



Chaffee County Commissioners Meeting
May 4, 2021

Due to the COVID-19 pandemic and State and County safer-at-home orders, these minutes have been taken remotely via Zoom meeting. Some County staff, representatives from other governments and government agencies, and others from the public attend, including participating in the public hearing portion of the meeting, remotely via Zoom meeting as well.

A. Call to Order

The regular meeting of the Board of Commissioners was held on May 4, 2021, at the Chaffee County Courthouse. Board members present were Commissioner Keith Baker, Chairman Greg Felt, Commissioner Rusty Granzella.

Others present in person were Director of General Administration Bob Christiansen, Director of Finance Dan Short, County Attorney Jennifer Davis, Deputy County Attorney Daniel Tom, Public Affairs Officer Beth Helmke, Planner Christie Barton, and IT Ethan Smith.

Others present remotely were Assistant County Attorney Miles Cotton and Deputy County Clerk Barbara Tidd.

1. Pledge of Allegiance
Following the Pledge of Allegiance, Chairman Felt called the meeting to order at 9:02 a.m.
2. Review Public Meeting List
The Board reviewed the public meeting list.
3. Public Comment
There was no public comment.

B. Minutes for Approval

1. Approve the minutes from the April 20, 2021 regular meeting.

Chair Felt addressed the Board regarding Agenda item E.6 to clarify that this applies to the entire County, including municipalities. Attorney Tom responded to Chair Felt's question. It was clarified that municipalities could go tighter but not looser than these County requirements.

Commissioner Granzella moved to approve the minutes of the April 20, 2021 Commissioners' regular meeting with the small correction as stated by Chair Felt. Commissioner Baker seconded the motion. The motion carried unanimously.

C. Contracts/Grant Consideration

1. REDI Grant for Local Economic Ecosystem Development.

Chaffee County Economic Development Corp. Director Wendell Pryor addressed the Board regarding the REDI Grant for Local Economic Ecosystem Development. Director Christiansen and Director Pryor responded to Commissioners' and Director Short's questions. Center Director of the

Central Mountain Small Business Development Center (SBDC) - Buena Vista, CO Jamie Billesbach addressed the Board and responded to Commissioners' questions. Discussion ensued.

Commissioner Granzella moved to approve the request of up to \$70,000 as Chaffee County's match for the Department of Local Affairs (DOLA) Rural Economic Development Initiative (REDI) Grant for Local Economic Ecosystem Development. Commissioner Baker seconded the motion. The motion carried unanimously.

D. 9:15 a.m. - Public Hearings and consideration of recommendations from the Planning Commission Meetings with regard to the following matters:

1. **Public Notice - This item originally continued on January 19, 2021 and again continued on February 9, 2021, March 9, 2021 and April 13, 2021 - Name of Project:** Land Use Code Text Amendment - correction to Table 7.7.2 Salida Airport Overlay District Applicants: Chaffee County Staff **Request:** Remove existing Section 7.7.2 Salida Airport Overland District and replace it with proposed new section. Text is available at <https://www.chaffeecounty.org/Planning-and-Zoning-Planning-Commission>

Planner Barton addressed the Board regarding continuing this matter again. She and Attorney Tom provided a status. Attorney Tom and Planner Barton responded to Commissioners' questions.

Commissioner Granzella moved to continue the Land Use Code Text Amendment - correction to Table 7.7.2 for Salida Airport Overlay District to June 15, 2021. Commissioner Baker seconded the motion. The motion carried unanimously.

E. Regular Agenda Items

1. **Public Hearing - Name of Project:** Dvorak Heritage Water Subdivision Exemption **Applicants:** William Dvorak **Location:** 17921 Highway 285, Nathrop **Zone:** Commercial **Request:** To subdivide 6.89 acres into two lots of 2.75 and 4.14 acres. Wells and on-site wastewater treatment systems will serve the property. A request for a waiver of Section 7.3.2 of the Land Use Code for a lot with an access easement instead of frontage onto dedicated right of way. The existing access easement will share access for the telecommunications tower and the new 2.75 acre lot (Lot 2).

Planner Barton addressed the Board regarding the Dvorak Heritage Water Subdivision Exemption request for Applicant William Dvorak located at 17921 Highway 285, Nathrop. Planner Barton responded to Commissioner's questions.

Applicant William (Bill) Dvorak, 17921 Hwy. 285, Nathrop, addressed the Board and responded to Commissioner's questions.

Attorney Tom spoke.

The public comment portion of the hearing opened at 10:05 a.m. There were no comments, and the public comment portion of the hearing was closed.

Discussion ensued during which Planner Barton spoke and she, Dvorak, and Attorney Tom responded to Commissioners' questions.

