



Administration Building
East Hearing Room
5334 S. Prince St.
Littleton, CO 80120
303-795-4630
Relay Colorado 711

Kathleen Conti, District 1
Nancy Sharpe, District 2
Jeff Baker, Chair, District 3
Nancy Jackson, Chair Pro Tem, District 4
Bill Holen, District 5

Public Meeting

May 7, 2019

9:30 AM

The Board of County Commissioners holds its weekly Public Hearing at 9:30 a.m. on Tuesdays. Public Hearings are open to the public and items for discussion are included on this agenda. Items listed on the consent agenda are adopted with one vote. Items listed under regular business are considered separately. Agendas are available through the Commissioners' Office or through the County's web site at www.arapahoegov.com. Questions about this agenda, please contact the Commissioners' Office at 303-795-4630 or by e-mail at commissioners@arapahoegov.com.

AGENDA

1. OPENING

1.a. CALL TO ORDER

Arapahoe County Board of County Commissioners

1.b. INTRODUCTION

Ron Carl, County Attorney
Joleen Sanchez, Asst. Clerk to the Board

1.c. ROLL CALL

1.d. PLEDGE OF ALLEGIANCE

2. MODIFICATION TO THE AGENDA

3. ADOPTION OF THE AGENDA

4. CITIZEN COMMENT PERIOD

Citizens are invited to speak to the Commissioners on non-agenda items. There is a 3-minute time limit per person, unless otherwise noted by the Chair.

5. CONSENT AGENDA

5.a. 04.29.19 Warrant ACH Expenditure Report

Authorization to sign the Warrant Disbursement Register

Ron Carl, County Attorney

Documents:

[04.29.19_WARRANT ACH EXPENDITURE REPORT.PDF](#)

5.b. Approval of Settlement Agreement - Tillery v. Board of County Commissioners

Adoption of a resolution authorizing the Chair of the Board of County Commissioners to sign the settlement agreement in the case of *Tasha Tillery v. The Board of County Commissioners of the County of Arapahoe County*, Case No. 18-cv-02466-WJM (U.S.D.Colo.), pending in the United States District Court

Ron Carl, County Attorney

Daniel Perkins, Senior Assistant County Attorney

Documents:

[BSR RE TILLERY CASE SETTLEMENT.DOCX](#)
[RESO BOCC SETTLEMENT -TILLERY.DOCX](#)

6. GENERAL BUSINESS ITEMS

6.a. *PUBLIC HEARING - Billboard Regulations Moratorium

Consideration of a request to adopt a temporary moratorium on the acceptance and processing of applications for any new billboard or other off-premise sign and on applications for conversion of any existing billboard or other off-premise sign to an electronic messaging sign

Presenter - Kathleen Hammer, Planner II, Public Works and Development

Jan Yeckes, Planning Division Manager, Public Works and Development

Bryan Weimer, Director, Public Works and Development

Keith Ashby, Purchasing Manager, Finance

Robert Hill, Senior Assistant County Attorney

Documents:

[BILLBOARD TEMPORARY MORATORIUM BSR. FINAL.PDF](#)

7. COMMISSIONER COMMENTS

***Denotes a requirement by federal or state law that this item be opened to public testimony. All other items under the "General Business" agenda may be opened for public testimony at the discretion of the Board of County Commissioners.**

Arapahoe County is committed to making its public meetings accessible to persons with disabilities.

Assisted listening devices are available. Ask any staff member and we will provide one for you.

If you need special accommodations, contact the Commissioners' Office at 303-795-4630 or Relay Colorado 711.

Please contact our office at least 3 days in advance to make arrangements.

REPORT FOR 04/23/2019 TO 04/29/2019

FUNDS SUMMARY:

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10 General Fund	396,217.77
11 Social Services	87,848.43
14 Law Enforcement Authority Dist	7,884.67
15 Arapahoe / Douglas Works!	26,748.43
16 Road and Bridge	266,137.24
20 Sheriff's Commissary	657.18
21 Community Development	15,089.95
26 Grants	232,174.63
28 Open Space Sales Tax	383,663.02
29 Homeland Security - North Cent	5,931.54
33 Building Maintenance Fund	19,495.79
41 Capital Expenditure	226,482.12
42 Infrastructure	68,694.80
43 Arapahoe County Recreation Dis	44,000.00
70 Central Services	85,914.97
71 Self-Insurance Liability	2,402.80
84 E-911 Authority	3,951.32
TOTAL	1,873,294.66

