

LARIMER COUNTY PLANNING COMMISSION

Minutes of May 16, 2018

The Larimer County Planning Commission met in a regular session on Wednesday, May 16, 2018, at 6:30 p.m., in the Hearing Room. Commissioners Caraway, Cox, Gerrard, Jensen, and Miller were present. Commissioner Dougherty presided as Chairman. Commissioners Christman, Wallace and Lucas were absent. Also present were Todd Blomstrom, Public Works Director; Mark Peterson, County Engineer; Matt Lafferty, Principle Planner; Rob Helmick, Senior Planner, Lea Schneider, Environment Health Planner; and Denise Ruybal, Recording Secretary.

The Planning Commission went on a site visit to review the 26-mile route being considered for the Thornton Water Project.

Chairman Dougherty reviewed the rules for citizen participation at tonight's meeting. The responsibilities of the Planning Commission were also reviewed for those in attendance.

COMMENTS BY THE PUBLIC REGARDING THE COUNTY LAND USE CODE: No one was present to address the Planning Commission.

PUBLIC COMMENT REGARDING OTHER RELEVANT LAND USE MATTERS NOT ON THE AGENDA: No one was present to address the Planning Commission.

APPROVAL OF THE MINUTES FOR THE APRIL 16, 2018, MEETING: MOTION by Commissioner Jensen to approve the minutes, seconded by Commissioner Cox. This received unanimous voice approval.

ITEMS:

ITEM #1 THORNTON WATER PROJECT 1041, FILE #18-ZONE2305: This is a request for a 1041 Permit, Larimer County Land Use Code Section 14.4.J, approval for 26-miles of 48-inch water line, pumping facility, one million-gallon above ground water tank and other appurtenant facilities. This area runs from north of Fort Collins, west of Highway 1 and Douglas Road, east to the Weld County line at Johnstown.

Mr. Lafferty reviewed with the Commission that this meeting is to discuss Section 14.0 of the Larimer County Land Use Code, Areas and Activities of State Interest. Larimer County has adopted this language via section 2465.1-404 of the Colorado Revised Statutes. Those statutes authorize the County to decide as a County whether certain public utilities or other major factors like gas lines or pipelines, etc. are a matter the County want to evaluate as part of the process in the land use arena. Through this process, Larimer County has adopted several of items that are outlined by statute that Larimer County wants to review. Larimer County is not allowed to act on where the water comes from, where it goes, and where it is drawn from as this has already been decided by the State of Colorado. Larimer County is to review where the pipeline will go, and it's impacts on the residents of Larimer County.

Mr. Helmick reviewed with the Commission that The City of Thornton proposes to obtain a 1041 permit for the construction of a 48-inch water line, a 40 million- gallon per day pumping facility, a one million-gallon above ground water tank and other appurtenant facilities.

The Larimer County Land Use Code Section 14 describes the designated activities specifically: 14.4.J.Siting and development of new or extended domestic water or sewer transmission lines which are contained within new permanent easements greater than 30-feet or within new permanent easements greater than 20 feet that are adjacent to existing easements. Domestic water transmission lines include those used to transport both raw and treated water. This designation shall not include the maintenance, repair, adjustment, or removal of an existing pipeline or the relocation, replacement or enlargement of an existing pipeline within the same easement or right-of-way (ROW), provided no additional permanent property acquisitions are required. The designation shall also not include the addition, replacement, expansion or maintenance of appurtenant facilities on existing pipelines.

These facilities will be located either in new easements (50 foot permanent + 40 foot temporary) acquired by the City of Thornton or in the existing County Road ROW. The length of the pipeline in the unincorporated county is 26-miles. The waterline is also located in the town limits of Timnath, Windsor and Johnstown. Due to the proposed alignment of the pipeline along the county line, at WCR 13 some of the pipeline will be located in Weld County. The City of Thornton is pursuing concurrently seeking approval from Weld County.

The City of Thornton proposes this pipeline to move their water, the rights to which they acquired in the late 1980's and subsequently received Court approval to utilize these rights for municipal use. City of Thornton and the County staff have maintained communication on their plans for this water as they began some initial planning. Preliminary discussions about alignments and corridors began as early as 2014 with more discussions in 2015 and ultimately culminating in a pre-application conference for a 1041 application in May of 2016. Public outreach through a series of mailings and open houses started in late 2016 and continued through 2017. The application was originally submitted in late 2017, and was originally scheduled for hearing with the Larimer County Planning Commission in March and April of 2018. However, the hearings were postponed to allow additional information requested by the County to be developed and submitted by Thornton. That additional information specifically related to the proposed alignment in Douglas Road.

At the time of the pre-application conference and during the initial development of alternatives the location of public facilities such as this were not contemplated to be located within a County Right of Way (ROW). After some of the early public meetings where there was significant concern about proposed alignments through subdivisions, the staff met with the City of Thornton and their consultants and encouraged them to review multiple alternatives in the western most area of the proposed corridor (the Douglas Road Corridor). At that time the staff also indicated that alignment in the existing ROW would be considered. In the case of Douglas Road there are sections which are designated on the Transportation Master Plan for future improvement. However, no plans for improvements to this section of road are contemplated in the near term, if those plans change the City would need to coordinate their work in the ROW with Larimer County

In the “Douglas Road Corridor” (CR17-Tunberry) the original alignment identified ¼ mile which was subsequently reduced to a 500-foot wide corridor. This created a significant concern for many property owners in the area. Specifically, that their homes, improvements and/or landscaping was or could be at risk with the final easements and construction. The current proposal as described in the supplemental application materials delineates clearly that along this Corridor the pipeline is proposed to be placed and will fit within the existing ROW.

