



ELBERT COUNTY, COLORADO

The Board of Elbert County Commissioners (BOCC) met in a regularly scheduled meeting on Wednesday, Feb. 12, 2014 with roll call of members as follows:

Robert Rowland- PRESENT

Kurt C. Schlegel- PRESENT

Larry Ross- ABSENT

The BOCC convened at 9:00 a.m., Chairman Kurt Schlegel called the meeting to order.

Prayer given by Jeremy Rose, Elbert County Sheriff's Office Chaplain

Pledge of Allegiance

The Board of County Commissioner's meetings are streamed live via the Internet and are recorded for later use

1. Agenda:

No changes to Agenda.

2. Correspondence:

NONE

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. Designation of Representative to the County Health Pool.

Commissioner Rowland moved that the BOCC accept the Consent Agenda as presented. Commissioner Schlegel seconded. 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.

NONE



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. **NO GENERAL PUBLIC COMMENT**

7. Old Business: NONE

8. New Business:

a. Jerri Spear, Director of Health and Human Services requested that the BOCC approve the annual Intergovernmental Agreement (IGA) between Elbert and nine (9) other Northeast Colorado Counties to create a statutorily required citizen review panel to provide a forum for child welfare grievances concerning the conduct of personnel of the Human/Social Services Departments in each of those Counties.

Commissioner Schlegel asked if there is any cost to this IGA.

Ms. Spear: No

Commissioner Rowland moved that the BOCC approve and execute the Intergovernmental Agreement between Elbert, Cheyenne, Kit Carson, Lincoln, Logan, Morgan, Phillips, Sedgwick, Washington and Yuma Counties for the creation of the Northeast Colorado Citizen Review Panel.

Both Commissioners voted AYE. Motion passed.

b. Jerri Spear, Director of Health and Human Services requested that the BOCC approve the Master Public Health Contract Amendment to Contract # 13 FAA 00017 which:

1. Adds one (1) new State general provision
2. Updates one (1) State general provision
3. Adds one (1) new Federal provision

Commissioner Rowland moved that the BOCC approve and execute Master Contract Amendment #1 to the Master Contract #13 FAA 00017 between the State of Colorado, on behalf of the Department of Public Health and Environment, and the Board of County Commissioners for Elbert County, on behalf of Elbert County Health and Human Services, to modify the Master Contract by adding one (1) new state general provision, update one (1) state general provision and add one (1) new Federal provision.
Commissioner Schlegel seconded.
Both Commissioners voted AYE. Motion passed.

- c. Jerri Spear, Director of Health and Human Services requested that the BOCC approve the amendment to the annual Child Protection Agreement for mental health services which includes more funds from the State.

Commissioner Rowland moved that the BOCC approve and execute the proposed Addendum to the Child Protection Agreement between Elbert County and Centennial Mental Health Center, Inc., to account for the increase in State core services funds in the amount of \$8,984.00.
Commissioner Schlegel seconded.
Both Commissioners voted AYE. Motion passed.

- d. Jerri, Spear, Director of Health and Human Services requested that the BOCC approve the Amendment to the annual Substance Abuse Treatment Service Agreement which includes an increase in State core services funds.

Commissioner Rowland moved that the BOCC approve and execute the proposed Amendment to the Substance Abuse Treatment Service Agreement between Elbert County and Signal Behavioral Health Network, to account for the increase in State core services funds in the amount of \$2,466.00.
Commissioner Schlegel seconded. Commissioner Schlegel asked if the \$2,466.00 in increased funds was because of legalized marijuana in the state.
Ms. Spear: No.
Commissioner Schlegel: Have there been any projected increases by the state in the needs for this type of service due to legalized marijuana in the state?
Ms. Spear: None that she has heard.

Both Commissioners voted AYE. Motion passed.

- e. Commissioner Rowland moved that the BOCC approve and execute a resolution to amend Resolution 2014-10 regarding 2014 Organizational Meeting Appointments and Reappointments to include the following:



Commissioner Schlegel seconded. Both Commissioners voted AYE. Motion passed.

- f. Kyle Fenner, Director of Community and Development Services, presented the BOCC and the public with the staff report regarding the proposed Amendment to the Elbert County Zoning Regulations regarding the Administrative Review and MOU process for Minor Oil and Gas Operations and Related Facilities; including two (2) recommendations Staff made that were not brought before the Planning Commission as they were recommended by the State's Assistant Attorney General only yesterday.

Ms. Fenner stated air quality was not addressed in either the amendment or the MOU since the State of Colorado will be addressing new Air Quality Mandates at the State level later this month.

