

**STATE OF COLORADO
COUNTY OF ROUTT**

**OFFICE OF THE CLERK
February 15, 2022**

Commissioner M. Elizabeth Melton, Chair, called the meeting of the Routt County Board of County Commissioners to order. Commissioner Tim Redmond, County Manager Jay Harrington, County Attorney Erick Knaus, County Assistant Attorney Lynaia South, Paralegal Kendra Alfieri, and Executive Assistant Jennifer Parent were also present. Samantha Pearce prepared the minutes.

EN RE: APPROVAL OF ACCOUNTS PAYABLE, MANUAL WARRANTS, AND PAYROLL

Mr. Harrington presented accounts payable for a total of \$899,309.45.

MOTION

Commissioner Redmond moved to approve and authorize the accounts payable, and payroll as presented by the County manager.

Commissioner Melton seconded; the motion carried 2-0. Commissioner Corrigan was absent.

EN RE: CONSENT AGENDA

The following items were presented for consideration, approval, and signing on the consent agenda:

- A. Approval of the State Human Services Electronic Transfer in the amount of \$214,714.85 Through November 2021 and \$439,538.87 Through December 2021.
- B. Approval and Authorization for the Chair to Sign the Annual Equitable Sharing Agreement and Certification (ESAC).
- C. Approval of County Commissioners' Minutes: Meetings of January 18th, and 25th, 2022.

MOTION

Commissioner Redmond moved to approve items A, B, and C on the Consent Agenda.

Commissioner Melton seconded; the motion carried 2-0. Commissioner Corrigan was absent.

EN RE: PUBLIC COMMENT

No public comment presented to the Board.

EN RE: LEGAL/ APPROVE AND AUTHORIZE THE COUNTY ATTORNEY TO SIGN AN AMICUS BRIEF

Lynaia South, County Assistant Attorney, requested that the Board of County Commissioners, acting as the County Board of Equalization approve and authorize the County Attorney to sign an Amicus Brief concerning unusual conditions and property reassessments in Colorado Court of Appeals Case No. 2021CA552 – Educhildren LLC et al v Douglas County.

This is a case involving the valuation of 65 parcels of real property in Douglas County for the 2020 tax year. It represents one of eleven cases filed in eleven counties (the “Companion Cases”) by the same attorneys, on behalf of the same tax agents who represent owners of commercial property and rely on the same erroneous interpretation of the property tax statutes. The Petitioners claim the assessors failed to undertake revaluations of their properties and the BOEs failed to correct the assessors’ valuations to account for alleged “unusual conditions” - specifically the COVID-19 pandemic and subsequent executive and public health orders issued as a result of the pandemic - pursuant to C.R.S. § 39-1-104(11)(b)(I) (the “Unusual Conditions Statute”). Douglas County and those Counties joining in the amicus brief believe the Petitioners have misinterpreted the law regarding revaluation of properties in an intervening tax year based on unusual conditions. The Petitioners’ incorrect position would essentially require assessors to value the businesses as opposed to the underlying real property for tax purposes.

This is similar to the cases in which Routt County has already signed on as amicus MLS Properties v Weld County (BCC approval in September) and 150 East v Eagle County (BCC approval in December).

MOTION

Commissioner Redmond moved the Board of County Commissioners, acting as the County Board of Equalization, to approve and authorize the County Attorney to sign an Amicus Brief concerning unusual conditions and property reassessments in Colorado Court of Appeals Case No. 2021CA552 – Educhildren LLC et al v Douglas County.

Commissioner Melton seconded; the motion carried 3-0. Commissioner Corrigan was absent.

EN RE: LEGAL/ RESOLUTION CONTINUING DECLARATION OF LOCAL DISASTER (TWENTY-FOURTH)

Lynaia South, County Assistant Attorney, presented a Resolution continuing Declaration of Local Disaster (Twenty-Fourth).

On March 13, 2020, the Chair signed a Declaration of Local Disaster relating to the COVID-19 global pandemic. On March 16, 2020, the Board of County Commissioners ratified and extended this Declaration of Local Disaster. This is the twenty-fourth Resolution extending the Declaration. It is effective from the date of the current expiration and extends the Declaration for another 30 days.