For the balance of the segments of the proposal the alignment is still 500-feet to ¼ mile in width. The intent is to allow for easement negotiation which would avoid property conflict and not require revisiting the application. There may be locations which will require or necessitate the use of roadway ROW. It should also be noted that the City of Thornton is processing an application with Weld County for when the pipeline would be located on the east side of the County line.

1041 permit application may be approved only when the applicant has satisfactorily demonstrated that the proposal, including all mitigation measures proposed by the applicant, complies with all of the applicable criteria set forth in Section 14 of the Larimer County Land Use Code. If the proposal does not comply with all the applicable criteria, the permit shall be denied, unless the County Commissioners determine that reasonable conditions can be imposed on the permit which will enable the permit to comply with the criteria.

If the County Commissioners determine at the public hearing that sufficient information has not been provided to allow it to determine if the applicable criteria have been met, the board may continue the hearing until the specified additional information has been received. The Commissioners shall adopt a written decision on the 1041 permit application within 90 days after the completion of the permit hearing. The 1041 permit will be in the form of a Findings and Resolution signed by the Board of County Commissioners. The effective date shall be the date on which the findings and resolution is signed.

Mr. Helmick reviewed the review criteria for approval of all 1041 permits as follows:

1. The proposal is consistent with the master plan and applicable intergovernmental agreements affecting land use and development.

- The analysis conducted by the City of Thornton regarding the alternative analysis and the preferred pipeline alignment and support facilities and appurtenances address the principles in the Master Plan with respect to both the natural and man-made environment.

The route is within the Growth Management Areas (GMA) of Fort Collins and Windsor, as adopted by Larimer County and neither of those jurisdictions have identified a GMA issue nor have Timnath or Johnstown, who do not have GMA’s with Larimer County.

The Master Plan contains a specific principle which speaks to future transfers of water out of the County. This was adopted in part in response to the City of

Thornton's actions. Their transfers were essentially complete by the time this policy was adopted.

2. The applicant has presented reasonable siting and design alternatives or explained why no reasonable alternatives are available.

- The City of Thornton in their application materials has discussed their broad analysis of alternatives to transfer the water to the City. That was then refined based on conversations with all of the affected jurisdictions to three generalized corridors all which commenced at Water Supply and Storage Reservoir #4 (WSS#4) thence east to the Weld Larimer county 3THORNTON WATER PROJECT 1041 line thence south following alignments proceeding south to the City. They defined three distinct corridors to review. The applicant examined those three alternatives from which the selected alternative was chosen.

After the initial public outreach and consultation with the County they also conducted a more focused alternative analysis along the western reach of the project for Water supply and Storage reservoir #4 and Turnberry Road (CR11). This analysis examined three separate alignments proceeding from WSS #4 east to Turnberry Road there were multiple of links evaluated along a north, central and southern routes. The north routes were north of or through the northern part of Eagle Lakes and connect to CR 56. The central routes go east from WWS#4 through Eagle Lake and cross Highway 1 at Evans Road and proceed east along that alignment both on and off road ways. The southern routes all follow Douglas Road either within or adjacent to the ROW all the way east to Turnberry Road. The analysis examined environmental factors, proximity to residences and other factors including cost. The City of Thornton's analysis presents a clear choice and the decision process for that choice.

3. The proposal conforms with adopted county standards, review criteria and mitigation requirements concerning environmental impacts, including but not limited to those contained in Section 8 of this Code.

- 8.2. Wetland Areas: The City of Thornton proposes to bore under all designated wetland areas. Wetland areas are affected by the proposal are non-jurisdictional. A Nationwide Permit from the Army Corps of Engineers may be required for the City to confirm that no jurisdictional wetland areas are affected by construction.

8.3. Hazard Areas: There are hazard areas, flood plain on the Poudre and Big Thompson Rivers and Boxelder Creek identified along the preferred route. The City of Thornton proposes to bore under these river corridors to avoid any issues.

8.4. Wildlife: The City of Thornton's environmental analysis for the preferred route identifies that there were possible conflicts with wildlife both listed and other

species of concern. Mitigation for this includes avoidance, seasonal limitations or prohibitions on activities. No other significant wildlife issues have been identified along the preferred route. This may in part result in construction scheduling to avoid issues with nesting birds and other seasonal conflicts.

8.8. Irrigation Facilities: There are multiple irrigation ditches which will need to be bored or cut with this proposal. The applicants will be required to cooperate and mitigate any issues with the respective ditch company. If agreements or licenses are required the City of Thornton must obtain them.

8.11. Air Quality Standards: Given the potential disturbed area of this request an Air Quality permit will be necessary which permitting will require compliance with the standards.

8.12. Water Quality Management Standards: The applicant will need to obtain a storm water quality permit for the construction impacts.

4. The proposal will not have a significant adverse effect on or will adequately mitigate significant adverse effects on the land on which the proposal is situated and on lands adjacent to the proposal.

- The proposal is located in a significantly developed area. While there are some impacts to vegetation in the project area, those impacts will be mitigated through the use of Best Management Practices (BMP) and do not constitute a significant impact on land affected or adjacent to the pipeline. Issues with groundwater and drainage in the area of any bore or cut must be mitigated.

5. The proposal will not adversely affect any sites and structures listed on the State or National Registers of Historic Places.

- The environmental analysis includes a review of all known and designated historic structures or places within the proposed alignments. There are not historic structures known to exist along or in the alignment of this pipeline that would be negatively affected by the construction of these facilities.

6. The proposal will not negatively impact public health and safety.

- There is no identified public health or safety risks associated with this project.

7. The proposal will not be subject to significant risk from natural hazards including floods, wildfire or geologic hazards.

- The preferred alignment has mitigated any risks principally by avoidance, or there are no risk factors associated with the preferred alignment.

8. Adequate public facilities and services are available for the proposal or will be provided by the applicant, and the proposal will not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.