Commissioner Granzella moved to approve the Dvorak Heritage Water Subdivision Exemption; **Applicant:** William Dvorak; **Location:** 17921 Highway 285, Nathrop, and to adopt the Planning Department staff conditions of approval, the waiver, the plat correction for the southern easement and the addition of the road easement to the north both to Lot 2, and if needed, the easement on the

water system if it is a shared water system; and direct staff to prepare a resolution for the May 18, 2021 meeting. Commissioner Baker seconded the motion. The motion carried unanimously.

2. Consider a resolution designating operating hours, areas of public assembly and unauthorized activities on County properties. - Attorney Tom

Attorney Tom addressed the Board to consider draft Resolution 2021-32 DESIGNATING OPERATING HOURS, AREAS OF PUBLIC ASSEMBLY AND UNAUTHORIZED ACTIVITIES ON COUNTY PROPERTIES.

Discussion ensued during which Attorneys Tom and Davis responded to Commissioners' questions.

Commissioner Baker moved to continue consideration of draft Resolution 2021-32 DESIGNATING OPERATING HOURS, AREAS OF PUBLIC ASSEMBLY AND UNAUTHORIZED ACTIVITIES ON COUNTY PROPERTIES to May 11, 2021. Commissioner Granzella seconded the motion. The motion carried unanimously.

3. Consider Resolution 2021-35 Ratification and Extension/Amendment #12 of Declaration of Local Disaster Emergency

Attorney Cottom addressed the Board to consider draft Resolution 2021-35 RATIFICATION AND EXTENSION/AMENDMENT #12 OF DECLARATION OF A LOCAL DISASTER EMERGENCY. Attorneys Davis and Cottom and Director Christiansen and Officer Helmke responded to Commissioners' questions.

Commissioner Granzella moved to approve Resolution 2021-35 RATIFICATION AND EXTENSION/AMENDMENT #12 OF DECLARATION OF A LOCAL DISASTER EMERGENCY with the two corrections as discussed: extending the Declaration to July 6, 2021 instead of July 1, 2021, and adding 'expanded' to the resolution regarding 3. County Offices opening to reflect expanded opening of County offices. Commissioner Baker seconded the motion. The motion carried unanimously.

4. Ratify BOCC's concurrence with conveyance of a Conservation Easement and Access Easement acquisition to Colorado Parks and Wildlife from Nestle Waters of North America.

Chair Felt addressed the Board regarding ratifying the Board of Commissioners' concurrence with conveyance of a Conservation Easement and Access Easement acquisition to Colorado Parks and Wildlife from Nestle Waters North America.

Commissioner Baker moved to ratify the previously approved Board of Commissioners' concurrence with conveyance of a Conservation Easement and Access Easement acquisition to Colorado Parks and Wildlife from Nestle Waters North America. Commissioner Granzella seconded the motion. The motion carried unanimously.

5. Consider a request for the renewal of a liquor license for Amber Waves Adventures, LLC dba American Adventure Expeditions. - County Clerk Mitchell

Attorney Tom addressed the Board reporting for Clerk Mitchell regarding a request for renewal of a liquor license and waiving of renewal fees for Amber Waves Adventures, LLC dba American Adventure Expeditions. Attorney Tom responded to Commissioners' questions.

Commissioner Baker moved to approve the request for renewal of a liquor license for Amber Waves Adventures, LLC dba American Adventure Expeditions and waive the local fee of \$175.00 to align with the State renewal fee waiver. Commissioner Granzella seconded the motion. The motion carried unanimously.

6. Consideration of a Letter of Support for the National Forest Foundation's (NFF's) proposal to the Natural Resources Conservation Service's Regional Conservation Partnership Program Alternative Funding Arrangement (RCPP-AFA), titled "Upper Arkansas Forest Fund".

Chair Felt addressed the Board to consider a draft Letter of Support for the National Forest Foundation's (NFF's) proposal to the Natural Resources Conservation Service's Regional Conservation Partnership Program Alternative Funding Arrangement (RCPP-AFA), titled, "Upper Arkansas Forest Fund."

Commissioner Granzella moved to approve the Letter of Support for the National Forest Foundation's (NFF's) proposal to the Natural Resources Conservation Service's Regional Conservation Partnership Program Alternative Funding Arrangement (RCPP-AFA), titled, "Upper Arkansas Forest Fund." Commissioner Baker seconded the motion. The motion carried unanimously.