MOTION

Commissioner Redmond moved to approve and authorize the Chair to sign a Resolution continuing the Declaration of Local Disaster (Twenty-Fourth).

Commissioner Melton seconded; the motion carried 3-0. Commissioner Corrigan was absent.

EN RE: LEGAL/ PENDING MATTERS AND LITIGATION DOCKET

At 9:40a.m., Commissioner Melton moved to enter executive session to discuss the Docket and the Pending Matters List with the County Attorney, the Assistant County Attorney, the Legal Assistant, and the County Manager, pursuant to C. R. S. 24-6-402 (4)(b), to discuss specific legal matters with the County Attorney.

Commissioner Redmond seconded; the motion carried 3-0. Commissioner Corrigan was absent.

The executive session adjourned at 10:35 a.m. Commissioner Melton stated that only the Docket and Pending Matters List were discussed during executive session; no formal actions were taken, and no minutes were taken during the executive session.

EN RE: ENVIRONMENTAL HEALTH

Scott Cowman, Environmental Health Director presented a consideration for a Supplemental Budget Request for Communities of Milner and Phippsburg Waste Water Treatment Facility's. Supplemental funding in support of engineering services to evaluate options and costs to address maintenance and compliance issues, and aging infrastructure at the Wastewater Treatment Facility's.

This item will be presented again at the Commissioners' Hearing on February 22, 2022. No action was taken.

EN RE: ASSESSOR

R8173038 Jonathan & Carol Clark (JT) ABATEMENT

Gary Peterson, County Assessor presented a recommendation to approve the Petitioners request to the Petitioner's request to change classification from Vacant to Residential classification based on the 2020 Colorado Supreme Court decision.

Appraisal Date: 6/30/2018 for Tax Year 2020 & 6/30/2020 for Tax Year 2021

The subject parcel is a .62-acre vacant lot, adjacent to the Petitioner's improved parcel. Petitioner, has submitted an abatement for Tax Years 2020 and 2021 requesting the vacant lot be classified as residential as the vacant lot is used as a unit with the adjoining improved property.

Based on Colorado Supreme Court decisions, the account meets the three criteria for residential assessment rate as follows:

a) Contiguous - the boundary line of the subject vacant parcel is physically touching the improved residential parcel's boundary line.

b) Use - the subject vacant parcel is 'used as a unit in conjunction with the improved parcel' as established by the Colorado Supreme Court's decision in the Summit County v. Hogan case.

c) Common Ownership – the same owner of record between the vacant parcel (subject) and improved parcel containing a residence.

The Colorado Supreme Court ruled on the statutory definition of Residential Land that reads as follows: Section 39-1-102(14.4) (a) defines residential land as "a parcel or contiguous parcels of land under common ownership upon which residential improvements are located and that is used as a unit in conjunction with the residential improvements located thereon."

This means that for vacant land to qualify as residential land, it must be:

- (1) Contiguous with residential land;
- (2) Used as a unit with residential land; and
- (3) Under common ownership with residential land.

Recommendation: Retain actual value of \$800,000 for Tax Year 2020 and \$985,000.00 for Tax Year 2021 Change classification to residential for both years. This decreases the assessed value from \$232,000.00 to \$57,200.00 for TY2020 and from \$285,650.00 to \$70,430.00 for TY2021, resulting in a refund \$9,480.80 in taxes for TY2020 and \$11,755.32 in taxes for TY2021.

MOTION

Commissioner Redmond moved to approve the Petitioner's request to change classification from Vacant to Residential classification based on the 2020 Colorado Supreme Court decision. The account meets the criteria for the residential assessment rate. Tax year 2020 the actual value of the property remains unchanged at \$800,000.00. The assessed value decreases from \$232,000 to \$57,200 The tax is reduced from \$12,583.20 to \$3,102.40, resulting in a refund of \$9,480.80. Tax year 2021 the actual value of the property remains unchanged at \$985,000.00. The assessed value decreases from \$285,650.00 to \$70,430.00. The tax is reduced from \$15,602.20 to \$3,846.88, resulting in a refund of \$11,755.32.

Commissioner Melton seconded; the motion carried 3-0. Commissioner Corrigan was absent.

No further business coming before the Board, same adjourned sine die.

Jenny L. Thomas, Clerk and Recorder

M. Elizabeth Melton, Chair

Date