PARK COUNTY BOARD OF COMMISSIONERS AGENDA 501 Main Street FAIRPLAY, COLORADO Thursday, March 2, 2017

9:30 AM CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES

APPROVAL OF VOUCHERS

CONSIDERATION AND/OR DECISION ON THE FOLLOWING ITEMS:

.I. APPROVE/DENY TEMPORARY LEASE AGREEMENT FOR NONPOTABLE WATER WITH DENVER WATER #17038-A

Documents:

Contract No. 17038A - Park County and Exhibit A.PDF

.II. APPROVE/DENY PROPOSED RESOLUTION FOR APPROVAL OF THE SECOND AMENDED APPLICATION IN CASE NO. 08CW268

Documents:

Resolution for Second Amended Application in Case No. 08CW268.pdf

.III. RESOLUTION FOR #16ZON-11 STARKWEATHER, INC.

Documents:

Resolution Starkweather Rezoning.pdf

.IV. RESOLUTION FOR #16ZON-12 MOOREDALE RANCH RESORT

Documents:

Resolution Moordale Rezoning II.pdf

- .V. APPROVE/DENY ORDINANCE NO. 17-01 OF PARK COUNTY, COLORADO, AMENDING ORDINANCE NO. 16-01 GOVERNING THE LICENSING AND OPERATIONS OF RETAIL MARIJUANA ESTABLISHMENTS
- .VI. FINAL READING OF ORDINANCE NO. 17-01 OF PARK COUNTY, COLORADO, AMENDING ORDINANCE NO. 16-01 GOVERNING THE LICENSING AND OPERATIONS OF RETAIL MARIJUANA ESTABLISHMENTS

Documents:

PUBLIC HEARING(S)

PUBLIC COMMENTS

EXECUTIVE SESSION IN REGARD TO LEGAL & PERSONNEL MATTERS (CLOSED SESSION)

ADMINISTRATIVE SESSION (OPEN)

12:00 PM LUNCH

TIMES ARE APPROXIMATE. ITEMS MAY BE HEARD EARLIER OR LATER THAN SHOWN ABOVE.

NOTE: Items May Be Added To These Agendas Up To 48 Hours Before The Scheduled Time. Items May Be Deleted Or Cancelled At Any Time. Please Check Website www.parkco.us for most Updated Agendas. If You Need Further Information, please contact the BOCC Office At (719) 836-4201.



LETTER AGREEMENT

January 31, 2017

Mr. Tom Eisenman County Administration Officer Park County P.O. Box 1373 501 Main Street Fairplay, CO 80440

RE: Temporary Lease Agreement for Nonpotable Water

Dear Mr. Eisenman:

In response to the recent request of Ms. Star Waring, special counsel, Denver Water is willing to lease nonpotable water to Park County for use by the Road and Bridge Department for dust suppression and maintenance purposes for a one year term subject to the following:

1. LEASE AND ACCOUNTING

Denver Water will lease a maximum of ten (10) acre-feet of nonpotable water per year to Park County for dust suppression and maintenance purposes for roads located in Park County. Withdrawals of water will be made for such purposes from the South Platte River and its tributaries. All trucks which withdraw water from the South Platter River and its tributaries for such purposes will maintain a daily log sheet showing the date and volume of each withdrawal of water. On a monthly basis, commencing January 31, 2017 Park County will submit copies of the daily log sheets to the Raw Water Supply Section of Denver Water at the address set forth in paragraph 10. Denver Water will replace the withdrawals made pursuant to this agreement by releases from storage at either Cheesman Reservoir or Eleven Mile Canyon Reservoir, or other available sources. All water furnished under this Agreement is on a leasehold basis.

2. AMOUNT OF LEASE

The maximum amount of water to be leased per calendar year shall be ten (10) acre-feet of nonpotable water.

3. TERM OF LEASE

This Lease is effective the date it is signed by Denver Water's CEO/Manager. The Lease shall terminate December 31, 2017. Denver Water shall have no obligation whatsoever for deliveries of nonpotable water after the date of termination.