FUND REPORT - EXPENDITURE TYPE

FUND 10 EXPENDITURE REPORT

AZMASEEN LLP	472.00	Services and Other
ACADEMY ROOFING INC	168.12	MISC.
ALLEGiant MORTUARY TRANSPORT LLC	6,316.00	Services and Other
ALSCO	27.50	Supplies
AMERICAN BOARD OF MEDICOLEGAL	25.00	Services and Other
AMI MARSELL	40.00	Services and Other
ANGELA STANTON	20.36	Services and Other
ARAMARK CHICAGO LOCKBOX	2,968.00	Services and Other
ARAMARK CHICAGO LOCKBOX	27,173.14	Supplies
ARTLANDA BURRELL	15.00	MISC.
AVI INC	123.06	MISC.
BAMBI SHROPHIRE	36.84	Services and Other
BASELINE ASSOCIATES INC	8,610.00	Services and Other
BC SERVICES INC	15.00	MISC.
BEAR CAT MANUFACTURING	954.69	Supplies
BENJAMIN SWARTZENDRUBER	47.56	Services and Other
BRENDA SIMONS	13.89	Services and Other
BRUCKNER TRUCK SALES INC	689.35	Supplies
CAT5 COMMERCE LLC	84.94	Supplies
CDW GOVERNMENT	648.58	Services and Other
CEC SOLAR #1121 LLC	5,587.60	Services and Other
CEC SOLAR #1122 LLC	2,892.74	Services and Other
CEC SOLAR #1130 LLC	3,957.37	Services and Other
CENTURA HEALTH CORPORATION	3,420.00	Services and Other
CENTURYLINK	15,205.36	Services and Other
CHARLES H. BUTTERFIELD III	366.00	Services and Other
CHERRY KNOLLS PHILLIPS 66	600.00	Services and Other
CITY OF AURORA	1,358.60	Services and Other
CIVICORE LLC	250.00	Services and Other
COLORADO BUREAU INVESTIGATION	11,381.00	MISC.



Board Summary Report

Date: May 1, 2019
To: Board of County Commissioners
From: Daniel C. Perkins, Sr. Assistant County Attorney
Subject: Approval of Confidential Litigation Settlement Agreement.

Purpose

The purpose of this request is to obtain authorization for the Chair of the Board of County Commissioners to sign a confidential settlement agreement that has been negotiated in the pending Tillery litigation, a review of which was previously provided to the Board in an earlier executive session.

Background

The Tillery litigation has been pending since September 2018. Potential settlement parameters were recently discussed with the Board in executive session.

Discussion

An agreement between all parties resolving the litigation has been reached.

Alternatives

Allow the case to continue to trial or continue to negotiate a resolution.

Fiscal Impact

This has been previously discussed with the Board. This settlement agreement will reduce future costs and future potential claims against the County and is offset by other department savings.

Concurrence

The County Attorney has endorsed the proposed agreement.

Recommended Action

Approve the negotiated agreement and authorize the Chairperson to execute the same on behalf of the County.

Reviewed by:

Ron Carl Arapahoe County Attorney

RESOLUTION NO. 190 It was moved by Commissioner _____ and duly seconded by Commissioner _____ to adopt the following Resolution:

WHEREAS, the Board of County Commissioners previously authorized the County Attorney to engage in settlement negotiations in an effort to resolve that pending litigation known as *Tasha Tillery v. The Board of County Commissioners of the County of Arapahoe County*, Case No. 18-cv-02466-WJM (U.S.D.Colo.), and

WHEREAS, a mutually satisfactory resolution to the litigation has been achieved between the parties consistent with the parameters previously designated by the Board; and

WHEREAS, the County Attorney has recommended that the Board formally approve and authorize the terms and execution of a settlement agreement reflective of the agreement negotiated between the parties; and

WHEREAS, the Board has been fully apprised of the facts, circumstances, and terms of the parties' negotiated settlement agreement and the proposed dismissal of the pending litigation with prejudice.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners for the County of Arapahoe, Colorado, that the Chair of the Board is authorized execute a settlement agreement on behalf of Arapahoe County and the Board of County Commissioners for the purpose of fully and finally resolving the case *Tasha Tillery v. The Board of County Commissioners of the County of Arapahoe County*, Case No. 18-cv-02466-WJM (U.S.D.Colo.), subject to approval as to the form of the agreement by the County Attorney's Office.