- If there are adequate operational parameters and conditions to address access to properties during construction, there will not be significant adverse impact.

9. The applicant will mitigate any construction impacts to county roads, bridges and related facilities. Construction access will be re-graded and re-vegetated to minimize environmental impacts.

- The Engineering Department has suggested a list of conditions to address impacts and their mitigation for County roads and facilities. All additional construction impacts will be mitigated and revegetated.

10. The benefits of the proposed development outweigh the losses of any natural resources or reduction of productivity of agricultural lands as a result of the proposed development.

No evidence has been presented which would suggest that the pipeline and its construction will cause a reduction in the productivity of agricultural lands. No adverse impacts to any natural resources have been identified in the analysis of this project.

11. The proposal demonstrates a reasonable balance between the costs to the applicant to mitigate significant adverse effects and the benefits achieved by such mitigation.

- In the evaluation prepared by the applicant it is clear that the selected alternative has the fewest costs and least impact to the surrounding owners of the alternatives evaluated.

12. The recommendations of staff and referral agencies have been addressed to the satisfaction of the County Commissioners.

- The agency referral comments received do not indicate any conflict or issue with the proposal. They all point to the need for permits, permissions and coordination.

There has been substantial public comment. Copies of the written correspondence and emails have been provided. The vast majority of the comments received have addressed the impacts in and around the Douglas Road corridor. There have been less than a dozen comments from landowners in municipalities or in other locations along the route/alignment proposed by the City of Thornton. Most of those other comments have come from land owners located at pinch points where development comes close to the road on both side of the road. In those cases, the owners are requesting the pipe be located within the ROW.

The magnitude and history of this project has generated a significant amount of public comment. In the Douglas Road corridor, it has pitted neighborhoods and neighbors against each other and the project on general principle. The project will create disruptions we believe that the applicant and our team have proposed reasonable conditions which respond to operational issues to ensure that the impacts are minimized to the extent possible. Construction whether through a subdivision or in a roadway will create issues regarding disruption, values and timing.

The one million-gallon water tank is proposed to be located west of WCR 13 between CR 56 and CR 58. The site is in an area of currently undeveloped 35-acre tracts. These parcels are the highest ground in the areas. The team believes that the tank although proposed for above ground siting can be located here to avoid visual conflicts with properties to the east and to the north and south. Berming or an excavated site oriented to the western side of the hill would avoid visual impacts to the existing horizon and can be compatible with the area.

There has been some concern raised about the representations in the application that the pump station is not part of the application. From the staff's perspective, it is a part of the application from the standpoint of its location and intensity of use. A Site Plan Review application will address the details of site development and specific location within the defined envelope. The application supplemental materials clearly note a 3-acre area in the south east portion of the site within a larger 20+ acre parcel. The application materials also identify the number and size of pumps and the intent to utilize a redundant electrical power source. The plans also include a back-up diesel generator. The Site Plan Review will address the specifics of the site development, and existing County ordinances and regulations will govern the use of the facility. The City of Thornton has committed to construct a pump house facility structure that is consistent with the character of structures in the neighborhood.

The staff evaluation has been focused on the specific proposal and the alignment alternatives prepared by the applicant. There has been substantial comment about other points of diversion and whether the pipe is appropriate at all. The analysis has been of the application submitted and we cannot speculate on issues, such as diversion locations, which are clearly not a part of the review.

The applicant has presented a thorough analysis of the proposal and the proposed alignment/corridor. Our evaluation concludes that they have avoided environmental issues and committed to minimizing the disruption(s) caused by an operation of this extent.

The Team finds that the Thornton Water Project proposal is:

- Consistent with the Master Plan in insuring the provision of adequate public facilities and insuring public safety.
- Causes no significant impacts to the natural or manmade environment.
- Is a reasonable alternative selected from several examined.
- Identifies the needed permits and permissions and commits to obtain those.
- The proposal demonstrates a reasonable balance between the costs to the applicant to mitigate significant adverse effects and the benefits achieved by such mitigation.

Mr. Helmick reviewed that the Development Services Ream recommends that the Larimer County Planning Commission recommend to the Board of County Commissioners approval of the Thornton Water Project File # 18-ZONE2305 subject to the following conditions:

1. The activity authorized by this permit shall be consistent with the approved plan and with the information contained in the Thornton Water Project File # 18-ZONE2305, except as modified by the conditions of approval or agreement of the County and applicant. The applicant shall be subject to all other verbal or written representations and commitments of record for the Thornton Water Project File # 18-ZONE2305.
2. The approval of this pipeline designates a corridor along the alignment and deviations to accommodate field issues will not affect the approval. Significant alterations to the route shall be evaluated by the county prior to commencing activity and may be subject to further review.
3. The pipeline alignment shown in the 1041 application is considered conceptual in nature and demonstrates that the proposed line can be located within the existing Douglas Road right-of-way west of County Road 11. Thornton shall prepare final design plans and specifications for review and approval by the Larimer County Engineering Department. Should it be discovered that the final design, in the County Engineer's opinion, deviates significantly from the conceptual alignment to change the nature or impacts of the pipeline within the permit limits, the County reserves the right to require that the design and alignment be modified to address infrastructure and property impacts as deemed necessary by the County Engineering Department.
4. Thornton shall stabilize, and asphalt patch all pavement areas disturbed or damaged during pipeline installation in accordance with the Larimer County Urban Area Street Standards for work areas within the Growth Management Area (GMA) or Larimer County Rural Area Road Standards for work areas outside the GMA as directed by the County. Additionally, a geotechnical subsurface investigation shall be submitted to Larimer County during the design process to determine required trench backfill and compaction specifications, subgrade mitigation, and pavement design for areas disturbed by the pipeline installation.
5. Due to the large extent of pavement removal required for the proposed pipeline, Thornton shall be responsible for a leveling course and a 2-inch thick asphalt overlay extending to the full limits (width) of the existing pavement along the length of the CR 54 (Douglas Road) pipeline route. This condition is in addition to the pavement patching requirements outlined in the preceding engineering condition above.
6. Thornton shall be responsible for arranging for and paying all costs of utility relocations and irrigation company requirements necessary to accommodate the water pipeline in the road right-of-way.
7. Thornton shall be responsible for all costs associated with the replacement of existing storm drainage infrastructure, culverts, roadway signage, pavement striping/symbols, landscaping and property fencing necessary to accommodate the water pipeline in the road right-of-way.