Commissioner Schlegel questioned a redundancy and if there was a time conflict between the MOU State Permit Form 2A regarding the best management practices (BMPs) and the County permit.

Ms. Fenner: Yes, there is a small redundancy, but No, the applicant has to already have the State form 2A before the County will issue its permit.

Commissioner Schlegel opened for Public Comment at this time.

Only 5 people signed up on the Public Comment Roster.

1. Mark Smith – CR 61 – long time Elbert County resident owns small, organic, chemical free dairy farm. States land and water are extremely important and they are solidly behind oil and gas development in Elbert County, sees no conflict.
2. Rick Blotter – Agate – has met 3 dozen people who have experienced various health problems related to Oil and Gas development in their neighborhood. Wants an MOU that addresses all the variable impacts to health, safety and property values.
3. Michelle Smith – CR 61 – President of the National Assoc. of Royalty Owners for the Rockies Chapter, and has in the last year had 2 major surgeries and is thankful for the replacement parts which are by-products of petroleum. Feels the COGCC has passed very good regulations and allowing Oil and Gas development is the best decision for Elbert County.
4. Rick Brown - Is concerned if the BOCC can actually take a vote since Statute 30-28-116 specifically states unless there is unconditional approval of a change to the Zoning Regulations by the Planning Commission, there has to be a vote by the majority of the entire assembly of the BOCC and Commissioner Ross was not able to be present today. Also concerned about the standards to be considered while approving major or minor facilities.



5. Chris Bailey – Elbert, is a property owner, mineral rights owner and farmer in Elbert County and feels if the BOCC passes the current Section 27 of the zoning regulations administrative review process, with or without an MOU, the residents of Elbert County lose because the accompanying MOU retains no value as a bargaining tool and is consequently not protected. He enumerated several sections he has problems with.
6. Grant Thayer – Ramah supports the documents, feels they are good enough and recommends approval.
7. Mary Steen – Represents Jordan Ranch and over 169 families from the EDCLA (Elbert County/Douglas County Cattlemen & Livestock Assoc.) and feels we don't need any stricter laws. She also requested evening BOCC meetings.
8. Bill Harris – Simla is Vice President of the Elbert County Farm Bureau and states the growers are collectively in favor of the documents presented today.
9. Tom Conley – Fondis, Co states we need to move on and not let any County regulations impede drilling as the State Regulations are good enough.
10. Chris McGowen – Representing the Colorado Oil and Gas Assoc. states they support our efforts and reasonable energy development. They encourage accepting the original draft done by the Staff and want to see the BOCC accept it.
11. Trevor Smith – Kiowa is a ranch owner and is looking forward to acceptance of the Oil and Gas Regulations and stated it takes 17 million barrels of oil every year to make water bottles for the U.S. Market.
12. Bob Davis – Vice President of NexGen Oil and Gas (better known as Operator “Mustang Creek Operating”), they have a permit pending for Prescott Ranches. Presently drilling a well in El Paso County not far from Elbert County border. Supports Elbert County passing these Regulations and is waiting for this passage to submit 2 more permits.
13. Charlie Carnahan – N. Elbert Rd. has the oldest ranch in Elbert County. Feels these regulations are sufficient to take care of the land and environment and wants Elbert County to move forward and urged the BOCC to adopt these regulations.
14. Nancy Prince – Colorado Oil and Gas Conservation Commission (COGCC), local government liaison recognizes the economic benefits in oil and gas drilling and appreciates Elbert County's efforts.
15. Scott Wills – Kiowa, Elbert County Republican Chairman states their by-laws are in favor of private property rights and a free enterprise system and they also support the approval of these regulations.
16. Keith Westfall – Co-Owner of the High Prairie Survey Co. feels this will have a positive economic impact on Elbert County and is completely in favor of it.



17. Susan Shick – Elizabeth asked for clarification as it is her understanding there is presently nothing stopping oil and gas exploration in Elbert County and these regulations today will not stop oil and gas exploration. Also confused about the process between government Staff and the Planning Commission where recommendations are concerned. What recourse do we have if our water is destroyed due to oil and gas development?
18. Sigi Pennington – Kiowa, involved with production agriculture and states their primary source of income comes from that and feels they are good stewards of the land and don't need any more regulation from the County.
19. Bret Forkner – works with LT Environmental in Arvada. Feels the process as it stands is holding up Oil and Gas and is in favor of the new regulations including an MOU.
20. Lee Benjamin – Simla is looking forward to the oil and gas industry coming to Elbert County and supports the new oil and gas regulations.
21. Thomas Gresham – Elbert, is a dry land farmer who has not been able to raise hay for last 3 years due to drought and feels this is a great opportunity for our County and supports the oil and Gas regulations.