1600 West 12th Ave Denver, CO 80204-3412 303.628.6000 denverwater.org

4. AVAILABILITY OF NON-POTABLE WATER

Denver Water's water supply is dependent upon natural water resources that are variable in quantity of supply from year to year. Denver Water shall not be liable for failure to accurately anticipate the availability of the water supply or for an actual failure of the water supply due to inadequate run off or other occurrences beyond the reasonable control of Denver Water. Denver Water will make a reasonable attempt to notify Park County in advance of any interruptions in delivery.

5. UNTREATED WATER

All water delivered to Park County pursuant to this Lease is untreated water of whatever quality is now or in the future available from the sources specified herein, and is sometimes referred to in this Agreement as "nonpotable water". Delivery of nonpotable water under this Agreement will be on an "as is" basis only, and Denver Water neither expressly nor impliedly warrants the quality of the water. The nonpotable water leased hereunder is not warranted as suitable for any particular purpose. Park County shall not make any claim against Denver Water arising from the quality of water delivered, and Denver Water shall not have water treatment responsibility under this lease.

6. USE OF WATER

The leased water shall be used for dust suppression and maintenance purposes on Park County roads.

7. CHARGES FOR NON-POTABLE WATER

Denver Water shall bill Park County for the leased water in December of each year that the lease is in effect and Park County shall pay the bill within thirty (30) days of receipt. The charge shall be the current rate for non-potable raw water applicable to customers outside the combined service area, which is \$342.14 per acre foot. In addition, Park County shall pay the West Slope Charge pursuant to the West Slope Charge agreement attached as Exhibit A.

8. MINIMUM PAYMENT

During the term of this lease, unless Denver Water decides to waive take or pay requirements to promote water conservation, Park County shall pay for a minimum of five (5) acre-feet of water per calendar year.

9. OPERATING REPRESENTATIVES

The Operating Representatives for day to day operations under this Agreement shall be:

Denver Water: **Dave Bennett**

> **Raw Water Operations** 1600 West 12th Ave. Denver, CO 80204-3412

303-628-6514

FAX: 303-628-6852

dave.bennett@denverwater.org

rw1@denverwater.org

Park County:

Park County Administration

501 Main Street P.O. Box 1373 Fairplay, CO 80440

719-836-4201

FAX: 719-836-3273 pcadmin@parkco.us

10. NO OPERATING OBLIGATION

Nothing herein shall be deemed or construed as creating any obligation on Denver Water to operate its facilities solely for the benefit of Park County.

11. ASSIGNMENT

No right hereunder shall be assigned unless agreed to in writing by both parties.

12. REPRESENTATIVES

Except for day to day operations, the parties' representatives to accept or give any request, notice or approval or the like provided hereunder shall be as follows:

> Denver Water: CEO/Manager

> > 1600 West 12th Ave. Denver, CO 80204-3412

With a copy to: General Counsel

1600 West 12th Ave.

Denver, CO 80204-3412

Park County: County Administration Officer

501 Main Street P.O. Box 1373 Fairplay, CO 80440

With a copy to: Herbert C. (Lee) Phillips

The Phillips Law Offices LLC

P.O. Box 1046 675 Main Street Fairplay, CO 80440

13. DENVER CHARTER

This Agreement is made under and conformable to the provisions of the Charter of the City and County of Denver which controls the operation of the Denver Municipal Water System, consisting of Article X of said Charter. In so far as applicable, said Charter provisions are fully incorporated herein and made a part hereof by reference and shall supersede any apparent conflicting provisions otherwise contained in the Agreement.

14. VENUE

This Agreement shall be deemed performable in the City and County of Denver, notwithstanding that the parties hereto find it necessary to take action in compliance with the Agreement outside said City and County of Denver. The forum for resolution of any and all disputes arising hereunder shall be the District Court of Denver. This Agreement shall be interpreted and governed in accordance with the laws of the State of Colorado.