8. Thornton shall obtain and conduct construction activities in compliance with all required county, state, and federal permits (including but not limited to: right-of-way construction permit, Storm water permit, floodplain permit, groundwater discharge permit, etc.).

Mr. Helmick noted that the applicant and the Planning Commission were provided with a modification to this condition which adds air quality and noise.

9. Thornton will maintain access to all properties at all times except for infrequent, temporary closures for maximum periods of up to 4 hours. Property access closures will only be allowed with 48 hours advance notice to all affected property owners.

10. Prior to commencing construction, Thornton shall submit a plan to the County Engineering Department for review and approval establishing construction requirements to provide safe and acceptable access for emergency responders, mail and package delivery, garbage pickup, and school bus stops for the duration of the project.

11. Thornton shall reimburse Larimer County for costs associated with County-provided construction observation/inspection staff and/or independent, supplemental geotechnical or materials testing deemed appropriate by the County Engineer for purposes of quality assurance/control.

12. Thornton shall construct the pipeline in phases, subject to phasing plans to be approved by Larimer County. It is anticipated that work will only be allowed sequentially within one-mile segments for the alignment west of County Road 11. Maximum open trench lengths will be defined in consultation with Thornton and are subject to approval by Larimer County.

13. Thornton shall provide to Larimer County a pre-project video capturing existing conditions of the proposed water line installation corridor in and near the existing road right-of-way.

14. Thornton shall establish and maintain a website with daily updates on the project describing the status of the project and the traffic impacts for that day, and the upcoming week. 1

5. Thornton shall provide a public information person with a phone number and email address that the public can contact to ask questions, express concerns or for project updates.

16. Acceptable work days and hours for the project are subject to approval by the County Engineering Department. 8THORNTON WATER PROJECT 1041

17. At any locations where Thornton locates the pipeline outside of the existing County road right-of-way, it shall do so in a manner to either: a) be located outside of the ultimate right-of-way width corresponding to the functional classification of the roadway or b) obtain and convey to Larimer County a road right-of-way easement for any additional pipeline easement widths falling within the ultimate roadway right-of-way.

18. Thornton shall develop and provide Larimer County with accurate as-built horizontal and vertical survey data (state plane coordinates and elevations in NAVD 88) and GIS shapefiles describing the location of the pipeline and all appurtenant structures.
19. If a relocation of the Thornton pipeline should in the future be desirable to accommodate some other or enlarged use of the County road right-of-way by any party or entity other than the County, and provided that Thornton agrees to such relocation, then all expenses of such relocation shall be paid for entirely by the party or entity desiring such relocation; provided, however, that if the relocation is to be made at the request of the County to accommodate changes in or improvements of public roadways or associated infrastructure, and not for purposes of accommodating any third party, then Thornton shall provide for pipeline relocations on a reasonable schedule established by the County Engineering Department.
20. Materials test reports, as per Larimer County standards, must be submitted to and approved by Larimer County for work within the county road right-of-way.
21. Offsite easements will be required for work areas outside of the county road right-of-way and shall be recorded and submitted to Larimer County prior to the issuance of a right-of way permit.
22. Thornton shall develop a comprehensive document describing best management practices (BMPs) to be employed for utility planning and construction that potentially affects developed, rural, wetland and riparian land areas or may involve stream crossings. Such documentation shall include but not be limited to preconstruction and construction BMPs relating to surface water, erosion and sediment control and prevention; groundwater considerations and protection; topsoil conservation and restoration and vegetation/revegetation considerations. The document shall also cover post-construction BMPs and monitoring requirements relating to these same topics.
23. Thornton acknowledges that Larimer County's Transportation Master Plan identifies certain roadway improvements along a portion of the proposed pipeline alignment west of County Road 11. At the time of this 1041 application review, Larimer County has not determined if roadway improvements will be implemented along Douglas Road within the next five years. If the County proceeds with roadway improvements along Douglas Road, Thornton shall coordinate construction contracting and administration with Larimer County as directed by the County Engineer and said coordination shall not unreasonably delay the start date for the Thornton pipeline construction.
24. All construction activities shall only occur upon approval of the required permit, including Site Plan Review, building permits, development construction permits and access permits.
25. The pump station shall be designed to be consistent with the character of the neighborhood.

26. The water tank shall be located to the western slope of the hill on which it is proposed to be located and shall be designed to avoid any sky lighting and minimize visual impacts to adjoining properties.

27. The City shall obtain all required and necessary crossing permit, licenses and permissions for all ditch, roadway and other infrastructure crossings prior to commencing any construction.

28. In the event, at the time of final design and easement acquisition the City determines to locate the pipeline within county ROW outside of the Douglas Road corridor they shall be held to the conditions as noted in these recommendations.

29. All construction activities shall be coordinated with and respect all seasonal avoidance requirements established by the CDPW and USFWS.

