill, Deputy Clerk.

Chair Kefalas made opening remarks explaining that the purpose today is to hold a public meeting so the Board of County Commissioners can hear from the public and decide whether to let the current

Temporary Moratorium for 1041 Permits and Oil and Gas Development Applications expire on April 15, 2021, or to extend one or both for an additional period.

On March 16, 2021, the Board of County Commissioners passed a resolution imposing a Temporary Moratorium on processing 1041 permit applications and a resolution imposing a Temporary Moratorium on processing Oil and Gas Development Applications. Each one currently expires on April 15, 2021. The Board is working with the community to amend 1041 permit applications, article 10 of the Land Use Code, and oil and gas regulations article 11 of the Land Use Code. Chair Kefalas mentioned how the public can participate as well as watch the proceedings as well as explained how the public presentation will be conducted. Each member of the public will have two minutes to address the Board.

Chair Kefalas asked Lesli Ellis, Community Development for a presentation.

1041 Permit Temporary Moratorium

Lesli Ellis, Community Development Director, explained that in essence what the Temporary Moratorium prohibits is that we will not accept or process any submissions of 1041 permit applications. This allows us the time for amending our regulations and to make sure they represent the criteria that the Commissioners are interested in adding to that amendment.

Ms. Ellis went over the schedule for the regulations including upcoming dates and engagement opportunities including drafting and review.

A 1041 Permit is required prior to conducting any activity that has been designated as a Matter of State Interest unless the County Commissioners have granted an appeal to the requirement for a permit or have adopted an intergovernmental agreement such that a permit is not required.

Chair Kefalas opened the hearing for public comment: The following members of the public spoke in support of extending the Temporary Moratorium for 1041 Permit applications; James McCauley (in person) Karen Artell (zoom), Karyn Coppinger (in person), Patricia Babbitt (in person), Ed Behan (zoom), Barry Feldman (zoom), Alida Villatoro (zoom), Patrick Crotzer (zoom), Philip Friedman (zoom), David Sullivan (zoom), Emily Gallichotte (zoom), Tim Gosar (zoom), Karen Wagner (zoom), Kevin Krauss (zoom), Robert Kitchell, President of No Pipe Dream (zoom). Their collective concerns were needing to identify the full extent of the project and time to update regulations. Some spoke on the comparison to other counties and environmental protections as well as reviewing the science.

The following spoke against extending the 1041 permit temporary moratorium all via zoom: Brad Tidd, Quinn Roberts, Nadine Jung, Beth Hixon (also opposed to oil and gas regulations per email), Eugene Maycroft, Ray Rowden, Janet Juell, Peter Cunningham, Robert Morain, Donna Walter, and Sharon Anderson. Their collective concerns are the economy, financial hardships, and the ability to make a living.

Oil & Gas Temporary Moratorium

Lesli Ellis briefly went over the resolution in part stated that the Board needed time to study and better understand the extent of its oil and gas authority and how local land use regulations could complement the Colorado Oil and Gas Conservation Commission rules. The Board found that a temporary moratorium is necessary to preserve the status quo in Larimer County and allow reasonable time to update oil and gas regulations in the Land Use Code.

Ms. Ellis went over the upcoming schedule for drafts, public hearings to discuss district sections of the regulations. They have also added some work sessions on this topic.

Chair Kefalas had a question on the timeline and if it takes into consideration some of the input that the Commissioners have received in order for the public to have the opportunity to see draft regulations with ample opportunity to provide feedback.

Ms. Ellis explained that yes, the changes have been made to the schedule based on comments from the public.

Chair Kefalas opened the hearing for public comment.

The following members of the public spoke in support of extending a Temporary Moratorium on processing Oil and Gas Development Applications via zoom: Andrew Forkes, Deb Bjork, Emily Gallichotte, Ed Behan, Alida Villatoro, Doug Henderson, Dr. Corey Carroll, Kevin Krause, Phillip Freidman, Mary Bedosky, Karen Artell, Lori Brunswig, David Sullivan, Karen Wagner, and Tim Gosar. Their collective concerns are the health and well-being of Larimer County residents, environmental issues including air quality and wildlife. It was also mentioned by several members to give staff time while new regulations are being formulated while some also felt the regulations are strict enough, and more protective standards.

The following members of the public spoke against extending the Temporary Moratorium: Morgan Kidder, Christopher McGowen-American Petroleum Institute of Colorado, Steven Shogry, Janet Juell, Rich Coolidge-Division of Regulation Affairs, Howard Boigon-Vice Chair of the Colorado Oil and Gas Conservation Commission, Sharon Anderson, Nadine Jung, Eugene Maycroft, Donna Walter, and Robert Morain. Their collective concerns were to allow the moratorium to expire while regulations are being formulated, economic stability, loss of revenue, layoffs, safety regulations in existence, return to business, and current regulations were recently updated.