15. MISCELLANEOUS PROVISIONS

a. Approvals

Park County will be responsible for obtaining all necessary authorizations, approvals and permits from any and all local, state and federal agencies as may be required to effectuate the deliveries contemplated by this Agreement. Park County shall provide Denver Water with copies of any authorizations, approvals and permits as may be requested.

b. Non-reliance

Park County acknowledges that the lease provided hereunder is for a defined term. Park County avers that it is developing an independent long-term water supply that will be available at the end of the lease term.

c. Water Use Restrictions

Water deliveries under this Agreement are contingent on Park County following outside water use restrictions or mandatory conservation methods as established from time to time by Denver Water.

If deliveries to Park County are restricted by such mandatory conservation measures to an amount of water less that the minimum amount described in paragraph 8, no minimum payment shall apply. In that event, Park County shall pay only for water actually delivered.

d. Captions

The captions in the Agreement are for convenience of reference only, and are not part of this Agreement and shall no define or limit any of the terms of provisions hereof.

If you concur with the terms and conditions contained herein please sign both originals of this letter and return them to Dave Bennett. The Department will then complete the necessary signature process and will provide a fully-executed original for your files. This letter will then constitute an Agreement between Denver Water and Park County for the temporary lease of non-potable water under the terms and conditions set forth herein.

	CITY AND COUNTY OF DENVER, acting by and through its BOARD OF WATER COMMISSIONERS
	By: Chief Planning Officer
APPROVED AS TO FORM:	REGISTERED AND COUNTERSIGNED: Timothy M. O'Brien, CPA Auditor CITY AND COUNTY OF DENVER
By: Casy Funk Office of General Counsel	By: Timothy M. O'Brien, CPA Auditor
The terms and conditions of the wi	thin lease are approved and accepted by Park
	By: Mike Brazell, Chairman, Board of County Commissioners

Exhibit A

WEST SLOPE CHARGE AGREEMENT Temporary Lease of Water

Park County

This West Slope Charge Agreement (Agreement") is entered into by the Colorado River Water Conservation District (River District"); Park County Board of County Commissioners ("Park County"); and the City and County of Denver, acting by and through its Board of Water Commissioners ("Denver Water").

Recitals

- A. The River District and Denver Water are parties to the Colorado River Cooperative Agreement ("CRCA"). Article I.B.3.b.v. of the CRCA requires Park County to enter into a West Slope Charge Agreement in substantially the Form of Attachment D to the CRCA. This Agreement is entered in accordance with that requirement of the CRCA. Unless otherwise indicated, capitalized terms in this Agreement shall have the same meaning as provided in the CRCA.
- B. On January 31, 2017, Park County entered into a temporary one year lease ("Park County Lease") of up to 10 acre feet annually of fully consumptive non-potable water for dust suppression and maintenance purposes for roads located in Park County. The location of use is outside Denver Water's service area.

Agreement

- 1. <u>Application of West Slope Charge</u>. Park County agrees that the West Slope Charge applies to each acre-foot of water delivered under the Park County Lease by Denver Water beginning in 2017. This West Slope Charge Agreement does not modify the terms of the Park County Lease except to impose the West Slope Charge as an additional obligation on Park County under the Park County Lease and to establish procedures for payment, collection, and possible default for nonpayment of the West Slope Charge.
 - 1.1 The West Slope Charge will be 15% of the standard water rate for non-potable water charged by Denver Water to customers outside its Service Area. Park County agrees to pay 15% of \$342.14/acre foot for non-potable water delivered by Denver Water or the minimum under the take or pay provisions of the Park County Lease, whichever is larger.
 - 1.2 Park County agrees that payment of the West Slope Charge is a contractual obligation to the River District. The parties to this Agreement agree that the West Slope Charge is not a cost-based rate, but a contractual obligation, and is not governed by rate provisions in Denver Water's water supply contracts and leases.

1.3 Park County agrees that nonpayment of the West Slope Charge may constitute a breach of this West Slope Charge Agreement and may result in suspension of water deliveries from Denver Water.

