

El Paso Board of County Commissioners, July 28, Aug 11, 18, and 25

WMMI appeals litigation decision

By Helen Walklett

During August, the El Paso Board of County Commissioners (BOCC) heard an appeal by the Western Museum of Mining and Industry (WMMI) of an executive decision authorizing litigation against it after events were held at the property that are not allowed uses under its zoning. The BOCC also amended contracts relating to two road projects in the Tri-Lakes area.

WMMI code violation appeal

At its Aug. 25 meeting, the BOCC heard an appeal by Grant Dewey, executive director of the WMMI, of a decision made by Craig Dossey, executive director of Planning and Community Development. Dossey issued an executive determination authorizing the county attorney's office to proceed with litigation against the museum in June 2020. This related to events held at the museum that are not allowed uses under the North Gate Boulevard property's RR-5 (residential rural) zoning. This zoning allows for museum activities but does not permit public events or building rentals unrelated to the museum's business. For such events to take place, the museum would need a variance of use.

In 2014 and 2015, Planning and Community Development approved temporary use permits to allow the museum to hold the Tiny House Jamboree events. The county's Department of Public Works became aware of a planned Celtic Festival at the property in June 2019 when concerns were raised about potential traffic problems. As no temporary use permit had been applied for, a courtesy email was sent to the organizer and the museum. The event went ahead and county's code enforcement staff then learned that the museum has continued to advertise and hold events on the property that were unrelated to museum activities, such as an Indie Festival, Oktober Fest, and farmers markets and to advertise building rentals for events such as weddings. Violation notices were issued in August 2019 and April 2020.

At the BOCC hearing, the commissioners heard from staff that the museum had very recently filed a variance of use application. Mary Ritchie, assistant county attorney, said the staff would still ask that the appeal be denied so that county would be able to commence litigation if the application were unsuccessful. However, the county would stay any enforcement action as long as the museum continued to actively pursue the variance. The application review process normally takes three to six months and culminates in a BOCC hearing.

Addressing the commissioners, Dewey said, "We have been carrying on similar activities for quite a few years, so we were kind of a little surprised to have this issue, this violation come upon us." He continued, "We have filed the application for a variance because we do need these type of activities. As all of you know, it's not easy to run a nonprofit and keep it going for 50 years. So, we want to keep that going for another 50 and so we appreciate hopefully in the future we'll

be here to get approval from you all for that variance."

Commissioner Mark Waller asked, "Help me understand why it took more than a year to get that application filed?" Dewey responded, "Partly because, as I mentioned, we are now an enclave of the city and we've had a meeting with the mayor who may have some interest in maybe annexing us. So we were kind of waiting to see how that might play out. Obviously COVID stalled things for many of us for months, so that was part of the issue, and then also honestly hoping that you'd recognize that we've been doing these activities and they might be accepted."

Dossey told the commissioners that his department wants to work with the museum to bring it into compliance "but we more or less got radio silence for a year, over a year." With no variance application being submitted, he made the executive determination authorizing litigation. Stressing that it was primarily a matter of safety, he said "So what's happened is the site has been under parked on some of the larger events.... People were walking across North Gate Boulevard which if you've been on North Gate, there's a lot of traffic on North Gate and there's not all the pedestrian connections there to facilitate something like this."

Mindy Madden, code enforcement supervisor, Planning and Community Development Department, said the museum was still advertising a barbecue event in September and building rentals, so such events were ongoing. Commissioner Holly Williams voiced concerns that the museum would be forced to cancel events if the appeal were denied and everything was put on hold while the variance application was reviewed. She said, "I know that they're a nonprofit and this is one of the ways they've struggled to survive." She continued, "I don't mind saying no you can't do the big events, but can they apply for a special use for the small events?"

Dossey replied that staff could certainly look at events getting temporary use permits, but they would have to look at the scale of planned events on a case-by-case basis. Waller pointed out that currently COVID restrictions meant public gatherings were limited to 250 people or less.

Waller commented, "I think sometimes the threats of litigation have to be brought forward to let the entities and organizations know we're serious about complying with the code requirements. It quite frankly, Mr. Dewey, sounded to me like you weren't too serious about complying with the code requirements until the threat of litigation happened." However, Waller proposed staying the vote on the appeal for a period of time to allow the variance of use application to be considered. The commissioners voted unanimously to table the appeal until Dec. 1.

Highway 105 project

At their July 28 meeting, the commissioners approved a contract amendment with HDR Engineering Inc. relating to the section of the Highway 105 project from

Lake Woodmoor Drive to Highway 83. The amendment authorizes HDR to carry out a corridor-wide update to the traffic analysis to affirm the conclusions made in the original study and to better account for changes in traffic along the corridor since the traffic volumes that were gathered from 2004 through 2011 for the 2013 study.

