

RESOLUTION 66 - 2024

A RESOLUTION IMPOSING A TEMPORARY MORATORIUM ON WASHINGTON COUNTY'S PROCESSING OF APPLICATIONS FOR PRIVATE TRANSMISSION LINES IN ALL UNINCORPORATED PORTIONS OF WASHINGTON COUNTY PENDING CONSIDERATION OF AMENDMENTS TO THE WASHINGTON COUNTY ZONING REGULATIONS

WHEREAS, on March 5, 2024 via Resolution 51-2024, the Board of County Commissioners imposed a temporary moratorium until August 4, 2024 on the approval for applications for private transmission lines in all unincorporated portions of Washing County to provide County staff time to prepare application forms and internal procedures; and

WHEREAS, the County is facing a significant increase in private companies seeking to locate electric transmission lines in and through the County;

WHEREAS, these transmission lines impact the health, safety and welfare of the citizens of Washington County (the "County") in a number of ways, including without limitation loss of land for traditional agricultural uses, increased noise and traffic, reduced, fragmented, or degraded habitat for wildlife, fish, and plants, noxious weeds and other disturbances, and potential impacts on views, air, water, soil, floodplains, water, storm water, drainage and erosion control, and agricultural production;

WHEREAS, in its role administrating the County transportation system, the County is concerned about the potential increased impacts due to increased wear and tear on roads from heavy truck traffic used to install and maintain transmission lines resulting in greater need for road and bridge improvements and maintenance;

WHEREAS, the Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101 *et seq.*, provides the County with the broad authority to plan for and regulate the use of land in order to provide for orderly development while balancing the health, safety and welfare of its citizens;

WHEREAS, the Local Government Land Use Control Enabling Act authorizes local governments within their respective jurisdictions to plan for and regulate the use of land by, among other actions, regulating development and activities in hazardous areas; protecting land from activities that would cause immediate or foreseeable material danger to significant wildlife habitat; regulating the use of land on the basis of the impact thereof on the community or surrounding areas; and otherwise planning for and regulating the use of land so as to provide for the planned and orderly use of land;

WHEREAS, the Board believes it has the responsibility to its residents to plan for and regulate the use of land for the purposes laid out in the Local Government Land Use Control Enabling Act as well as those purposes specified in other applicable state and federal statutes and common law grants of authority, and to promote the health, safety and general welfare of its residents;

WHEREAS, the Board, pursuant to its land use authority, has from time to time adopted planning, zoning and other regulations governing land use in the unincorporated portions of the County;

WHEREAS, although County's 1041 Regulations govern transmission lines that constitute a major facility of a public utility, the County currently has limited regulations addressing private transmission lines;

WHEREAS, the County needs a reasonable period of time to consider updating its current transmission line regulations as they apply to private transmission lines in an orderly manner to protect the public's health, safety and welfare;

WHEREAS, the Board estimates that the time needed to perform the appropriate study and to determine appropriate transmission line regulations will be approximately six (6) months;

WHEREAS, if applications requesting review and approval of private transmission lines are submitted prior to the County having adequate time to conduct the appropriate studies and adopt appropriate regulations, the Board believes irreparable harm will be done to the public health, safety and welfare;

WHEREAS, the U.S. Supreme Court and the Colorado Supreme Court recognize that in the field of land use regulation, temporary moratoria of reasonable duration are often employed to preserve the status quo in a particular area while developing a long-term plan for development;

WHEREAS, in countering the incentive of property owners to develop their property quickly to avoid the consequences of an impending land use plan for the jurisdiction, moratoria are a crucial tool for local governments and, therefore, pursuant to express and implied authority granted by the Colorado Revised Statutes and multiple Colorado and federal legal decisions upholding temporary moratoria on land use applications while amendments are considered, the Board has the legal authority to adopt a temporary moratorium in this situation;

WHEREAS, in light of the foregoing recitals and findings, after a duly noticed public meeting held on October 1, 2024, the Board desires to adopt this temporary moratorium to protect the public health, safety, and welfare, and to avoid development which, during the County's planning and land use regulation amendment process, may contravene the results of this study and process put the public at risk.

NOW BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, COLORADO:

1. All findings set forth in Resolution 51-2024 are hereby incorporated herein.
2. This temporary moratorium shall take effect immediately. The County shall not accept, process, or approve any applications for uses of land that involve the development of private transmission lines, including without limitation special use permit applications and applications for right-of-way permits.

2. For purposes of this Resolution, the term "private transmission lines" shall mean transmission lines owned by persons other than public utilities or power authorities as those terms

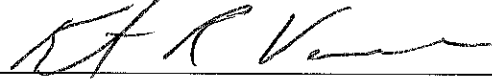
are used in Colorado's Local Government Land Use Control Enabling Act, C.R.S. 29-20-101, *et seq.*

2. This temporary moratorium shall remain in place until December 31, 2024, unless terminated or extended.

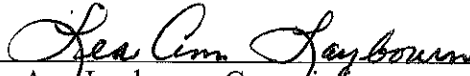
3. County staff is hereby directed to work with the Washington County Planning Commission to analyze and develop regulations addressing private transmission lines sufficient to protect the public health, safety and welfare.

DATED this 1st day of October 2024.

**BOARD OF COUNTY COMMISSIONERS
WASHINGTON COUNTY, COLORADO**



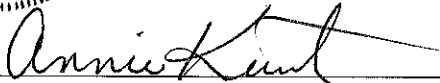
Kent Vance, Chair



Lea Ann Laybourn, Commissioner



Gisele Jefferson, Commissioner



Annie Kuntz, Clerk to the Board