Chair Kefalas closed public comment and thanked everyone who participated.

Chair Kefalas asked if any of the Commissioners have questions on the 1041 Permit Temporary Moratorium.

Commissioner Shadduck-McNally had questions on the proposed schedules for both and if there are any concerns with the timeline. Ms. Ellis stated that the schedules are staggered so she does not have any concerns for staff or members of the public.

Commissioner Stephens asked if Ms. Ellis could explain the 1041 process as it seemed some members of the public were not clear on this.

Ms. Ellis explained that a 1041 Permit is required prior to conducting any activity that has been designated as a matter of state interest that might be of local concern. An example would be large solar panel projects, pipeline projects, they typically affect multiple properties. The county typically gets about two or three permit applications per year. All applications for a 1041 permit require a pre-application conference, Planning Commission review, and Board of County Commissioners review and gave some history on why Larimer County passed regulations to adopt 1041 Permits.

There was some discussion between the Commissioner and Frank Haug, County Attorney on timeframes if the moratorium is extended as well as legal authority to extend a temporary moratorium. Mr. Haug stated that the Commissioners have the authority to implement a temporary stay on the implementation due to public harm while updating regulations but there are limitations.

The Commissioners thanked all the residents as well as staff for participating in this process. The Commissioners did state that they have taken all the input seriously and into full consideration, but they do believe they have the responsibility to take the health and welfare of its citizens and future generations into considerations. This is a lengthy Land Use Code adoption and needs to be looked at thoroughly.

The Commissioners let the public know that this is not about putting up indefinite roadblocks or holding up the economy and businesses. It will give us this time to focus on these regulations. The updating of the Land Use Code is done in phases. This is a completed process with multiple parts. The 1041 Permit process has key issues that we would like to focus on addressing including the twelve criteria.

MOTION

Commissioner Shadduck-McNally moved that the Board extend the Resolution dated March 16, 2021, Imposing a Temporary Moratorium on Processing 1041 Permit Applications with the new date of expiration December 15, 2021.

Chair Kefalas wished to add an amendment to the motion by adding a additional recital which states “Whereas Larimer Counties designated areas and activities of state interest have the potential for significant and broad impacts on the environment, natural resources, and public recreation areas of Larimer County.”

Motion carried 3-0

The Commissioners had some questions for staff on the oil and gas temporary moratorium.

Commissioner Stephens has a question that was asked by a member of the public on existing production.

Frank Haug, County Attorney stated that items already permitted before the temporary moratorium put into place will not be affected but things that may need to be permitted moving forward would come under the temporary moratorium which would include any new construction on any oil and gas facility.

There were also some questions from the Commissioners on exploratory activities.

The Commissioners thanked everyone who participated in the conversation. The process of extending will provide more certainty and at this time the regulations do not match the state regulations. There were some comments on environmental justice as well as regulations need to meet the state standards. The Commissioners stated the need to protect soil and air.

Chair Kefalas gave some history and background on the current oil and gas regulations. The process was deliberate and thoughtful with the creation of the oil and gas task force. Chair Kefalas reminded everyone that one of the provisions of SB19-181 for Larimer County regulations is that once the state finalized its regulations, then Larimer County was given a certain amount of time to update its oil and gas regulations.

The Commissioners announced that they will all be in support of extending the Temporary Moratorium on Oil and Gas Development Applications.

MOTION

Commissioner Stephens moved that the Board extend the Resolution dated March 16, 2021, imposing a Temporary Moratorium on Processing Oil and Gas Permits which will now expire on September 15, 2021, with the clarification that seismic testing related to oil and gas development is included in the moratorium.

Chair Kefalas offered an amendment to the motion, stating "Whereas oil and gas operations have the potential for significant and immediate impacts on the environment, natural resources, and public recreation areas of Larimer County."

There was some discussion on clarifying additional construction and re-completions projects between the Board and Mr. Haug.

Motion carried 3-0

The Board adjourned at 7:00 p.m.

**MINI MART LLC DBA LOAF N' JUG
LIQUOR LICENSE HEARING**

The Board of County Commissioners met at 10:30 a.m. with David Ayraud, Assistant County Attorney. Chair Kefalas presided. Commissioner Stephens and Commissioner Shaddock-McNally were present. Also present were Eliza Brock, Clerk and Recording Department, and Deirdre O'Neill, Deputy Clerk.