2. Billing and payment

- 2.1 Denver Water shall bill and collect the West Slope Charge on behalf of the River District as part of Denver Water's normal billing of Park County.
- 2.2. Park County shall pay the West Slope Charge as part of its payment under the Park County Lease.
- 2.3. Whenever Denver Water adjusts the rates charged to customers outside the service area, it will notify the River District in the same manner as it notifies its customers. The River District will respond in writing, requesting that Denver Water be responsible for billing and collection of the West Slope Charge based on the adjusted rate.
- 2.4 Denver Water will transmit the collected West Slope Charge payments to the River District on a regular schedule determined by the payment schedule.

3. <u>Default for nonpayment</u>

- 3.1 If Park County fails to pay the West Slope Charge within the period allowed by Denver Water's normal collection procedures, Denver Water will send a written notice to the River District.
- 3.2 The River District will send written notice to Park County, with a copy to Denver Water, of breach of contract for failure to pay the West Slope Charge. The notice of breach shall include a reasonable period during which Park County may cure the breach.
- 3.3 The River District will undertake such measures as it deems necessary to collect the unpaid West Slope Charge.
- 3.4 If other efforts fail and the River District deems it necessary, the River District will send a notice of proposed suspension of water delivery to Park County and a notice of default to Denver Water requesting that Denver Water suspend delivery of water to begin on a proposed date of suspension, which shall be no less than 10 days following the date of the notice.
- 3.5 If payment is not received prior to the end of the noticed period, Denver Water agrees to suspend deliveries of water as requested by the River District, until such time as the West Slope Charge is paid and the River District requests Denver Water to resume deliveries.
- 3.6 Denver Water will not suspend deliveries of water to Park County unless the written notice of default includes a certification from the River District that it

will take full responsibility for any damages to Park County resulting from suspension of service requested by River District that is later determined to be unlawful or to be invalid by reason of an error committed by the River District, and to hold Denver Water harmless for any such damages and costs incurred by Denver Water, if any, in defending itself. The River District will assume no responsibility for an error committed by Denver Water.

Dated this 31st day of January, 2017.	
Colorado River Water Conservation District	City and County of Denver acting by and through its Board of Water Commissioners
By: Tom Alvey, President	
Tom Alvey, President	By: Chief Planning Officer
By:	Ç
By: Peter Fleming, General Counsel	
	Approved as to form: By: ODD3A1802FBA44D Office of General Counsel
	REGISTERED AND COUNTERSIGNED
	CITY AND COUNTY OF DENVER
	By: Timothy M. O'Brien, CPA Auditor
The terms and conditions of this West Slope Charge Agreement are approved and accepted by Park County this date of	
By:	
Mike Brazell	
Chairman, Board of County Commissioners	

PARK COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

Resolution	No.	2017 ·	•
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A RESOLUTION AUTHORIZING THE FILING OF THE SECOND AMENDMENT TO THE COUNTY'S APPLICATION FOR APPROVAL OF A PLAN FOR AUGMENTATION AND A SUBSTITUTE WATER SUPPLY PLAN.

WHEREAS, the County of Park, operating through its Road and Bridge Department, wishes to confirm its water rights claims as described in the original application filed in 2008, the amendment to the application for water rights filed in 2013 and the Second Amendment in Case No. 08CW268 attached hereto as **Exhibit** A, including new conditional water rights, exchanges, requests to make conditional water rights absolute and for approval of a plan for augmentation;

WHEREAS, the County wishes to confirm its appropriation of the conditional water rights and exchanges described in the attached Second Amendment to the application;

WHEREAS, the County desires to authorize special water counsel retained by the County to file the Second Amendment to the application, in substantially the same form as attached hereto as **Exhibit A.**

WHEREAS, the County desires to authorize the filing of a request for a substitute water supply plan to obtain authorization to temporarily operate the plan in accordance with the application and amendments to the application in Case No. 08CW268 while working to obtain a decree of the Water Court.

NOW, THEREFORE, be it resolved by the Board of County Commissioners of the County of Park that:

- 1. The County confirms and reaffirms its appropriation of the water rights and exchanges described above and the plan for augmentation in the application, the amended application and the Second Amendment to the application.
- 2. That special water counsel retained by the County be authorized to file the Second Amendment to the application in substantially the same form as attached hereto as **Exhibit** A in order to adjudicate those water rights and exchanges and to obtain approval of a plan for augmentation.
- 3. That special water counsel retained by the County be authorized to file a request for a substitute water supply plan in order to obtain authorization to temporarily operate the plan and exchanges, as amended, while working to obtain a decree of the Water Court.

