

May 22, 2018

At a regular meeting of the Board of County Commissioners, Washington County Colorado, held at the Courthouse in Akron, Colorado on Tuesday the 22nd day of May, 2018, there were present:

Lea Ann Laybourn, chairman	present
Terry G. Hart, commissioner	present
Leland Willeke, commissioner	present
Garland Wahl, clerk of the board	present
Madeline Meacham, county attorney	present

8:00 Public Comment/Work Session

9:15 Work Session

9:30 Planning and Zoning – Annie Kuntz

Gerhard Scott-BP 18-08

Gerhard Scott-BP 18-09

James and Dorothy Thaemert EX 18-01 (sign mylar)

10:00 Public Hearing for Planning and Zoning

Elk Creek Pipeline SP 18-01

10:04 Chairman Laybourn opened the business meeting.

10:04 **Public Hearing** was opened. Present at the Public Hearing for the purpose of reviewing the **Application for Use by Special Review for ONEOK Elk Creek Pipeline, LLC** were: Commissioners – Lea Ann Laybourn, Terry Hart, Leland Willeke; Clerk of the Board – Garland Wahl; County Attorney – Madeline Meacham; Assistant to the Board of County Commissioners and Planning and Zoning Administrator – Annie Kuntz; ONEOK - Dave Potter and Jacob Rosenberg; LiUNA - Mickay Conway and Raul Duran; 4D Acq. - Bill McGuire; Landowner/Anthropologist – Haley Harms; and Otis Telegraph Reporter - Margie Davidson.

Kuntz reported publications deadlines for the hearing were met and presentation of Application for Use by Special Review for ONEOK Elk Creek Pipeline, LLC and surveys to the Planning and Zoning Board met no opposition.

Rosenberg stated they are working on the paperwork for the 30 Road Cut/Right of Way Permits.

Harms asked if ONEOK followed the federal nexus.

Meacham explained the way a hearing works is to make a statement then a response is given.

Harms stated there is no generational payment. There are three landowners whose property this pipeline will go across. Two owners are happy to receive the money and one owner will be farming it and worrying every time we get close to the pipeline that we will hit it. Yearly payments were made by the electric company when they put lines across our property. Harms said there is fiber optics on the property and why can't they be tied into. Harms said they have developed a no-till program with their property and they don't want the pipeline to affect it.

Rosenberg stated they make a onetime payment and believe in fair compensation to the landowners.

Commissioner Willeke stated Overland Pipeline came across one of by properties and did an excellent job. They made a onetime payment. I farm over it and have not had any problems.

Conway stated the pipeline companies bury the pipeline four feet - deep enough that there is no problem of hitting it with farming implements.

Commissioner Willeke said they met with two gentlemen on this project in February and discussed the 1.5% Sales Tax on goods. Willeke said he would like a clarification on how a payment would be handled.

Rosenberg said the sales and use tax is based on mileage on the pipe and would be paid.

Kuntz explained that the building permit form has the sales and use tax on it.

Meacham said she wanted to clarify that permit fees would be paid not sales tax fees so nothing would be submitted to the state.

Commissioner Laybourn stated the money is collected as part of the application process.

Commissioner Hart asked what the cost of the pipe materials were to ONEOK.

Gillespe said he didn't know and would have to get the information. We make a onetime payment to the landowner to work within 75' of our pipeline and anything outside of that there is additional pay.

Rosenberg stated the timing is based on findings of the amount of natural gas liquid available and the good financial background of Bakken. It's a way to stabilize prices. Propane has taken huge spikes in prices.

Rosenberg stated they will start the construction project in June 2018 and operations in June of 2019. Construction will start with 200 miles in Bushton, Kansas around July 21, 2018 and work to the northwest. We haven't nailed down everything yet.

Meacham asked if they were here today to ask the commissioners to approve the permits. They could approve them today with conditions that the easement work is completed, road cut/right of way permits are signed and building permits are taken care of.

Commissioner Willeke said he would like to address the taxes and talk to the other counties about the type of permits they are requiring for this project.

