



# ELBERT COUNTY, COLORADO

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

**Robert Rowland- PRESENT**

**Kurt Schlegel- PRESENT**

**Larry Ross- PRESENT**

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

Prayer given by Pastor Nathan Smith of Majestic View Church

Pledge of Allegiance

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

**1. Agenda:**

Commissioner Rowland moved that the BOCC approve the Agenda as presented. Commissioner Ross seconded. All three Commissioners voted AYE. Motion passed.

**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. **Approval of minutes from** Jan. 16, 2014; Jan. 27, 2014 and Feb. 26, 2014.
- b. Release of \$3,600.00 in Escrow Funds to Enertia Consulting Group LLC for Front Range Pipeline Project.
- c. Release of \$1,200.00 in Escrow Funds to Enertia Consulting Group LLC for Mason Minor Development Project.

Commissioner Rowland 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.

- a. Rick Pettitt, Elbert County Treasurer commented he hopes the Resolution on today's agenda, to transfer funds from Fund 10 and Fund 70 back to Fund 20, will help earn the public's trust that Elbert County is serious about making and keeping its promises.
- b. Ed Ehmann, County Manager introduced Wade Gateley, Attorney to the BOCC. He asked Attorney Gateley to tell Elbert County a little bit about himself. Attorney Gateley said he has been practicing law in Colorado for about 31 years, has been a County Attorney on the Eastern Plains for about 16 years and is looking forward to working here in Elbert County.
- c. Commissioner Rowland commented he attended a Town of Elizabeth Board of Trustees meeting last Monday where they met with an organization who puts together water protection plans for source waters. He said it was very informational and they will be watching carefully to see how that progresses. He announced he will be doing another radio show next week on KLZ 560 AM and he will be talking about Oil and Gas. He will have representatives from COGA (facts about fracking) and NARO (National Association of Royalty Owners) with him.

**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.** Ed Ehmann, County Manager requested that the BOCC approve a resolution to transfer funds back to the accounts they came from (as per Resolution 2014-12) and commented this is taking place actually a couple of weeks earlier than expected.

Commissioner Rowland moved that the BOCC approve and execute a resolution transferring appropriated moneys from the General Fund (Fund 10) in the amount of \$580,000.00 and from the Retirement Fund (Fund 70) in the amount of \$20,000.00 for a total amount of \$600,000.00 to the Road and Bridge Fund (Fund 20) as obligated in Resolution 14-12.

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

- b.** Commissioner Schlegel stated that over the years there have been several attempts from people who are in favor of more government control to pass public trust initiatives that would be an actual change to the Colorado Constitution and would negatively affect private property rights. Commissioner Schlegel agrees with several agencies within the State who are asking for local governments to pass resolutions in opposition to public trust initiatives and moved that the BOCC adopt a Resolution in Opposition to Public Trust Doctrine Initiatives. Commissioner Rowland seconded and stated he supports this resolution. He then read the Resolution out loud to the Public and into the minutes:





WHEREAS, these initiatives attack individual property rights in water and land, and it would be a mistake to wipe out historical ownership of water and turn it over to the uncertainty of courts, attorneys, and lawsuits; and

WHEREAS, these initiatives will increase the filing of frivolous lawsuits; and

WHEREAS, it would be a mistake to shift control of our water supply from local providers; and

WHEREAS, allowing uncontrolled access to streams and rivers across private land will damage sensitive streambeds and banks, could lead to dangerous and unsafe conditions, and cause conflict with property owners; and

WHEREAS, these initiatives may undermine Colorado's existing environmental protections, which require an amount of water flow in streams and rivers and maintaining certain lake levels; and

WHEREAS, we need to protect Colorado's water supplies, as in many years these initiatives will allow for more of Colorado's water to go to downstream states than interstate compacts require; and

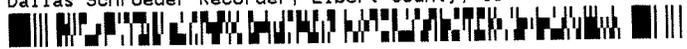
WHEREAS, Coloradoans have built water projects and managed our water for more than 150 years, which has maintained Colorado's economy and improved Coloradoans' quality of life; and

WHEREAS, these initiatives will jeopardize the historical operation of Colorado water projects and make improvements impossible, which would be a mistake; and

WHEREAS, Coloradoans need to store water to use during drought, and these initiatives will stop projects to store water; and

WHEREAS, Justice Hobbs stated in his dissenting opinion in *re Title, Ballot Title and Submission Clause for 2011-12 #3*, Colorado Supreme Court Case No. 12SA8, that such initiatives "would drop what amounts to a nuclear bomb on Colorado water rights and land rights," and "would strip members of the public, cities, farms, and families throughout this state of their most valuable interests."