Mr. Peterson presented a PowerPoint presentation outlining the following points specific to the Larimer County Engineering Department as follows:

- Engineering Topics
 - Utility Construction in Public Right-of-Way
 - Douglas Road and its current Roadway Conditions, Future Roadway Needs, and Roadway Concept Layout
 - Thornton Pipeline in Douglas Road
- Right-of Way Corridors
 - Use of public right-of-way for roads
 - Use by existing utilities
 - Water distribution mains and services
 - Culverts and drainage
 - Sewer/wastewater
 - Electric
 - Natural gas
 - Cable, phone, data
 - Other underground infrastructure
- Requirement for Utility Construction in Right-of-Way
 - Must obtain right-of-way permit (Issue approximately 300 permits yearly)
 - Engineered plans
 - Schedule/duration/work hours
 - Traffic control plan, including detour plan as appropriate
 - Emergency response. Local access, mail delivery
 - Meet construction & restoration requirements contained in Larimer County Design Standards (Urban and Rural)
 - Restore existing roadway pavement to a condition equivalent to pre-project conditions
 - Other permits – storm water, wetlands, floodplain, etc.
 - Warranty repairs

- Transportation Master Plan – maps were shared showing both the short-term and long-term capacity needs, traffic growth, major road network, and road function
- Capital Improvement Plan (CIP)
 - County has a 5-year capital improvement plan (CIP) that identifies funded projects through 2012
 - Signalization of Douglas/SH 1 intersection as part of current CIP (Larimer/CDOT/Ft. Collins)
 - No other improvements to Douglas Road are included in the current CIP
- Typical Road Elements
 - Maintain one travel lane in each direction
 - Rural section generally with roadside drainage
 - Widened paved shoulders to support bicyclists, etc.
 - Turn lanes – continuous or localized – for both safety and capacity
 - Extend or reconstruct drainage & irrigation crossings
- Potential Improvements
- Revised Improvements
- Typical Road Cross Section
- Right-of-Way (ROW)
 - Current right-of-way varies from 60-feet to 100-feet
 - Only acquire ROW needed for specific road improvement project
 - Two 12-foot travel lanes
 - One 12-foot center turn lane
 - Two 6-foot paved shoulders
 - Two roadside drainage ditches (32-feet)

In areas where the center lane is eliminated, there would be no need for the 12-feet for the center turn lane, decreasing the size of the ROW

- Pipeline Corridor
 - Field surveying
 - Identify property lines and right-of-way limits
 - Locate fences and other features
 - Locate overhead and underground utilities
 - Evaluate pipeline alignment, narrow corridor width

Submitted information identifies that proposed pipeline and associated work limits can be located within the existing right-of-way along Douglas Road.

DISCUSSION:

Commissioner Jensen asked for clarification on the number of review criteria used. Mr. Helmick verified there were 12 review criteria instead of the 14 mentioned earlier. Commissioner Jensen also asked for clarification on the criteria added to condition #8, he did hear that air quality permitting was added but asked for the addition item, to which Mr. Helmick stated it was noise.

Commissioner Caraway's understanding of state law is that it does give the County a tremendous amount of discretion in regard to the 1041 process, and that mitigation that does not directly relate to the project itself is something that can be required by the County. He asked Mr. Lafferty if that was his understanding as well or if he was asked for too much of a legal issue? Mr. Lafferty stated that this was a legal issue but stated that any criteria for mitigation that they require as part of an application has to have a rational nexus as to what is being proposed. If there is no nexus between what is being proposed and what you're using to mitigate, then you're acting outside of the limits of what the application is about.

Commissioner Cox asked Mr. Peterson how long the warranties are for and what are those warranties? Mr. Peterson stated that it is basically for the restoration of the surface of the roadway, so that settlement or failure of the pavement is not seen. The warranties are for 2 years.

Commissioner Cox asked for clarification on the 1041, if Thornton wanted to come in and add more pipelines, would they have to go through another 1041 process, correct? She also asked for clarification of the 1041 in that it only allows for the repair and replacement, but not necessarily for additional pipelines within their current pipeline corridor they would be putting in. Mr. Helmick stated that they get what they ask for, they don't get anything more. If they want another pipeline or major facility, it's a whole new application.

Chairman Dougherty asked for clarification on the 40-foot construction easement or 50-foot easement? Is the 50-foot easement only needed if the pipeline as propose is outside the right-of-way of the road? Mr. Helmick replied that is correct.

Commissioner Jensen asked for clarification on the overlay of the roads. Mr. Peterson stated that the applicant would need to restore any disturbed road portions where they completely excavate through the pavement, they will have to do significant patching and there is a standard on the patch thickness on the arterial roadway. Because the County believes there will be enough disturbance and damage to the road and enough disturbed areas, the County wants the entire roadway with a leveling course and a 2-inch overlay and patching where needed.

Chairman Dougherty stated that item #4 on the recommendation conditions talks about stabilizing and asphalt patching to all pavement disturbed or damaged during the pipeline installation, while item #5 states to the large extent of pavement removal required, they're responsible for leveling the course and a 2-inch asphalt overlay. Is it either/or? Mr. Peterson stated that the road must be fully stabilize and patch all areas that are excavated and disturbed as a result of pipeline construction. In addition to that, putting a 2-inch overlay in the leveling course over the entire width of the existing roadway. Chairman Dougherty clarified that was on top on the patches, with Mr. Peterson clarifying that the County will get a new continuous road surface over the existing road.