Chair Kefalas opened the hearing and the applicants, Eva Garretson and Shawna Bezio, were sworn in. Brian Proffitt, attorney for the applicants was present.

This is a Fermented Malt Beverage Off-Premises. The locations were formally Schrader's Country Store which did not previously sell alcohol. They have been acquired by Mini Mart Inc. The three locations are as follows:

- Loaf n Jug #750824, 601 Greenfield Court Fort Collins, Colorado 80524
- Loaf n Jug # 750817, 7602 S College Avenue Fort Collins, Colorado 80528
- Loaf n Jug # 750821, 92 Poudre Canyon Road, Bellvue, Colorado 80512

Mr. Ayraud noted for the record that there was nobody present to speak against this license.

Mr. Ayraud reviewed the following exhibits with the Board: Exhibit A – publishing of the notice in the newspaper; Exhibit B – diagram of the premises; Exhibit C – photos of Notice of Public Hearing posting on the premises; and Exhibit D – petition of the surrounding neighborhood. The exhibits were entered into evidence for the record.

Mr. Ayraud asked a series of questions of both Ms. Garretson and Ms. Bezio regarding the exhibits, and then questioned whether Ms. Garretson felt the needs and desires of the surrounding neighborhood support a Fermented Malt Beverage Off-Premises license for each location. Ms. Garretson replied in the affirmative, based upon the results of her petitioning process. When questioned whether Ms. Bezio was familiar with the liquor laws and if she had any alcohol server training, Ms. Bezio replied that she had 18-years' experience in Management.

Ms. Garretson went over each location's response in favor vs opposed. There was discussion on the opposition reasons given particularly the 601 Greenfield Court Location #750824 with its proximity to I-25 and some residents concerns for theft and transients.

Both applicants answered questions from the County Attorney as well as the Attorney representing the applicant.

Ms. Garretson went over the diagram of each location and where the beer coolers would be kept. She also went into depth on training of the employees, number of employees and managers in each store. There were several questions including hours of operation, safety measures for employees, and video cameras in each store. Per Colorado state statute 20% of the gross revenue must come from food items excluding fuel, tobacco, and lottery. The gross income is 45% which more than doubles the minimum.

Ms. Bezio has been in a Management capacity for 18-years overseeing 90+ stores and has not had to respond to any liquor license violations in Larimer County. She also answered questions on marketing and the types of beer and varieties they would be selling. Ms. Bezio answered questions on the cooler doors and what precautions are in place in order for the sale of beer not being sold prior to the permissible hour.

The Commissioners did have some questions for the applicants about dealing with intoxicated individuals and working with local law enforcement.

The Board took a brief recess.

The Board returned to session.

Mr. Ayraud has questions on whether Ms. Bezio in her capacity believes the license particularly in the Greenfield location will attract theft. Ms. Bezio believes it will remain neutral.

Commissioner Stephens stated that she appreciated the thorough answers and that all documents have been submitted as well as the verification of the hearing was posted in all three locations and will be in support of this license.

Commissioner Kefalas also agreed with the documentation but has concerns about the Loaf n Jug #750824, 601 Greenfield Court Fort Collins location.

M O T I O N

Commissioner Stephens moved that the Board of County Commissioners approve the application of Mini Mart Inc, for Retail Fermented Malt Beverage Off- Premises license for Loaf N Jug, #750817, 7602 S College Avenue Fort Collins, Colorado 80528

Motion carried 3-0.

M O T I O N

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the application for Retail Fermented Malt Beverage Off-Premises license for Loaf n Jug # 750821, 92 Poudre Canyon Road, Bellvue, Colorado 80512

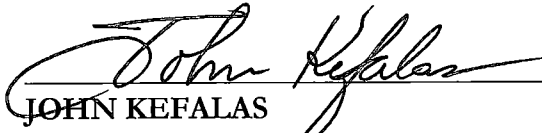
Motion carried 3-0

M O T I O N

Commissioner Stephens moved that the Board of County Commissioners approve the application of Mini Mart Inc, for Retail Fermented Malt Beverage Off- Premises license for Loaf N Jug, # 750824, 601 Greenfield Court Fort Collins, Colorado 80524

Motion carried 2-1 Chair Kefalas dissenting

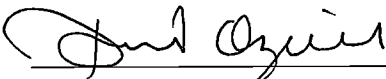
The Board adjourned at 12:00 p.m.


JOHN KEFALAS
BOARD OF COUNTY COMMISSIONERS

ANGELA MYERS

CLERK AND RECORDER

ATTEST:


Deirdre O'Neill, Deputy Clerk