**NOW THEREFORE, BE IT RESOLVED** that the Elbert County Board of Commissioners opposes adoption of a public trust doctrine as unwise, unnecessary, disruptive to the fair and responsible allocation and stewardship of Colorado's scarce water resources, and an unwarranted taking of vested property interests.



Commissioner Ross commented that property rights being taken away is at the heart of this matter, and if passed, would unseat 150 years of tradition.

Commissioner Ross stated he supports this Resolution.

All three Commissioners voted AYE. Motion passed.

- c. Ed Ehmman, County Manager requested that the BOCC approve the Professional Services Agreement with Enertia Consulting Group for design of the unpaved portion of County Road 29. He stated Elbert County is eligible for and is applying for a \$1,000,000.00 grant from DOLA due to impacts caused by recent Oil and Gas production in Arapahoe County and the resulting increased traffic through Elbert County, and the recent pipeline that ran through our County last year. The grant will help with the cost of construction and paving this portion of County Road 29.

Commissioner Ross asked about the different vendors involved in this project.

Mr. Ehmman stated there are three vendors:

1. Ground Engineering will perform the soils analysis and pavement design
2. Kimberly-Horn will do the traffic analysis, signage, and speed plan
3. Enertia will be the civil engineer who will pull all the documents together and do the actual design of the roadway

Commissioner Ross asked if the grant will cover these expenses.

Mr. Ehmman explained the grant only covers the construction, any remaining expenses including the professional services will be funded through the sales and use tax and in fact, this engineering agreement has been planned for and budgeted.

Commissioner Schlegel asked if this Engineering Report expire after a certain amount of time.

Mr. Ehmman: No

Commissioner Rowland moved that the BOCC approve and execute the Professional Services Agreement between Elbert County and Enertia Consulting Group, LLC regarding the provision of certain evaluation services related to County Road 29, for a lump sum payment of \$97,800.00.

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

- d. Ed Ehmman, County Manager stated that for the last several years, Elbert County has entered into living snow fence agreements with several soil conservation districts within the County. The current goal is to plant a living snow fence in each of the three soil conservation districts in the County each year. This year they received grant money for the purchase of the trees and have been able to achieve that goal and requested that the BOCC approve the Living Snow Fence Agreement with four different entities, starting with Oro Vaca.



Commissioner Ross asked if a portion of the total cost of these fences is matching funds between the landowner and NRCS.

Mr. Ehmann advised yes and the amount before the BOCC today is the County's "not to exceed" portion and clarified the primary purpose of these fences (for the County) is to prevent snow drifting across county roads.

Commissioner Rowland moved that the BOCC approve and execute the Working Agreement between Elbert County, the Agate Conservation District, the Natural Resources Conservation Service, McKnight Tree Planting Service, the ORO VACA Inc. as landowner and operator, regarding the purchase, installation, and maintenance of a Living Snow Fence along R59W, T8S, Section 35 of County Road 153 for a term of at least three years and at a total amount to Elbert County not to exceed \$1,200.00.

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

- e. Ed Ehmann, County Manager requested that the BOCC approve the Living Snow Fence Agreement with Mark Speicher.

Commissioner Rowland moved that the BOCC approve and execute the Working Agreement between Elbert County, the Kiowa Conservation District, the Natural Resources Conservation Service, McKnight Tree Planting Service, the Mark Speicher as landowner and operator, regarding the purchase, installation, and maintenance of a Living Snow Fence along R64W, T8S, Section 22 of County Road 132 for a term of at least three years and at a total amount to Elbert County not to exceed \$2,800.00.

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

- f. Ed Ehmann, County Manager requested that the BOCC approve the Living Snow Fence Agreement with T-Cross Ranch.

Commissioner Rowland moved that the BOCC approve and execute the Working Agreement between Elbert County, the Double-El Conservation District, the Natural Resources Conservation Service, McKnight Tree Planting Service, the T-Cross Ranch as landowner and operator, regarding the purchase, installation, and maintenance of a Living Snow Fence along R57W, T11S, Section 21 & 22 of County Road 58 for a term of at least three years and at a total amount to Elbert County not to exceed \$2,300.00.

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

- g. Ed Ehmann, County Manager requested that the BOCC approve the Living Snow Fence Agreement with Curtis Stanko.

Commissioner Rowland moved that the BOCC approve and execute the Working Agreement between Elbert County, the Double El Conservation District, the Natural Resources Conservation Service, McKnight Tree Planting Service, Curtis Stanko as landowner and operator, regarding the purchase, installation, and maintenance of a living Snow Fence along R59W, T12S, Section 2 for a term of at least three years and at a total amount to Elbert County not to exceed \$1,500.00.