Chairman Dougherty asked the applicant to address the Planning Commission. Mark Koleber, Water Project Director for the City of Thornton, addressed the Commission. Mr. Koleber presented a PowerPoint presentation detailing the main points of the project which included the following:

- The Source water was acquired in the mid 1980's

- There is approximately 75 miles of pipeline to Thornton’s treatment plants
- In 2014 the Thornton City Council asked for open communication, collaboration with communities, property owners and public officials, and a good neighbor/good steward commitment regarding this project.
- The Thornton Water Project will deliver water owned by the city to enhance Thornton’s water supply reliability and drought resiliency, to help address source water quality issues, and the meet municipal demands in the city through the year 2065.
- Planning for the project included:
 - Delivery Concept Evaluation – Evaluated at a high-level 4 project delivery concepts. Delivery Concepts included:
 - Pipeline from WSSC Reservoirs to Thornton is the only alternative that can meet the purpose and need to deliver the needed amount, in the required timeframe, and preserve the quality of water.
 - Pipeline from lower on the Poudre River to Thornton
 - Colorado Big Thompson System Exchange/Deliveries
 - River Exchange up the South Platte River
 - Corridor Evaluation – Evaluated 4 corridor alternatives for the preferred delivery concept
 - Corridor Refinement – Evaluated 10 alternative configurations to refine the corridor
 - Douglas Road Alignment – Performed detailed survey and ROW investigation to confirm Douglas Road Alignment
- Additional Pipeline Considerations
 - Decree only allows diversion at Larimer County Canal
 - Use of existing WSSC reservoir storage capacity
 - Diversion from a water supply classified stream segment
 - Avoid water loss associated with running water down the river
 - Diversions from the Poudre continue as they have for the past 100+ years
- Outreach – Corridor Identification
 - Larimer County staff
 - Weld County staff
 - Cities of Fort Collins, Loveland, Greeley and Dacono
 - Towns of Timnath, Windsor, Wellington, Johnstown, Mead, Milliken, Berthoud, Frederick, and Firestone
 - Utility companies and districts
 - CDOT and the Corp of Engineers
- Initial Corridor Evaluation
 - An evaluation area that met the preferred delivery concept was presented to local governments

- Four ¼-mile wide alternatives corridors were developed based on input from local governments
- An alternative analysis determined an initial preferred corridor
- Digital Public Outreach
 - www.ThorntonWaterProject.com
 - info@ThorntonWaterProject.com
 - 720-977-6700
 - E-newsletter
- Open Houses
 - Four open houses held in 2016
 - Sent 1,272 invitations to property owners (849 in Larimer County)
 - Sent invitations to local municipality representatives
 - Provided:
 - Opportunity to sign-up for updates
 - FAQ'S and land acquisition brochures
 - Comment forms
 - Presented display boards that included
 - Corridor map
 - Timeline
 - Project Overview
 - Permits
 - Purpose and need
 - Construction
 - History
 - Land acquisition
- Resident Requested Meetings
 - Attended meetings with board members and residents from \$ HOA's near WSSC Reservoir No. 4
 - Attended meetings with property owners
- Corridor Refinement – Conducted an alternative route analysis from WSSC reservoirs to CR 9 using criteria that was based on feedback from local area residents and guidance from Larimer County staff. There were 10 alternatives including 5 source water pump station locations.
- TWP Corridor Refinement developed 6 evaluation criteria based on feedback from area residents and Larimer County staff.
 - Considerations from Operations
 - Residential
 - Pump station visual/noise/vibration
 - TWP operations
 - Considerations from construction
 - Traffic
 - Environmental
 - Opportunity for coordinated projects

- Finalized corridor incorporating analysis results
- Community Meeting
 - 907 invitations sent out to property owners within alternatives analysis area
 - 215 email invitations
 - 153 attendees signed in
 - Presented alternatives analysis results
- Douglas Road Alignment
 - At the request of Larimer County staff, Thornton performed a detailed survey and ROW investigation
 - Thornton confirmed that the water pipeline can be constructed within the Douglas Road ROW without purchasing easements on private property
 - Access for residents and emergency responders will be maintained
 - Douglas Road will be returned to as good or better condition after construction
- Thornton Water Project Corridor
 - Approval of corridor will:
 - Provide property owners greater flexibility in working with Thornton
 - Allow the flexibility to adjust the location of the water pipeline to account for existing conditions
 - Allow the continued coordination with planned developments
- Source Water Pump Station
 - The source water pump station will be subject to Larimer County's Site Plan Review process
 - Thornton will seek input and suggestions from local area residents on the design and architecture
- Mitigation – 145 mitigation measures and commitments are included in the application to minimize or prevent impacts to wildlife, visibility, traffic/roads, noise, private property, vegetation including trees, water quality, floodplains, air quality, agriculture, health and safety, irrigation ditches, environmentally sensitive areas, land, existing infrastructure, natural hazard areas, groundwater, natural resources, drainages, cultural resources, area resident and emergency responders access, and jurisdictional waters including wetlands.
- Timelines – 2 slides were shown showing the timeline of the project

Mr. Koleber stated that for the open houses, invitations were sent to residents within 500-feet of the area outlined on the map shown using information from the Assessor's office to mail the invitations, and attended any meeting they were invited to. Mr. Koldber stated the Douglas Road route had the overall best score. He also shared that the corridor will not apply once construction is complete.

Commissioner Caraway mentioned the inconvenience, noise and traffic concerns to residents, the dry and buy issue, and the fact that there has been no mention of the health of the Poudre River.

He asked Mr. Koleber if these were given any thought or discussions on how those issues could be addressed in a creative and positive manner? Mr. Koleber responded that they have been committed since the mid-1980's to being a good steward of their properties, once they bought those properties. They have only taken those out of production that they need for the short-term water supply for the City of Thornton. The remainder will be retained in irrigated agriculture until they need that water down in the city. When those properties are taken out of irrigated agriculture production, they go through an extensive effort to make sure they are converted into a self-sustaining, dryland, grass cover, so that there are not weed or dust problems. They also work with the local farmers to cut the hay on those properties, lease them for grazing, or whatever they can do to keep them in the agricultural community. In essence, from the mid-1980's until they need the last amount of water, it will be a 20-year transition from when they bought those farms until they will need all the water off of those farms. So, they are being a good steward in the meantime, and so the buy and dry aspect, they believe they are managing in a very good fashion.