The vote was:

Commissioner Baker, _____; Commissioner Conti, _____; Commissioner Holen, _____; Commissioner Jackson, _____; and Commissioner Sharpe, _____.

The Chair declared the resolution adopted and so ordered.



Board Summary Report

Date: April 16, 2019

To: Board of County Commissioners

Through: Bryan Weimer, Director, Public Works and Development

Through: Jan Yeckes, Planning Division Manager

From: Kat Hammer, Planner II

Subject: Proposed Request for Adoption of Temporary Moratorium on Billboards and Off-Premise Signs

Request and Recommendation

The purpose of this agenda item is to request that the Board of County Commissioners approve, following a public hearing, a resolution to adopt a temporary moratorium on the acceptance and processing of applications for any new billboard or other off-premise sign and on applications for conversion of any existing billboard or other off-premise sign to an electronic messaging sign.

Background and Discussion

The Land Development Code (LDC) currently provides certain restrictions for billboards and off-premise sign installations in Sections 12-311.02 and 12-312. The Land Development Code defines the zone districts where such signs are permitted; however, these code provisions are outdated and do not address conversions to electronic billboards or other off-premise signs. Planning staff has received inquiries about new billboards and other off-premise sign installations and conversions of existing billboards or off-premise signs to electronic messaging signs.

The Land Development Code defines a billboard and an off-premise sign as:

“BILLBOARD. A sign related to land use, business, product or service, not located or available upon the premise whereon the sign is located. These signs are distinguished from other off-premise signs by their larger than otherwise permitted size and typical location along State Highways and major arterial roadways. Billboards are often erected to attract attention to land uses, businesses, products, and/or services that may be utilized by motorists unfamiliar

with the area-wide land uses, businesses, products and/or services, such as tourists and out-of-state visitors.”

“OFF-PREMISE SIGN. A sign advertising a land use, business, product or service not located or available upon the premises whereon the sign is located.”

This moratorium, if approved, will not apply to applications for new bus stop or transit shelter signs as considered under Section 12-311.01 of the Land Development Code.

Section 12-311.02 of the LDC allows off-premise signs in the B-3, B-4, B-5, I-1, and I-2 zoning districts pursuant to a Use by Special Review (USR) approval. Off-premise signs are also subject to the following criteria.

- A. Any off-premise sign shall meet the required accessory use setbacks for the zoning district in which it is located.
- B. Off-premise signs shall not extend more than six (6) feet above ground level and shall not exceed forty-eight (48) square feet in sign area per face.
- C. The minimum distance between off-premise signs shall not be less than three hundred (300) feet.
- D. Permits for off-premise signs shall be approved for periods of one (1) year each, which may be renewable.
- E. The State of Colorado Department of Transportation (CDOT) has adopted “Rules and Regulations Pertaining to Outdoor Advertising Effective January 1, 1985,” pursuant to the Colorado Revised Statutes (C.R.S., 43 -1-401 et seq., as amended). On all properties within the unincorporated portions of Arapahoe County that abut Interstate 25 (I-25) and other state highways (Highway 83, Arapahoe Road, etc.), these State Highway Regulations, to the extent that they are more restrictive and comply with all requirements of state and federal law, are recognized to be in full force and effect and supersede these regulations.

Section 12-312 of the Land Development Code allows billboards in the B-3, B-4, B-5, I-1, and I-2 districts pursuant to a Use by Special Review approval. Billboard applications are also subject to the following:

- A. Billboards proposed to be erected on property abutting right-of-way for the Interstate or State Highway system require sign permit approval from the CDOT and the Public Works Department Building Division, or as may be required by federal and/or state laws.
- B. The maximum sign area permitted for a billboard shall be three hundred (300) square feet per sign face, the maximum height of any billboard shall be thirty-five (35) feet above ground level, and the location of each

billboard shall not impair traffic visibility. If there are two (2) sign faces they must be placed back-to-back on the same structure.

- C. No billboard shall be located less than five hundred (500) feet of any other billboard.
- D. No billboard shall be located within five hundred (500) feet of any residentially zoned property in any jurisdiction measured in a straight line in any direction from the nearest point on the sign structure to the residential zoning district boundary.