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

At 10:54 a.m. Commissioner Schlegel declared a 5 minute break.

Commissioner Schlegel declared the BOCC Meeting reconvened at 11:06 a.m.

## 9. Land Use:

- a. Carolyn Parkinson, Community and Development Services gave a visual presentation and requested that the BOCC approve a Resolution approving SU13-0010 Prescott Ranches Exploratory Well Special Use Permit (Mustang Creek LLC) for an exploratory oil and gas well for future development of mineral resources in Sec 32, T12, R59.

Bob Davis, VP for NexGen Oil and Gas (Parent Company for Mustang Creek Operating, LLC) stated they have just completed drilling a well in El Paso County approximately 1 mile from the Elbert County Line and are currently testing from the bottom up and are anxiously waiting for results. He commented NexGen Oil and Gas is a private company based in Greenwood Village, Co. and are privately funded and staffed by individuals who have 25-30 years of experience in the industry.

Mr. Davis commented on:

1. Item 8 under conditions, (disposal of drill cuttings) clarifying they are going to use water based mud augmented with betenite and diammonium phosphate (fertilizer), creating a 9-9 ½ lb. mud weight. Water by itself weighs 8.3 lbs / gal. so there are actually very little additives used. It is very important they dispose of these drill cuttings and they just want to be sure they are allowed to bury the water based mud on site.
2. Item 11 under conditions, clarified Prescott Ranches (the project) will be part of that agreement with Simla Fire Protection District; Prescott Ranches (the landowner) is not making a letter of agreement with Simla Fire Protection District. He clarified they have met with Enertia and Mr. Ed

Ehmann and will be entering into a Road use and Maintenance Agreement and a bond will be done.

Commissioner Ross voiced several concerns which the applicant responded to:

1. Lack of signed agreement between Applicant and Simla Fire.
2. Site Safety (will well head and tanks be fenced?)
3. Concern about spills on leases and significant rains and if it is close to Deadman Reservoir or Horse Creek.
4. Determination of non-tributary water source.

Commissioner Rowland had several questions which Carolyn Parkinson and Ed Ehmann responded to:

1. OEM requests vs. requirements.
2. Road use agreement.

Commissioner Schlegel asked Mr. Davis:

1. If you use only fresh water on roads, how much fresh water will that be and what is that total compared to total water used in program?

Mr. Davis: The standard definition of “fresh water” will be used and “recycled” fresh water will be utilized at some point for dust mitigation. Any volume amount is unknown at this time.

Mr. Davis closed with thanks to all the Staff they met with, stating it has been a positive work experience and they are looking forward to working with them again. They expect to start this project in the late third or early fourth quarter.

Commissioner Schlegel opened for Public comment or hearing.

None was heard.

Commissioner Rowland moved that the BOCC approve Resolution 14-\_\_\_\_ SU13-0010 Prescott Ranches Exploratory Well-Special Use Permit Review – A Request to Permit an Exploratory Oil and Gas Well for Future Development of Mineral Resources in Sec 32, T12, R59.

Commissioner Ross seconded.

Commissioner Schlegel asked the applicant if they concur with the conditions of approval that have been forwarded to the Board of County Commissioners from our Planning Commission.

Representative Bob Davis replied, "We do".

All three Commissioners voted AYE. Motion passed.

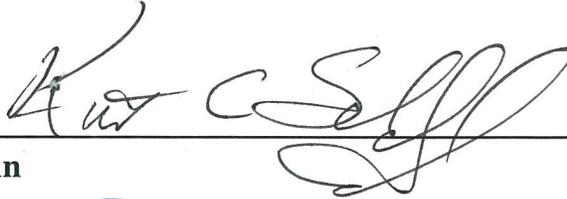
1. **Wade Gateley, Attorney to the Board of County Commissioners: NONE**

**Meeting Adjourned at 11:05 a.m.**

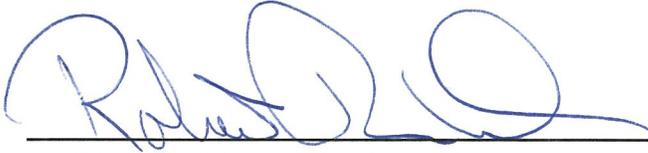
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**BOARD OF COUNTY COMMISSIONERS**

**ELBERT COUNTY, COLORADO**



**Kurt Schlegel, Chairman**



**Robert Rowland, Vice Chair**



**Larry Ross, Chairman**

**ATTEST: Dallas Schroeder**

**County Clerk**

**BY:**



**Clerk to the Board of County Commissioners**

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Dallas Schroeder Recorder, Elbert County, Co