Commissioner Caraway asked if they have explored a water sharing mechanism where there would be a situation where the agricultural lands wouldn't be completely dried up, that they could use water for agricultural purposes in certain years and in other years the water goes to Thornton? Mr. Koleber responded that they have looked at that and that the court decree does not allow it. The water court specifically prohibits them from moving water on and off the properties. Once the water has been moved off, they are not allowed to put their water back on. They can however, bring other water onto the properties if they are high producing and very productive. They would like to bring water on those properties but it cannot be the water they have going to Thornton. Mr. Koleber continued by saying that there have been very constructive conversations with the Poudre Runs Through It group and they have looked at ideas like this as they transition their farms from irrigated to non-irrigated. There is about a 7-year time period where you can't put the water on the farms, but it can't go to Thornton. That would be great opportunity to work with folks to get the water going into the river. The City of Thornton is looking at having water donated for in stream purposes on the Poudre to help the environment along the Poudre.

Commissioner Caraway asked for follow-up on the last point and asked if what Mr. Koleber was talking about was something that would help with baseflows on the Poudre River, but also understood that this is something that they are having discussion about, but that it is not part of the mitigation that has been laid out for this process. He also inquired regarding the ditch system and why they water cannot be taken from Weld County where the pipeline would not be needed. Mr. Koleber responded that right now it is not legally available to them. They still have to go through the water court to get the augmentation plan approved so that they can use that type of mechanism.

Commissioner Caraway had one last question regarding the ditch system. Is the current ditch system, where it were improved in an appropriate manner, the City of Thornton could actually get the water over to Weld County through the ditch system without a pipeline. Is that something that has been explored at all? Mr. Koleber responded that it could work except the problem for Thornton is that would bypass the water storage and supply reservoirs. The reservoirs are a key component of managing a water supply system.

Commissioner Jensen asked why they aren't pulling water from the lower Poudre River? He also asked what the mitigations would have to be done or what would need to be done on the Poudre River through town if that was going to be a water supply conveyance to pull the water downstream. Mr. Koleber speculates that it would need to be advanced wastewater treatment, storm water treatment, storm water retention and that it is not something they really looked at.

Chairman Dougherty clarified that they did not look at this because it was not allowed per their water rights, with Mr. Koleber answering correct, that along with a number of reasons.

Chairman Dougherty asked for verification that the project would not change the amount of water being taken from the river by utilizing this pipeline. Mr. Koleber responded that they would only be diverting water associated with their shares, which is limited by historical and future use.

The Planning Commission took a brief recess.

PUBLIC TESTIMONY:

John Barth representing the No Pipe Dream Association presented a PowerPoint presentation. He note that the Thornton Water Project (TWP) 1041 water application is a small subcomponent of the larger Thornton North Project (TNP) and that the application only addresses a single water pipeline from WSSC Reservoir #4 to Thornton. No other TNP structures are included in this 1041 application. He noted there are structures and impacts to Larimer County that are excluded from the application. He reviewed the responses to Thornton's excuses, the Thornton 2018 Water Efficiency Plan and their burden of proof. He also reviewed the requirements for the 1041 application process and asked for amendments to the requirements. He asked that the Planning Commission deny the 1041 application submitted by the City of Thornton.

Commissioner Caraway asked for clarification understanding from a legal standpoint the power the County has. Mr. Barth agreed with a comment. Mr. Lafferty mentioned earlier in that there needs to be some type of nexus and that the Planning Commission and the County is fully entitled to require mitigation, including mitigation to the Poudre. There is a ton of discretion as long as it is tied to the project.

Commissioner Jensen stated that he didn't see Mr. Barth address the storage aspect for the City of Thornton. During their presentation, they spoke that the reservoirs are an important part of this process because of what happens in the early spring and late fall. Mr. Barth stated that he is not an expert on their water system or water law, but he can tell by reading the water court decisions, they have numerous reservoirs for storage. Mr. Barth asked to see the exploration of using the other reservoirs, show all their storage rights, show the connections between the canals, and let's work on an alternative that helps the community.

Commissioner Gerrard asked if he knew how many acres would be dried by this decree. Mr. Barth did not know the amount, but asked where is the analysis is?

Roberta Norman spoke in opposition of the Thornton Water Project 1041. She is very disappointed in what she has heard so far and would like the Planning Commission to do the right thing. She argued that the point of diversion cannot be changed and would like the pipeline diversion to start outside of Windsor where pipeline meets the Poudre River. 26-miles of disturbance is not necessary. The City of Thornton can use the savings in changing the diversion point to build a reservoir for the residents of Thornton.

Patty Clifford spoke in opposition to the 1041 application. 50,000 homes are being built in the City of Thornton. She feels that Thornton should put a moratorium on the amount of residences being built.

Mark Heiden addressed the Commission regarding the 1041 application. Mr.Heiden would like the Planning Commission to address the 1041 application as it currently appears. He stated that the Eagle Lake subdivision fought hard to have the pipeline stay out of private property and people's backyards. Through private and public meetings, the 1041 permit processed was delayed so Thornton could research utility locates under Douglas Road that did not require the taking of anyone's private property and noted that the research found that the entire pipeline would fit under the existing roadway.

Scott Horak spoke in opposition of the 1041 application. He had concerns with eminent domain and the impacts it would have on nearby reservoirs. His concerns address the water flows to Richard's Lake, Terry Lake, Long's Pond and Lindenmeier Lake. The impacts to wildlife and the surrounding areas haven't been addressed either. He stated that Thornton hasn't asked for anything and has bullied their way through the process.

Elaine Spencer spoke in opposition of the 1041 application. She stated that 300 people will be indirectly affected. Day by day delays, noise, safety and financial blow to their property values. She would like an explanation on the rational of the pump station. She asked the Planning Commission to deny the application.