Staff recently received an inquiry for a new billboard within a Planned Unit Development. The specific PUD (PUD) is considered Mixed Use (MU) and includes residential and commercial uses but is silent on billboards. Staff determined a billboard would not be permitted in MU unless the PUD specifically allows for it and otherwise complies with the restrictions for billboards listed in the sign code (distance from residential uses, Section 12-312.D.).

A number of existing billboards are nonconforming with the current code. Some of the potential nonconformities include: constructed prior to our USR process, constructed in an area without the correct zoning, constructed on unplatted property, or becoming nonconforming because they no longer meet minimum setbacks from residential zoning. If the moratorium is approved, county staff would use the time to inventory the existing billboards located in the county.

If the moratorium is approved, county staff would use the time to evaluate the potential health and safety concerns, in particular traffic, pedestrian distraction issues and aesthetic and community impacts.

Staff would also like to use the moratorium period to evaluate the potential of the conversion of existing billboards to electronic message boards. Staff believes there should be consideration given to where, and in what zone districts billboards incorporating electronic message boards should be permitted and under what circumstances and conditions.

Staff will also research how adjacent jurisdictions regulate off-premise signs and billboards, as well as how they manage conversions from static to electronic displays. Accordingly, Planning Division staff is proposing a resolution to adopt a temporary moratorium that would prohibit the acceptance and processing of any application for a new billboard or other off-premise sign and on applications for conversion of any existing billboard or other off-premise sign to an electronic messaging sign.

This moratorium is proposed for a period of up to six months to enable Planning Division staff to evaluate the future demand for, the compatibility of, and the potential impacts of new billboards or other off-premise signs and conversion of any existing billboard or other off-premise sign to an electronic messaging sign, and to draft regulations as

appropriate for such signs. In the event that staff is able to complete such evaluations and draft such regulations prior to the expiration of the requested six month moratorium, it could be lifted early. If staff needs additional time, a separate request for an extension of the moratorium would have to be brought to the Board for approval.

Alternatives

The alternative would be for the Board not to adopt the proposed resolution and process applications as permitted in the current Land Development Code. The Board may also continue this item for further study.

Fiscal Impact

The proposed resolution should not result in any fiscal impact on the County.

DRAFT MOTIONS

Motion for Approval:

In the matter of the request to adopt a temporary moratorium on the acceptance and processing of applications for any new billboard or other off-premise sign and on applications for conversion of any existing billboard or other off-premise sign to an electronic messaging sign, I have considered the Planning staff recommendation, reviewed the Board Summary Report, and heard such public testimony and staff comment as was presented to the Board at public hearing this day. I move that the Board of County Commissioners adopt by resolution a temporary moratorium on the acceptance and processing of applications for such billboards or other off-premise signs and conversion of any existing billboard or off-premise sign to an electronic messaging sign as presented to the Board. Such moratorium shall be in force for a period of up to six months to enable Planning staff to evaluate the land use impacts of such facilities and develop appropriate regulations for such facilities.

Motion for Denial:

In the matter of the request to adopt a temporary moratorium on the acceptance and processing of applications for any new billboard or other off-premise sign and on applications for conversion of any existing billboard or other off-premise sign to an electronic messaging sign, I have considered the Planning staff recommendation, reviewed the Board Summary Report, and heard such public testimony and staff comment as was presented to the Board at public hearing this day. I move that the Board of County Commissioners deny the request for a temporary moratorium on the acceptance and processing of land use applications for any new billboard or other off-premise sign and on applications for conversion of any existing billboard or other off-premise sign to an electronic messaging sign.

Motion for Continuance:

In the matter of the request to adopt a temporary moratorium on the acceptance and processing of applications for any new billboard or other off-premise sign and on applications for conversion of any existing billboard or other off-premise sign to an electronic messaging sign, I move to continue this matter to the ____ day of _____, 2019 and direct staff to provide the following information for the Board's consideration: *[describe what additional information needed to assist Board's decision]*

Draft Resolution:

RESOLUTION NO. _____ It was moved by Commissioner _____
and duly seconded by Commissioner _____ to adopt the following Resolution:

WHEREAS, the Arapahoe County Board of County Commissioners (“the Board”) has broad authority under the Local Government Land Use Control Enabling Act, CRS 29-20-101, et seq., to plan for and regulate the use of land within its jurisdiction; and