Moved, seconded, and approved this	day of	, 2017.
PARK COUNTY BOA	RD OF COUNTY CO	OMMISSIONERS
ATTEST:	Mike Brazell, Cha	nir
Park County Clerk & Recorder		

PARK COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

	Reso	lution	No.	2017-	
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A RESOLUTION APPROVING THE REZONING FROM RESIDENTIAL (R) TO COMMERCIAL (C) FOR A TRACT OF LAND LOCATED IN SECTION 29, TOWNSHIP 12S, RANGE 71W OF THE 6TH P.M., COMMONLY KNOWN AND NUMBERED AS 38316 HIGHWAY 24, LAKE GEORGE, COLORADO.

WHEREAS, the Applicants, Jim and Rebecca Starkweather dba Starkweather, Inc., have applied to rezone the property described above from Residential to Commercial; and

WHEREAS, at a regularly scheduled public meeting of the Park County Board of County Commissioners, preceded by the required public notice, the Board of County Commissioners conducted a public hearing on the application for rezoning at which it reviewed the application and all supporting documentation, the recommendations of the Planning Department and the Park County Planning Commission, and considered the testimony of the Applicant and patrons; and

WHEREAS, based on the testimony and evidence presented at the public hearing the Board of County Commissioner determines and finds that compliance with the standards for approval of a rezoning set forth in Section 5-203 of the Park County Land Use Regulations has been demonstrated by clear and convincing evidence.

NOW THEREFORE, BE IT RESOLVED THAT:

The application to rezone the above-described real property from Residential to Commercial is approved.

Moved, seconded, and passed this 2nd day of March, 2017.

PARK COUNTY BOARD OF COUNTY COMMISSIONERS

	Mike Brazell, Chairperson	
ATTEST:		
Park County Clerk & Recorder		

PARK COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

Resolution No. 2017-

A RESOLUTION APPROVING THE REZONING FROM PLANNED UNIT DELVELOPMENT (PUD) TO VARIOUS ZONE DISTRICTS FOR EIGHT PARCELS OF LAND LOCATED IN SECTION 26, TOWNSHIP 7 SOUTH, RANGE 73 WEST, OF THE 6TH P.M.

WHEREAS, the Applicant, Park County, has applied to rezone a portion of the property described above from Planned Unit Development (PUD) to various zone districts; and

WHEREAS, at a regularly scheduled public meeting of the Park County Board of County Commissioners, preceded by the required public notice, the Board of County Commissioners conducted a public hearing on the application for rezoning at which it reviewed the application and all supporting documentation, the recommendations of the Planning Department and the Park County Planning Commission, and considered the testimony of the Applicant and patrons; and

WHEREAS, based on the testimony and evidence presented at the public hearing the Board of County Commissioner determines and finds that compliance with the standards for approval of a rezoning set forth in Section 5-203 of the Park County Land Use Regulations has been demonstrated by clear and convincing evidence.

NOW THEREFORE, BE IT RESOLVED THAT:

The following properties, designated by Park County Assessor's Office Schedule Number, are rezoned as set forth below:

#16004 is rezoned to Agricultural (A)
#18058 is rezoned to Residential (R)

#18314 is rezoned to Residential (R)

#17624 is rezoned to Residential (R)

#18527 is rezoned to Residential (R)

#17619 is rezoned to Residential (R)

#15979 is rezoned to Residential (R)

#18656 is rezoned to Residential (R)

Moved, seconded, and passed this 2nd day of March, 2017.

PARK COUNTY BOARD OF COUNTY COMMISSIONERS

	Mike Brazell, Chairperson
ATTEST:	
Park County Clerk & Recorder	

PARK COUNTY, COLORADO

Ordinance No. <u>17-01</u>

AN ORDINANCE OF PARK COUNTY, COLORADO, AMENDING ORDINANCE NO. 16-01 GOVERNING THE LICENSING AND OPERATIONS OF RETAIL MARIJUANA ESTABLISHMENTS.