F. Executive Session

1. **11:00 a.m.** - Executive session under 24-6-402(4)(b) for purposes of receiving legal advice from County Attorney Davis and possibly Water Attorney David Shohet on specific legal questions involving water case 18CW3076 (involving the Upper Arkansas Water Conservancy District application); Commissioners Keith Baker and Rusty Granzella will attend (Commissioner Greg Felt has recused himself). Deputy County Attorney Tom, County Administrator Bob Christiansen and Finance Director Dan Short may also attend.

Chair Felt stated that the 1041 Permit renewal public hearing will be held at 1:00 p.m. as scheduled, then recused himself and turned the meeting over to Vice Chair Baker.

Vice Chair Baker addressed the Board regarding this executive session stating that this executive session is under CRS 24-6-402(4)(b) for the purpose of receiving legal advice from County Attorney Davis and possibly Water Attorney David Shohet on specific legal questions involving water case 18CW3076 (involving the Upper Arkansas Water Conservancy District application). Commissioners Keith Baker and Rusty Granzella will attend. (Commissioner Greg Felt has recused himself). Deputy County Attorney Tom, Director of County Administration Bob Christiansen and Director of Finance Dan Short may also attend.

Commissioner Granzella moved to go into executive session under CRS 24-6-402(4) (b) for purposes of receiving legal advice from County Attorney Davis and possibly Water Attorney David Shohet on specific legal questions involving water case 18CW3076 (involving the Upper Arkansas Water Conservancy District application); Commissioners Keith Baker and Rusty Granzella will attend. (Commissioner Greg Felt has recused himself). Deputy County Attorney Daniel Tom, Director of County Administration Bob Christiansen, and Director of Finance Dan Short may also attend. Commissioner Baker seconded the motion. The motion carried unanimously with Commissioners Granzella and Baker voting FOR the motion. Chair Felt was not present for the vote.

Attorney Davis stated that this portion of the meeting would constitute attorney-client

communication and no further recording of this portion of the meeting would be required.

The Board of Commissioners moved into executive session at 11:09 a.m.

The Board of Commissioners came out of executive session at 11:28 a.m. with no decisions being made.

I, Jennifer A. Davis, Chaffee County Attorney, do hereby attest that the unrecorded statements and discussions that took place during the executive session held on May 4, 2021 constituted privileged attorney-client communication.

Jennifer A. Davis, Chaffee County Attorney

I, Keith Baker, Vice Chairman of the Chaffee County Board of County Commissioners, do hereby attest that the unrecorded statements and discussions that took place during the executive session held on May 4, 2021 were confined to the topic described in the announcement of such session and authorized by the provisions of CRS 24-6-402(4)(b).

Keith Baker, Vice Chairman

Following executive session, the regular meeting resumed at 11:30 a.m.

Attorney Davis stated that the Stipulation being considered in Case No. 18CW3076 is between the County and the Upper Arkansas Water Conservancy District (UAWCD) and would stipulate the entering of a decree in that case including conditions that each party reserves its right and position in relation to a dispute that the parties have had regarding interpretation of transfer agreements involving O'Haver Reservoir, Boss Lake, and North Fork Reservoir. This Stipulation would preserve those positions. The Stipulation specifies that it would not be construed as waiving either party's position on that issue and would not waive compliance with County Land Use and Zoning regulations. Attorney Davis responded to Commissioner's questions.

Commissioner Granzella moved to approve the Stipulation Agreement with the UAWCD. Commissioner Baker seconded the motion. The motion carried unanimously with Commissioners Granzella and Baker voting FOR the motion. Chair Felt was not present for the vote having recused himself from this matter.

The regular meeting recessed at 11:33 a.m. until 1:00 p.m.

G. Convene as 1041 Permit Authority

The Board of Commissioners regular meeting resumed at 1:06 p.m.

The Board of Commissioners recessed as the Board of Commissioners at 1:06 p.m. and convened as the 1041 Permit Authority at 1:06 p.m.

1. 1:00 P.M. - Public Hearing - Continued from April 20, March 16, February 16, 2021 and originally continued from December 15, 2020 - Applicant: Nestle Waters North America Inc. **Location:** 12974 Hwy 24/285, Johnson Village, 22565 and TBD CR 300, Nathrop, lying in the S1/2 NE1/4, SE1/4 NW1/4, W1/2 SE1/4, and the SE1/4 SE1/4, all in Section 11, Township 15 South, Range 78 West, 6th P.M. **Zones:** Commercial and

Rural **Request:** Ten (10) year extension of an existing 1041 Permit for a spring water production process, and associated transmission pipeline and loading facility.
All documents regarding this hearing may be found on the Chaffee County Public Notice website at <http://www.chaffeecounty.org/Public-Notices>

Chair Felt addressed the Board to clarify that today's meeting will be regarding the change of ownership of Nestle Waters North America (Nwana). The May 18, 2021 meeting will be for the Applicant to respond regarding the Economic Impact Report by Harvey Economics, public comments regarding this, and to take public comment on the previously submitted Nwana Annual Report for the 2020 year.
Chair Felt stated that correspondence had been received regarding the change of ownership/transferability of the permit. Attorney Davis responded to Chair Felt's question.

