



# ELBERT COUNTY, COLORADO

The Board of Elbert County Commissioners (BOCC) met in a regularly scheduled meeting on Wednesday, March 25, 2015 with roll call of members as follows:

**Robert Rowland- PRESENT**

**Kelly Dore- PRESENT**

**Larry D. Ross- PRESENT**

The BOCC convened at 9:02 a.m., Chairman Robert Rowland called the meeting to order.

Prayer given by Pastor Jim Emig of Kiowa Creek Community Church

Pledge of Allegiance

**The Board of County Commissioner's meetings are recorded for later use**

## **1. Agenda:**

Commissioner Dore moved that the BOCC accept the Agenda as presented.

Commissioner Ross seconded. All three Commissioners voted AYE.

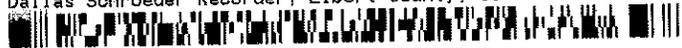
Motion passed.

## **2. Correspondence:**

Commissioner Ross commented that last week The Colorado Water Conservation Board (CWCB) approved our last round of grant funding regarding the Water Supply Study for Elbert County, and it pairs up with a previously approved collaboration with the United States Geological Service (USGS) to evaluate the rate of decline of our groundwater aquifers. He thanked all who were involved in the grant writing and read aloud a press release regarding the total of \$387,000.00 in grants and matching funds that will fund a two-part project that will provide a detailed analysis of the Denver Basin aquifers underlying Elbert County.

**3. Consent Agenda:** All matters listed on the Consent Agenda are considered routine by the Board and will be enacted by one (1) motion in the form below. There will be no separate discussion of these items. If discussion is desired on any item(s) and permitted by the Board, those items will be considered separately.

- a. Approval of BOE minutes from Nov. 26, 2014
- b. Approval of BOCC minutes from Jan. 28, 2015
- c. Approval of BOE minutes from Jan. 28, 2015
- d. Approval of BOCC minutes from Feb. 11, 2015



- e. Approval of Executive Session minutes from Feb. 11, 2015
- f. Approval of BOCC minutes from Feb. 25, 2015
- g. Approval of Executive Session minutes from Feb. 25, 2015
- h. Approval of BOCC minutes from Mar. 11, 2015
- i. Approval of Executive Session minutes from Mar. 11, 2015
- j. Approval of Sheriff's Dept. contract with Colorado Bureau of Investigation (CBI) Identity Theft & Fraud 24 Hour Hotline Agreement
- k. Approval of Spring Valley Golf Club Annual Liquor License Renewal
- l. Warrants, Vouchers & Mylar signing

Commissioner Dore moved that the BOCC accept the Consent Agenda as presented.

Commissioner Ross seconded. All three Commissioners voted AYE.  
Motion passed.

**4. Awards/Recognition: NONE**

- 5. Elected Official/Department Heads/Staff Report:** The Elected Officials, Department Heads and Staff Report comments is a time when any elected official or department head may bring forth items of interest or concern.

Commissioner Rowland thanked all those involved in the Water Grants and stated he is dedicated to making our water a priority and will provide as much information as possible to the Public about our Denver Basin water future. He reminded everyone of the radio talk shows that keep the public informed of water issues and mentioned several guests on the show such as the Governor's appointee to head of all the water basins; and several others, all of whom are very involved in the State Water Plan. He advised there will be another show this Friday from 1:00 p.m. to 3:00 p.m. on KLZ Radio with water experts and Senator Jerry Sonnenberg and possibly our House Representative.

- 6. Public Comment:** The public comment period is a time when any citizen may bring forth items pertaining to County business. During this time each individual will have three minutes to present their view(s) on County matter(s). In the interest of time, please have your comments prepared for presentation as each person will be allowed one (1) opportunity to approach the podium. Please keep your comments to a three (3) minute maximum. No formal action will be taken on these items during this time due to open meeting provision; however, the items may be placed on a future posted Agenda if action is required. The public comment portion of the BOCC meeting is not to be used for political or campaign purposes;

comments and questions should be limited to matters of current County affairs and business. When you approach the podium please identify yourself, spell your last name and give your address.

NONE

**7. Old Business:** NONE

**8. New Business:**

- a. County Attorney Wade Gateley presented a Resolution to the BOCC for Amendments to the Fair Board Bylaws & Appointments to the Fair Board, reminding them that the resolution passed on Jan. 28, 2015 appointed 16 members to the Fair Board, but 5 of those actually expired at the end of 2014. This Resolution for the Revised Bylaws of the Fair Board addresses those re-appointments along with a few minor changes, and he recommended that the BOCC approve it.