Meacham recommended the commissioners take the Application for Use by Special Review under advisement for 60 days to give the ONEOK Elk Creek Pipeline, LLC time to gather their materials and all other questions are answered.

Kuntz stated that in the past Applications for Use by Special Review were approved by a Resolution upon completion of the conditions. The road supervisor will sign off on the Road Cut/Right of Way Permits.

Commissioner Hart stated that if they have all the paperwork sooner they can turn it in.

#### USE BY SPECIAL REVIEW

The applicant and owner, ONEOK Elk Creek Pipeline, LLC (ONEOK), is proposing to construct the Elk Creek Pipeline (Project).

The Project provides an effective way to transport NGLs to market and enhances the industry's ability to recover and use natural gas produced in the Bakken, Powder River, and Denver-Julesburg regions. NSLs are used in a wide variety of industries within the United States and a safe and efficient delivery method insures a cost effective product to market.

ONEOK currently operates the Bakken NGL pipeline has an ownership interest in the Overland Pass pipeline. These pipelines are currently operating at full capacity. Additional Infrastructure is needed to provide greater pipeline capacity, redundancy, and reliability in order to meet demands of producers and consumers.

This Project is an approximately 900-mile, 20-inch-diameter NGL pipeline. The Project will originate in Richland County, Montana and terminate at the existing ONEOK facility near Bushton, Kansas. The pipeline will have the capacity to transport up to 240,000 barrels per day of unfractionated NGLs. The route parallels ONEOK's existing Bakken NGL Pipeline across eastern Montana and Wyoming and the Overland Pass Pipeline for a portion of Colorado and across Kansas Pipeline Route.

The portion of the Project that crosses Washington County is 30.0 miles long, from milepost 558.1 to 588.1. The centerline crosses into Washington County from Logan County, near County Road 14, and travels approximately 30.0 miles to the southeast. Attachment B contains a map of the Project in Washington County, including a vicinity map and mapset detailing the proposed pipeline route.

The construction and operation of the pipeline facilities will require the acquisition of permanent and temporary right-of-way easements. ONEOK will use a typical 75-foot-wide construction right-of-way that will accommodate temporary storage of trench spoil; area needed to string, weld, and install the pipeline; and the operation of construction equipment. ONEOK will retain a 50-foot wide permanent right-of-way for facility operations. Workspace associated with the construction and installation of pipelines requires careful planning in order to provide sufficient space and proper configuration.

In addition to the construction right-of-way, ONEOK will use temporary extra workspaces as needed in areas of rocky soils, steep slopes, and rugged terrain; and for staging areas, truck turnarounds, utility crossovers; and utility, road, railroad, waterbody, and wetland crossing. ONEOK will locate extra workspace areas outside the boundary of the typical construction right-of-way.

It was moved by Commissioner Hart and seconded by Commissioner Willeke to take the **Use by Special Review** Application under advisement with the understanding that the **ONEOK Elk Creek Pipeline, LLC** be given 60 days to get materials together and they meet the following conditions: all permits should be obtained.

Discussion: Willeke stated he thought Washington County needed to talk to Morgan and Logan Counties to see what they are doing for the permitting of this project so the counties could be consistent. Commissioner Hart added to include fees. Rosenberg said there are two of the three counties that have taxes and they would remit to each county. State law says we have to pay sales tax. Rosenberg asked how much notice is needed to get on the agenda if we can on in June. Kuntz replied the Friday before the meeting

On roll call vote, all votes being yes, the motion passed.

10:40 Public Hearing was closed.

10:45 Business Meeting Convenes

Approve Consent Agenda

1. Schedule of bills for the County from the General, Road & Bridge, Health Care, TV Translator, Landfill, and Justice Center Fund payables for May 22, 2018 in the amount of \$52,779.53
2. Nursing Home bills for May 22, 2018 in the amount of \$40,516.03
3. Pioneer Haven bills for May 22, 2018 the amount of \$4,728.79
4. Minutes from Prior Meeting
  - a. May 22, 2018

It was moved by Commissioner Willeke and seconded by Commissioner Hart to **approve the consent agenda**. On roll call vote, all votes being yes, the motion passed.