Commissioner Baker moved to accept this package of correspondence into the official record after which it will be posted to the website and provided to the Applicant. Commissioner Granzella seconded the motion. Discussion ensued during which Attorney Davis responded to Commissioner's question. Chair Felt called for the question. The motion carried unanimously.

Attorney Davis responded to Commissioners' questions regarding transfer of ownership.

Chair Felt invited the Applicant to address the Board concerning transfer of ownership.

Nwana Natural Resource Manager-Western Region Larry Lawrence, 5772 Jarupa St., Ontario, CA, addressed the Board concerning the March 2021 transaction.

Nwana legal counsel Caitlin Quander addressed the Board and responded to Commissioners' questions.

Lawrence continued his presentation, responded to Commissioners' and Attorney Davis's questions, and provided a status on the conservation easement and second Alliance for Water Stewardship audit.

Attorney Davis responded to Commissioner's question. Quander commented. Lawrence and Quander responded to Commissioners' questions.

Discussion ensued during which Attorney Davis, Lawrence, and Quander spoke.

Chair Felt described the public comment process.

The meeting recessed at 2:14 p.m. for a short break.

The meeting resumed at 2:20 p.m. at which time the public comment portion of the hearing opened.

Public comments were given by:

Joan Read, 426 Leprechaun Lane, Howard

Brady Karlin, 31255 County Rd. 348A, Buena Vista

Francie Bomer, 225 D St., Salida; Bomer responded to Chair Felt's question.

Lizzy Bauer, 6820 County Rd. 104 #20, Salida

Attorney Tom responded to Chair Felt's question regarding Bauer's comment about a potential conflict of interest with Chair Felt being on the Board of the Upper Arkansas Water Conservancy District (UAWCD). Chair Felt spoke followed by Attorney Tom. Discussion ensued. It was stated that neither legal nor

Commissioners Baker and Granzella perceive a conflict of interest.

John McGowan, 13100 Coyote Valley Rd., Salida; McGowan responded to Commissioners' questions.
Rain Hastings, 1716 County Rd. 49, Salida

Chair Felt spoke regarding UAWCD's augmentation.

Michael O'Heaney, Executive Director of the Story of Stuff Project, 1442A Walnut Street,#272, Berkeley, CA

Angie Thompson, 9332 Hwy. 50, Howard
Jen Swacina, 132 E. 7th St., Apt. 2, Salida

Attorney Davis responded to Swacina's question. Discussion ensued. Chair Felt responded to Swacina's question.

Tom Bomer, 225 D St., Salida, representing Unbottle and Protect Chaffee County Water.

Commissioner Baker spoke.

Troy Carlin, 31255 County Rd. 384A, Buena Vista
Susan Berger, 8311 County Rd. 120, Salida

The public comment portion of the hearing closed at 3:37 p.m.

Chair Felt invited Applicant and/or Applicant's legal counsel to speak. Quander addressed the Board. Discussion ensued during which Attorney Davis and Quander responded to Commissioners' questions.

Lawrence asked if he and NWNA's economist consultant could present in person to the Commissioners on May 18, 2021. Discussion ensued.

Consensus is that Applicant along with Applicant's economist consultant (2 people maximum) may present to the Commissioners in person on May 18, 2021 at 1:00 p.m. Further, spokespersons for Unbottle and Protect Chaffee County Water Tom Bomer and Jen Swacina may attend in person on May 18, 2021 at 1:00 p.m. or at the next hearing date established for public response to NWNA's economic analysis.

Commissioner Baker moved to continue this public hearing to May 18, 2021 at 1:00 p.m. Commissioner Granzella seconded the motion. The motion carried unanimously.

The Commissioners adjourned as the 1041 Permit Authority at 4:02 p.m. and reconvened as the Board of Commissioners.

H. Consent Agenda

Commissioner Baker moved to approve the Consent Agenda. Commissioner Granzella seconded the motion. The motion carried unanimously.

1. Pay Bills

I. Active Projects

J. Adjourn

Commissioner Baker moved to adjourn the meeting. Commissioner Granzella seconded the motion. The motion carried unanimously. The meeting was adjourned at 4:07 p.m.

K. Potential Road Trip

Attest:

A handwritten signature in cursive script that reads "Lori Mitchell". The signature is written in dark ink on a light-colored background.

Lori Mitchell, County Clerk