Commissioner Schlegel closed Public Comment.

Commissioner Schlegel addressed the procedural BOCC vote issue raised during public comment, stating they cannot even meet without a majority of the Board present (2 out of 3), which makes a quorum, and that majority is in attendance this morning, allowing them to vote.

Attorney Alex Beltz clarified the statute referred to by Mr. Brown is only in the event that there was an amendment that was disapproved by the Planning Commission, then it would have to come before the entire membership of the Board and voted on by the majority.

Commissioner Schlegel asked Kyle Fenner (Community and Development Services Director) to address the issue raised where changes to the document were made but not run by the Planning Commission before coming to the BOCC.

Ms. Fenner stated there were only 2 changes and they were done in the Staff Report:

1. Change the word "the" to "any applicable" in the MOU; and
2. Add "if any" to required Mechanical Integrity Test results (MITs)

Commissioner Schlegel advised at 10:45 a.m. they will take a 15 minute break until 11:00 a.m.

Commissioner Schlegel declared the BOCC reconvened at 11:00 a.m.



Commissioner Rowland moved that the BOCC approve and adopt the proposed amendments to the Elbert County Zoning Regulations regarding the Administrative Review and MOU process for Minor Oil and Gas Operations and Related Facilities, as amended.

Commissioner Schlegel seconded.

Commissioner Rowland commented on his position on this proposed amendment to the Elbert County Zoning Regulations and on the next agenda item that will be before them today, the standard Memorandum of Understanding (MOU).

Commissioner Schlegel stated they are not implementing a regulation or imposing new regulations. They are amending the zoning regulations to define a process for a permitting procedure; he then commented on his position on this issue.

Discussion was had between the Commissioners about the changes to the Amended Zoning Regulations. The recorded Amended Zoning Regulations and a complete listing of the changes discussed and approved by the Board of County Commissioners can be found in the Clerk and Recorder's Office.

Both Commissioners voted AYE. Motion passed.

Commissioner Schlegel moved that the BOCC direct Staff to review the documents to check for and correct any typographical errors or the use of acronyms, while not materially altering the document's original intent.

Commissioner Rowland seconded.

Both Commissioners voted AYE. Motion passed.

- g.** Alex Beltz, Attorney to the BOCC presented the BOCC with a proposed Memorandum of Understanding (MOU) regarding the Standard Oil and Gas MOU Form that will be used by Elbert County now that we have adopted Section 27 as amended. This MOU has been based primarily off of the Arapahoe County MOU that they adopted in 2013 and has been a tremendous success.

Kyle Fenner, Director of Community and Development Services clarified that the MOU is a contractual agreement, not a regulatory document which means we can go above and beyond State Regulation, if both parties agree to the MOU. We cannot control whether an applicant goes to the State and applies for a well permit before coming to Elbert County, and the State will not advise the applicant they need an MOU, because the State will not police our MOU. That is why we know Best Management Practices (BMPs) can be added before the fact or after the fact.

Commissioner Schlegel opened the meeting to Public Comment on the MOU.

1. Chris Bailey – Elbert voiced several concerns about the proposed MOU including but not limited to: pits; application of fluids to roads; fresh water not defined.
2. Brett Forkner – Arvada stated the MOU the BOCC has before them was not posted to the website until 7:00 p.m. yesterday and the only one the public had to go on was from October 2013 and commented on concerns about the previous MOU.

There was no further Public Comment at this time.

Commissioner Schlegel closed Public Comment section on this issue.

Commissioner Rowland moved that the BOCC approve the standard form Oil and Gas Memorandum of Understanding.

Commissioner Schlegel seconded.

Both Commissioners voted AYE. Motion passed.

Commissioner Schlegel asked staff: What is the definition of fresh water as their documents define it as “Total dissolved solids less than or equal to 5,000mg/l; where was that standard pulled from?

Kyle Fenner: That is COGCC’s definition of fresh water.

Attorney Alex Beltz advised that is a definition from old documents and that there is currently no actual definition of fresh water.

9. Land Use: NONE

10. Alex Beltz, Attorney to the Board of County Commissioners: NONE

Commissioner Rowland moved that the meeting be adjourned. Commissioner Schlegel seconded. Both Commissioners voted AYE. Motion Passed.

Meeting Adjourned at 12:03 p.m.



BOARD OF COUNTY COMMISSIONERS

ELBERT COUNTY, COLORADO

Kurt C. Schlegel, Chairman

Robert Rowland, Vice Chair

Larry Ross, Commissioner

ATTEST: Dallas Schroeder

County Clerk

BY:

Clerk to the Board of County Commissioners