It was moved by Commissioner Hart and seconded by Commissioner Willeke to approve the **Building Permit Application (BP18-08) for Gerhard Scott** for the intended use of building to be a home on the NW1/4SW1/4-33-5N-51W. On roll call vote, all votes being yes, the motion passed.

It was moved by Commissioner Willeke and seconded by Commissioner Hart to approve the **Building Permit Application (BP18-09) for Gerhard Scott** for the intended use of building – Living on the SW1/4-28-5N-51W. On roll call vote, all votes being yes, the motion passed.

It was moved by Commissioner Hart and seconded by Commissioner Willeke to approve the **Mobile or Manufactured Home Permit (MP18-04) Application for Rodrigo Mosso Ortiz** to place a 2018 Manufactured Home on the SW1/4SW1/4-31-3S-55W. On roll call vote, all votes being yes, the motion passed.

It was moved by Commissioner Willeke and seconded by Commissioner Hart to approve **Request for Capital Purchase for Road and Bridge District 3** to purchase an **80" Brushcat (HF) Mower** at a cost of \$5298.56. On roll call vote, all votes being yes, the motion passed.

It was moved by Commissioner Hart and seconded by Commissioner Willeke to approve the **voucher submitted by IT Director, Jim Evans** to **purchase fire wall support upgrades** for the Courthouse, Sheriff, and Nursing Home at a cost of \$4185.60. On roll call vote, all votes being yes, the motion passed.

It was moved by Commissioner Willeke and seconded by Commissioner Hart to approve the first half of the payment on the **automatic ADA door at Pioneer Haven** at a cost of \$1336.88. On roll call vote, all votes being yes, the motion passed.

It was moved by Commissioner Willeke and seconded by Commissioner Hart allow the Chairman to sign the **Event Production & Service Agreement with Kinnon Entertainment, LLC** of Denver, Colorado for the **staging, sound and lighting for the Eastern Colorado Roundup Concert** on Thursday, July 26, 2018 at 7:00 p.m. at a cost of \$9833.40 payable as follows: \$4916.70 upon return of the signed Agreement for the non-refundable reservation and the balance of \$4916.70 30 days prior the event. On roll call vote, all votes being yes, the motion passed.

It was moved by Commissioner Hart and seconded by Commissioner Willeke to allow Commissioner Hart to sign the **Credit Application Agreement with Pinnacle Agriculture Distribution Inc.** for District 1 for chemicals to spray weeds. On roll call vote, all votes being yes, the motion passed.

11:15 County Attorney

Reviewing a Nursing Home Contract for consulting

The Nursing Home administrator needs to meet with the commissioners to discuss this

Reviewing Nursing Home Policy

Commissioners will review before the Nursing Home adopts it

There are no updates on the CORA request from the Otis Telegraph

There is another CORA request from SmartProcure requesting all purchasing records from 12-29-2017 to the present. I answered and asked them if this was for marketing purposes.

11:17 It was moved by Commissioner Willeke and seconded by Commissioner Hart to **enter into Executive Session** to determine positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiator 24-6-402 (4)(e) (I) for **tax adjustment payment on an oil and gas assessment delinquent taxes** and for a conference with the County Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) to decide position on an **unemployment hearing and a contract term proposed for the Nursing Home.**

11:35 Executive Session concluded.


11:35 Recess for lunch at the Justice Center – Annual Jail Visitation Day

It was moved by Commissioner Willeke and seconded by Commissioner Hart to accept the offer of \$0.50 on the dollar for a portion of the assessed **delinquent taxes for CM Production (Warren Oil and Gas Well).** On roll call vote, all votes being yes, the motion passed.

It was moved by Commissioner Hart and duly seconded by Commissioner Willeke to maintain our **binding arbitration clause in all contracts.** On roll call vote, all votes being yes, the motion passed.

Miscellaneous Discussion Items to come before the Board

1:45 It was moved by Commissioner Hart and seconded by Commissioner Willeke to adjourn the business meeting. On roll call vote, all votes being yes, the motion passed.

  
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Garland Wahl, Clerk of the Board

  
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Lea Ann Laybourn, Chairman Board of County Commissioners