Commissioner Dore moved that the BOCC approve the resolution approving Revised Bylaws of the Elbert County Fair Board and Re-Appointing Certain Fair Board Members.

Commissioner Ross seconded.

Commissioners Rowland and Ross clarified several points.

Commissioner Rowland moved to amend the original motion and delete the word "governing" from 1<sup>st</sup> sentence in Article 3, Section 1.

Commissioner Dore seconded.

After clarification from the County Attorney, Commissioner Ross moved to further amend the original motion by replacing the word "governing" with "Organizational" in the 1<sup>st</sup> sentence in Article 3, Section 1.

Commissioner Dore seconded.

Commissioners Dore and Ross voted AYE. Commissioner Rowland voted NAY. Commissioner Ross' Motion to amend passed.

Commissioner Rowland's motion to amend was dropped.

Commissioner Rowland moved to amend the original motion by reducing the minimum number of Fair Board voting members from 15 to 12 and the maximum number from 19 to 16 in Article 4, Section 2.

Commissioner Dore seconded.

Commissioner Ross stated he supports the original language and opposes this motion.



Commissioners Dore and Rowland spoke in favor of the motion.  
Commissioner Ross moved to call the question.  
Commissioner Dore seconded to call the question. All three Commissioners voted AYE to call the question.

Commissioners Dore and Rowland voted AYE on the motion to amend.  
Commissioner Ross voted NAY.  
Commissioner Rowland's motion to amend passed.

Commissioner Rowland asked the County Attorney for clarification of Article VIII, Section 1 and then moved to amend Article VIII, Section 1 by adding a sentence to the end of this paragraph that states, "Proposed Amendments to the By-Laws are subject to final approval by the Board of County Commissioners."

Commissioner Dore seconded. All three Commissioners voted AYE.  
Motion to amend passed.

Commissioner Dore moved to approve the By-Laws to the Elbert County Fair Board as amended.

Commissioner Ross seconded. All three Commissioners voted AYE.  
Motion passed.

There was discussion between the BOCC regarding the original motion.

Commissioner Dore withdrew the first motion to approve the Revised By-Laws of the Elbert County Fair Board & Re-appointing certain Fair Board Members, and moved to approve the Resolution approving the Revised By-Laws of the Elbert County Fair Board and Re-appointing certain Fair Board Members as amended today.

Commissioner Ross seconded. All three Commissioners voted AYE.  
Motion passed.

Commissioner Rowland opened the Public Hearing on the Proposed Amendments to the Elbert County Zoning Regulations.

**b.** Kyle Fenner (Director of Community and Development Services) presented the BOCC with the proposed Amendments to the Elbert County Zoning Regulations.

Commissioner Rowland moved to go into a recess until 10:40 a.m.

Commissioner Ross seconded. All three Commissioners voted AYE.  
Motion passed.



Commissioner Rowland declared the BOCC meeting reconvened at 10:48 a.m.

Kyle Fenner (Director of Community and Development Services) continued her presentation of the proposed Amendments to the Elbert County Zoning Regulations.

Commissioner Rowland called for Public Comment.

1. Rick Brown – Kiowa, expressed concerns about:
    - Appointment process of Planning Commission members
    - Application process of Planning Commission members
    - Time limit on vacancies
    - BOCC approval of By-Laws
    - Process for dismissal of volunteer Planning Commission members
  2. Don Draper – Elizabeth, recommended that the BOCC continue this meeting at a later date after further considering everything that was presented today.
  3. Christine Ware – Elizabeth, supported what Mr. Brown said.
  4. Susan Shick – Elizabeth, commented on time limits for BOCC to make appointments to the Planning Commission.
- Commissioner Dore responded to the last public comment.

No further Public Comment. Commissioner Rowland closed public comment.

Commissioner Dore moved that the BOCC approve the Proposed Amendment to Elbert County Zoning Regulations Part 1, Section 2.

Commissioner Ross seconded.

Commissioner Rowland moved to amend the original motion by removing the word “all” in the first sentence of Part 1, Section 2 (A) Intent.

Commissioner Dore seconded. All three Commissioners voted AYE.  
Motion passed.

Commissioner Rowland moved to amend the motion by adding the following sentence “Two (2) additional extensions of 30 days may be granted by Staff.” after the words, “is necessary.” in Part 1, Section 2 (B) (2) Amendments.

Then commissioner Rowland withdrew his motion and read that paragraph out loud with his suggested changes.