Section 1. Section 7(h) of Park County Ordinance No. 16-01 is hereby amended to read as follows:

(h) Within thirty (30) days following the determination that an application is complete the local licensing authority shall designate the neighborhood affected by the application. The applicant shall, at its expense, UTILIZE A COUNTY-APPROVED CANVASS PROCEDURE TO DETERMINE the desires of the adult inhabitants thereof. THE CANVASS SHALL BE CONDUCTED EITHER BY COUNTY STAFF OR BY A MAIL CANVASS CONDUCTED BY A PERSON OR ENTITY SELECTED BY THE COUNTY. The canvass results, in written form, shall be submitted to the Board of County Commissioners no later than ten (10) days prior to the public hearing on the application.

Section 2. Section 15(b) of Park County Ordinance No. 16-01 is hereby amended to read as follows:

(b) Each license issued pursuant to this Ordinance shall be valid for one (1) year from the date of issuance and may be renewed only as provided in this Ordinance. All renewals of a license shall be for no more than one (1) year. An application for the renewal of an existing license shall be made to the local licensing authority not more than sixty (60) days and not less than thirty (30) days prior to the date of expiration of the license. Application for renewal shall be made on prescribed forms and shall be accompanied by a non-refundable renewal fee established by Resolution. A licensee may submit to the local licensing authority a late renewal application on the prescribed forms and pay a nonrefundable late application fee in an amount established by Resolution for a renewal application made less than thirty (30) days prior to the date of the expiration of the license. All other provisions concerning renewal applications apply to a late renewal application. The timely filing of a completed renewal application or a late renewal application shall extend the current license until a decision is made on the renewal. No license shall be renewed where the licensee has not commenced operation of the licensed facility during the initial term of the THE LOCAL LICENSING AUTHORITY SHALL REVIEW AND license. CONSIDER ALL RENEWAL APPLICATIONS. A PUBLIC HEARING MAY BE HELD ON SUCH RENEWAL APPLICATION, AND SHALL BE HELD BEFORE ANY RENEWAL APPLICATION IS DENIED. ANY SUCH HEARING SHALL BE PRECEDED BY TEN (10) DAY'S NOTICE TO THE LICENSEE AND BY THE POSTING OF A SIGN ON THE LICENSED

PREMISES IN A LOCATION THAT IS REASONABLE DETERMINED TO BE CONSPICUOUS AND VISIBLE TO MEMBERS OF THE PUBLIC NOT LESS THAN TEN (10) DAYS PRIOR TO THE HEARING. SUCH POSTED NOTICE SHALL, AT A MINIMUM, INCLUDE A SIGN OF SUITABLE MATERIAL, NOT LESS THAN TWENTY-TWO (22) INCHES WIDE AND TWENTY-SIX (26) INCHES HIGH, COMPOSED OF LETTERS OF NOT LESS THAN ONE (1) INCH IN HEIGHT. THE POSTED NOTICE SHALL STATE THE TYPE OF LICENSE HELD BY THE LICENSEE, THE DATE AND PLACE OF THE HEARING, THE NAME AND ADDRESS OF THE LICENSEE, AND SUCH OTHER INFORMATION AS MAY BE REQUIRED TO FULLY APPRISE THE PUBLIC OF THE NATURE OF THE HEARING.

published in full follow	ring its initial introdung the Board of Co	out to C.R.S. § 30-15-405, this ordinance shall be action and reading and published by title only bunty Commissioners and shall be effective thirty (30) y.
SIGNED this _	day of	, 20 <u>17</u> .
		PARK COUNTY BOARD OF COUNTY COMMISSIONERS
ATTEST:		Mike Brazell, Chairman
Park County Clerk & R	lecorder	
-		and read at the February 9 , 20 17 public hearing of ablished in <i>The Flume</i> on 2-17 & 2-24 , 20 17 .

Park County Clerk & Recorder

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