WHEREAS, such statutory authority includes the power to regulate the use of land on the basis of the impact of the use on the community or surrounding areas; and

WHEREAS, such authority also includes the power to adopt and enforce temporary moratoria on particular land uses pending the County developing, adopting, and implementing appropriate regulation for such uses in order to protect the public health, safety, and welfare, and to provide for a planned and orderly use of such land; and

WHEREAS, the Board also has authority pending the adoption of a zoning plan, pursuant to CRS 30-28-121, to adopt by Resolution regulations to prohibit, for a period of up to six (6) months, the erection, construction, reconstruction, or alteration of any building or structure used or to be used for any business, residential, industrial, or commercial purpose; and

WHEREAS, the Arapahoe County Department of Public Works and Development, Planning Division, has received inquiries about new billboards and other off-premise sign installations and conversions of existing billboards or off-premise signs to electronic messaging signs; and

WHEREAS, the Arapahoe County Land Development Code, currently provides certain restrictions for billboard and off-premise sign installations as provided in Sections 12-311.02 and 12-312 of the Arapahoe County Land Development Code, and defines the zone districts where such signs are permitted, but these Code provisions are outdated and do not address conversions to electronic billboards or other off-premise signs; and

WHEREAS, the Board hereby finds that new billboard and other off-premise sign installations and that the conversion of such signs to electronic messaging signs presents potential health and safety concerns, in particular as relates to traffic and pedestrian distraction issues, and also presents aesthetic and community impacts that are not adequately addressed in the Land Development Code: and

WHEREAS, Planning Division and Legal staff have requested that the Board adopt a temporary moratorium on new installations of billboards or other off-premise signs and conversions of existing billboards or other off premise signs to electronic messaging signs in order to allow staff the time to develop appropriate regulations and amend the

Land Development Code, as necessary, to address the impacts from such new signs and conversions; and

WHEREAS, a public hearing before the Board on the proposed moratorium request was noticed by publication on April 18, 2019 in the Villager, a newspaper of general circulation in Arapahoe County, and on April 16, 2019 in the I-70 Scout, a newspaper with circulation in eastern Arapahoe County; and

WHEREAS, on May 7, 2019, in accordance with said published notice, a public hearing was held on the proposed moratorium at which staff presented the request and the public was provided the opportunity to comment on the request; and

WHEREAS, pending the development of amended and updated regulations for such signs, the Board finds that it is necessary to adopt a temporary moratorium on the acceptance and processing of land use applications for new billboards and other off-premise signs and on applications to convert existing billboards or other off-premise signs to electronic messaging signs.

NOW, THEREFORE, the BOARD OF COUNTY COMMISSIONERS FOR ARAPAHOE COUNTY hereby resolves as follows:

1. That the Board hereby adopts a temporary moratorium on the acceptance and processing of land use applications for any new billboard or other off-premise sign and on applications for conversion of any existing billboard or other off-premise sign to an electronic messaging sign within the unincorporated territory of Arapahoe County. This moratorium shall not apply to applications for new bus stop or transit shelter signs as contemplated under Section 12-311.01 of the Land Development Code.
2. That during the term of this temporary moratorium, as provided in this Resolution, no land use application, including but not limited to any application for zoning, re-zoning, subdivision, Use by Special Review, Planned Unit Development or any other land use or building or other construction related permit, involving any new billboard or other off-premise sign or for conversion of any existing billboard or other off-premise sign to an electronic messaging sign shall be accepted, processed, or granted, except that this temporary moratorium shall not apply to any land use application submitted prior to the date of the adoption of this temporary moratorium.
3. That this moratorium shall continue in effect for a period of six (6) months from the date of the adoption hereof, unless extended, or terminated at an earlier date, by further action of this Board.
4. That during the period of this temporary moratorium, Planning Division staff is directed to study the impacts of such billboards or other off-premise signs and of the conversion of existing billboards or other off-premise signs to electronic

messaging signs, and to develop recommendations for amendment to the Land Development Code in order to update regulations for such signs and sign conversions.

5. That this Resolution is effective upon its passage.

The vote was:

Commissioner Baker, ___; Commissioner Conti, ___; Commissioner Holen, ___;
Commissioner Jackson, ___; Commissioner Sharpe, ___.

The Chair declared the motion carried and so ordered.