There was discussion between the BOCC, Staff and the County Attorney.

Commissioner Ross stated he is in favor of leaving this language as it stands.



Commissioner Rowland withdrew his motion again so it could be re-stated with shorter language.

Commissioner Ross clarified Commissioner Rowland's intent in his motion to amend.

Commissioner Dore moved to amend by changing Part 1, Section 2 (B) (2) to read as follows, "When amendments to the Elbert County Zoning Regulations are proposed by the Board or staff to the Commission, the Commission shall act on the amendments within sixty (60) days of the first commission hearing at which the amendment(s) is/are considered. No extension beyond sixty (60) days will be permitted unless the Commission determines, in a recorded vote on a Motion containing relevant findings, that the complexity of the proposed amendment requires such additional time. A recommendation shall be made by the Planning Commission to the Board within no more than one hundred and twenty (120) days following the first commission hearing at which the amendment(s) is/are considered.

Commissioner Ross seconded. All three Commissioners voted AYE.  
Motion passed.

Commissioner Ross made a motion to strike the portion of that paragraph in Part 1, Section 2 (D) (1), General Provisions that states: "...at least 2 of whom shall be filled from residents of the Commissioner's Commission District..."

Commissioner Rowland asked for clarification.

Commissioner Ross withdrew his motion and moved that the paragraph in Part 1, Section 2 (D) (1), General Provisions read: "The Board of County Commissioners of Elbert County shall appoint a Planning Commission consisting of nine (9) voting members. Each County Commissioner shall appoint candidates to fill three seats on the Commission." and strike the rest of the paragraph.

Commissioner Dore asked Commissioner Ross for clarification on the word "appoint" or "nominate".

Commissioner Ross withdrew his motion and moved that the paragraph in Part 1, Section 2 (D) (1), General Provisions read: "The Board of County Commissioners of Elbert County shall appoint a Planning Commission consisting of nine (9) voting members. Each County Commissioner shall nominate candidates to fill three seats on the Commission.

Commissioner Dore seconded.



Commissioner Rowland moved to amend the motion by adding the words, "subject to Board approval," after the word nominate, so the paragraph would now read: "The Board of County Commissioners of Elbert County shall appoint a Planning Commission consisting of nine (9) voting members. Each County Commissioner shall nominate, subject to Board approval, candidates to fill three seats on the Commission.

There was further discussion between the BOCC and the County Attorney.

Commissioner Rowland withdrew his motion and moved to keep Commissioner Ross' changes and add another sentence at the end that says: "Each nomination must be approved for appointment by a majority vote of the Board."

Upon the BOCC approval, Kyle Fenner (Director of Community and Development Services) read out loud the final approved language for motion as follows: "The Board of County Commissioners of Elbert County shall appoint a Planning Commission consisting of nine (9) voting members. Each County Commissioner shall nominate candidates to fill three seats on the Commission. Each nomination must be approved for appointment by a majority vote of the Board."

All motions still on the table were withdrawn by the BOCC.

Commissioner Ross declared the motion read out loud by Kyle Fenner so moved.

Commissioner Rowland seconded. All three Commissioners voted AYE.  
Motion passed.

Commissioner Ross moved to amend Part 1, Section 2 (D) (3), General Provisions by removing the words: "...completed application..." and then clarified his motion by reading the paragraph as his motion: "Commission members shall be appointed at or before the annual or organizational public hearing or meeting of the Board, which is the second public hearing or meeting of the calendar year or as soon after as is practicable, and at such other times as are necessary to complete terms and to fill vacancies." Strike the next sentence and retain the final sentence: "The terms of office shall be staggered by making the appointments so that approximately one-third expire each year."

Commissioner Rowland seconded. There was discussion between the BOCC.

All three Commissioners voted AYE.  
Motion passed.

Commissioner Ross moved to amend Part 1, Section 2 (6) by raising the Planning Commission compensation to \$40 per meeting.

County Manager Ed Ehmman advised that is currently not budgeted but can be done through a supplemental appropriation.

Commissioner Dore seconded.



There was discussion between the BOCC and Staff, after which Commissioner Ross withdrew his motion.

Commissioner Rowland moved to amend Part 1, Section 2 (D) (5) by striking (b), (c) and (d) entirely.

Commissioner Dore suggested move item d into item e.

Commissioner Rowland revised his motion to amend and moved to strike (b), (c), (d) & (e).

Commissioner Rowland withdrew his motion and moved to amend Part 1, Section 2 (D) (5) by striking (b), (c), (d) and (e), just leaving (a).