Since the original study was done, the corridor has seen appreciable growth in housing, enrollments at Monument Academy have grown, and traffic volumes have increased along Highway 83. The contract amendment also includes additional scope and services for water quality final design work. The total cost of this additional work is \$133,700.

Beacon Lite Road Improvements Project

At its Aug. 11 meeting, the BOCC approved a contract amendment with Michael Baker International Inc. for final civil engineering design work at the intersection of County Line Road and Beacon Lite Road, which is part of the Beacon Lite Road Improvements Project. The final design work at the intersection is being expedited in an effort to construct this portion of the project concurrently with the Colorado Department of Transportation's County Line Bridge replacement, which is part of the I-25 Gap project. The aim is to reduce the impact of construction on the traveling public and minimize costs. The additional cost associated with this is \$150,946, bringing the total contract amount to \$558,142.

Other decisions

- July 28—the commissioners approved the application by Black Forest Diversified Services LLC d/b/a/ Firehouse on the Run 2, for a hotel and restaurant liquor license at 12480 Black Forest Road.
- Aug. 11—approved two ambulance permits for the Tri-Lakes Monument Fire Protection District. The one-year permits run until July 31, 2021.
- Aug. 11—approved the liquor license application by Flying Horse Country Club d/b/a The Club at Flying Horse to be located on Stagecoach Road. This is part of the Flying Horse North development.
- Aug. 18—approved intergovernmental agreements with Monument Academy and Lewis-Palmer School District 38 to retain school resource officers provided by the county Sheriff's Office for the period from July 1, 2020 to June 30, 2021.
- Aug. 25—approved an ambulance permit for the Tri-Lakes Monument Fire Protection District to run for one year until April 30, 2021 and two permits for the Black Forest Fire Rescue Protection District that run until Aug. 31, 2021.

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Woodmoor Improvement Association, Aug. 26

Board fills vacancy, approves roof work on Barn

By Jackie Burhans

The Woodmoor Improvement Association (WIA) board met on Aug. 26 to fill a board vacancy and approve work on a portion of the roof on the Barn. Board member Connie Brown was absent.

Board vacancy filled

President Brian Bush announced that the board had appointed Rick DePaiva to fill the vacancy left by former member Rich Wretschko, whose departure was announced at the previous meeting. DePaiva will serve the remainder of Wretschko's term, which ends in 2023. The board also reorganized roles, with DePaiva to serve as board secretary and director of community relations and board member Bert Jean to serve as director of Common Areas. No other changes were made.

Vice President Peter Bille made a motion to remove Jean as a signer on the bank account and confirm Bush, Bille, Treasurer Connie Brown, and DePaiva as authorized signers. The board unanimously passed the motion.

Barn roof work

Bush raised a new item of business to approve a capital expenditure to replace that portion of flat roof that remains between the Barn and the administrative offices that is now leaking. Bob Pearsall, Common Areas administrator, explained that the current flat roof is coated with an ethylene propylene diene monomer (EPDM)

rubber membrane that was last replaced in 2014 at a cost of \$6,000.

The two options considered were reroofing it again with EPDM, which has a five-to-seven-year lifespan, or rebuilding the flat roof with a structure that has a pitch on it. He consulted with an architect who proposed extending the Barn roof to the existing roof over the offices and then building a gable over the front door of the Barn, which would match the entrance of Woodmoor Public Safety (WPS). It would provide architectural consistency and alleviate the ongoing problem with the flat roof, which led to internal damage in the past.

WIA put it out to bid and got a proposal for \$37,000, which would provide a return of investment of about 25 years compared to using EPDM. Bush asked for a motion to approve the project at cost of \$37,000 but not to exceed \$40,000 in case of an unforeseen cost overrun. The board unanimously approved this project. Pearsall said he hoped to get started next month to complete it by mid-October.

Board highlights

- El Paso County has issued a Stage II fire ban that basically allows only the use of liquid or gas fueled stoves or grills. For more information see: <https://www.epcsheriffsoffice.com/services/ready-set-go> and <https://bit.ly/34odVsA>.
- Traffic on Monument Hill Road will be closed by



Above: Woodmoor Improvement Association stocks Wild Duck Pond and Lower Twin Pond on July 30. Ponds are usually stocked with trout, carp, and minnows. Because Woodmoor is private property and not subject to state licensing requirements, you do not need a license to fish in the ponds. Residents are encouraged to come by and cast a line. Photo courtesy of Woodmoor Improvement Association.

the campground for seven months for work on a wildlife underpass. For more information, see <https://bit.ly/i25gap-mhfr-close>.

- WIA has spent about \$13,000 to provide three no-charge chipping days for residents and have