There was further discussion among the BOCC.

Commissioner Rowland withdrew his motion.

Commissioner Rowland moved to amend Part 1, Section 2 (D) by striking (D) (5) and all subsequent categories below it.

There was no second. Motion died.

County Attorney stated this amendment that was approved by the Planning Commission provides a good balance. The State Statute has a very minimal standard of conduct and while it does provide flexibility, it does include some legal risk if someone is removed without cause or hearing. He therefore believes the current language strikes a fair balance.

Commissioner Dore moved to amend Part 1, Section 2 (D) (5) by keeping (a) and (e), which will become (b), and move (d) under (b) as (b) (1), and strike the current (b) & (c).

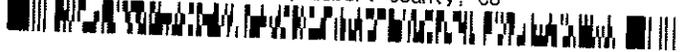
Commissioner Rowland seconded.

Commissioner Ross stated he supports the current motion language for the reasons the County Attorney pointed out and does not support the motion to amend.

Commissioner Rowland explained why he supports the motion to amend by Commissioner Dore.

Commissioner Dore suggested the Planning Commission include items b & c in their own bylaws.

County Attorney Wade Gateley suggested removing items b & c causes the first sentence in item d to need clarification.



Commissioners Dore and Rowland voted AYE on Commissioner Dore's motion to amend. Commissioner Ross voted Nay.  
Motion passed.

Commissioner Dore moved to amend the first sentence in Part 1, Section 2, (D) (5) (d) by putting a period after "...removal of a member".

\*\*Clerk's Note: Because of earlier edit this is now known as: Part 1, Section 2, (b) (i)

There was more discussion between the BOCC and the County Attorney, and then Commissioner Dore withdrew her original motion to amend and moved to amend the first sentence in Part 1, Section 2, (D) (5) (d), to read: "The BOCC shall conduct a hearing to consider removal of a member at the time and place stated in the written charge" and place the word "written" anywhere else where "charge" is.

\*\*Clerk's Note: Because of earlier edit this is now known as: Part 1, Section 2, (b) (i)

Commissioner Rowland seconded. Commissioners Dore and Rowland voted AYE. Commissioner Ross voted NAY.  
Motion passed.

Commissioner Dore moved to amend Part 1, Section 2, (E) (1) (d), Review and Recommendation Procedure, by adding "Part 1, Section 2" after "Continue the Request, as outlined in part B of this section".

Commissioner Rowland seconded.

Commissioner Dore withdrew her motion after several requests for clarification.

County Attorney Wade Gateley suggested to the BOCC that if they are finished with their amendments, they could continue this public hearing for at least 30 days in order for the Community and Development Services Department to put together the amendments, take these proposals back to the Planning Commission for review and make comments or suggestions on them in accordance with statute. The next BOCC meeting after the minimum of 30 days will be May 13, 2015.

Commissioner Ross declared what the County Attorney said as so moved.

Commissioner Rowland seconded. All three Commissioners voted AYE.  
Motion passed.

## 9. Land Use: NONE

**10. Wade Gateley, Attorney to the Board of County Commissioners: NONE**

It was suggested during the BOCC meeting to postpone today's Work/Study Session until another day.

The Public was asked for input, at which time Ric Morgan stated he had information to bring before the BOCC and approached the podium.

1. Ric Morgan – Elbert thought it was also an opportunity for the Water Advisory Committee (WAC) to provide the BOCC with feedback and he was here to discuss issues pertaining to the water grants and find out from the BOCC what they would like to happen next.

Commissioner Rowland moved to recess at 12:42, to go into a work/study session, then adjourn the work/study session and go back into the regular BOCC meeting at 1:00 p.m. to go into executive session.

At 1:11 p.m. the Elbert County Board of County Commissioners entered into Executive Session with County Attorney Wade Gateley to discuss the Cherie Radeker case.

At 1:46 p.m. the Executive Session was adjourned and the regular BOCC Meeting was reconvened.

Commissioner Dore moved that the March 25, 2015 BOCC Meeting be adjourned. Commissioner Ross seconded. All three Commissioners voted AYE. Motion passed.

**Meeting Adjourned at 1:46 p.m.**

**BOARD OF COUNTY COMMISSIONERS**

**ELBERT COUNTY, COLORADO**



**Robert Rowland, Chairman**



**Kelly Dore, Vice Chair**



**Larry D. Ross, Commissioner**

**ATTEST: Dallas Schroeder**

**County Clerk**

**BY:** 

**Clerk to the Board of County Commissioners**