Dick Brauch would like the safety of the project reviewed. He also addressed the road closure and noted that the number of daily road trips stated as incorrect. He would like the temporary 4-hour road closures addressed. He stated that the northern route was not given a fair review. Lastly, he inquired as to the cost of taking private land.

Scarlet Sparkuhl-Delia spoke in opposition of the 1041 permit application. She is part of the Braidwood HOA and is situated close to the location of the proposed pump station. Residents in that area have been misled regarding the size of the pump station. She noted that the application as submitted is incomplete and voiced concern that the pump station would be approved by use of a Site Review instead of being a part of the 1041 application. The F-zoning does not allow the pump station as an authorized use and that a change in zoning would be required. The pump station would destroy the open character of the rural area. She voiced her concerns with the increase in noise, light and emissions, as well as lower property values. The increase in the noise pollution has not been addressed in the application.

Dennis Pierro spoke in support of the 1041 application. The reservoirs assist in maintaining the reservoirs ecosystems, provides recreational opportunities. He supports the review of the application as submitted.

Ryan Donovan spoke in opposition of the 1041 application. He is a water rights attorney and has heard gross misstatements of the law during tonight's meeting. He stated that the decree limits their options but that buckets could be closer to the City of Thornton. He shared that alternative options need to be examined.

Karen Wagner spoke in opposition of the application. She stated that many residents along the 26-mile stretch of the proposed pipeline have no idea what is headed their way. The application is a very complicated application that is protected by the Master Plan and Land Use Code. She voiced concerns that the City of Thornton would not wait until 2065 to continue with their plan for the future. What else will the County be asked to approve? The pipeline would diminish the quality of life for residents in prohibiting them from enjoying the front and back yards of their properties. The project represents zero benefit for Larimer County. Will the City of Thornton take property by eminent domain? Construction will affect those with health concerns and will be inconvenient for residents. Two nearby mobile home parks will be affected by the pipeline, noting that these two mobile home parks provide low-income housing for the community. Mrs. Wagner asked the City of Thornton to do the right thing.

Karen Kalavity spoke in opposition to the 1041 application. Ms. Kalavity is a resident of Adams County and knows firsthand how the City of Thornton operates. She described a situation involving property her now deceased father owned and how the family was taken advantage of, resulting in the property being sold for far less than market value to benefit a church involving a member of the City of Thornton.

Patricia Babbit spoke in opposition to the application. Many of her concerns have already been addressed. Concerned how things are working. The 2.8-acre pump station will cause a significant impact to residents.

Penny Hillman spoke in opposition of the 1041 application. She stated that there are unanswered questions and unresolved issues. She requested information from the City of Thornton regarding the project, but received no answer to her request. The application contains severe deficiencies which may result in future lawsuits. She asked that the Planning Commission consider the application incomplete when making their decision. She stated that that the Douglas Road route did not receive the best score and that the County Road 56 route was the option with the best score.

Doug Macallister spoke in opposition to the 1041 application. In 2006, he purchased property and opened the Terry Lake Assisted Living facility. This facility now houses 8 residents. The increase in noise and the dust from the project would greatly impact the quality of life for these residents. If the pipeline is approved, it may take the opportunity of this facility away, impacting the residents and their families. He voiced concerns with the road closures and getting people in and out of the area. He would like alternative routes reviewed.

Robert Kitchell spoke in opposition of the 1041 application. He is a previous engineer and stated this is a three phase project. The current 1041 application only includes phase one of the project. He spoke in regard to the corridor, the exiting ELCO water pipeline that would have to be removed, traffic flow, and the required easements. He also reviewed the Rural Road Standards.

The Planning Commission took a brief recess.

Georgia Locker spoke in opposition of the application. She stated that there would be three pipelines in the future. The Poudre River is the reason Fort Collins was built. She stated that Fort Collins residents have not been contacted. There is no benefit to the City or County and the pipeline will have negative effects on the area.

Rick Stedman spoke regarding the amount of outreach received regarding the project. He stated that the City of Thornton has done a really good job in telling the County how much outreach they have made. They didn't mention how many of the emails received were positive versus negative. There was absolutely zero outreach to those along the Douglas Road Corridor.

Sandy Helzer spoke in opposition of the 1041 application. She stated that County residents will be affected even if they don't live on or near Douglas Road. This project affects irrigation property values.

Lynn Nichols spoke in opposition of the 1041 application. She asked why the Douglas Road area was chosen? She reviewed that private meetings were held with residents of the Eagle Lake residents and after those meetings the pipeline route was changed. The Eagle Lake subdivision affects approximately 200 affluent people. The proposed pipeline will affect over 1000 people outside of the Eagle Lake area. Other options are available, but the City of Thornton wants to avoid a lengthy permitting process.

Jerry Pault spoke in opposition of the 1041 application. He represents 167 families in the Cobb Lake area. He mentioned that they did not receive any outreach and first found out about the pipeline after reading about it in the newspaper. He did receive notification in April that include the same map that was included in earlier documentation that should have been changed. No time schedule was provided. There are only two entries to the subdivision and voiced concern over access to the area once construction begins. The area is home to Osprey nesting and an abundance of wildlife.

Scott Glick spoke in opposition of the 1041 application. He mentioned that condition #25 which talks about the compatibility pump station to the area. He also addressed condition #6 and utility relocation, and how the construction would impact the existing ELCO waterline. Next, condition #2 mentioned significant alterations would be reviewed by the County. What does significant mean? And lastly, condition #10, talks about how long this can take. There is no schedule, how long will this take?

Jim Cambon spoke in opposition of the 1041 application. There will be 311 families that will have only one access point on Douglas Road. Construction will put constraints on traffic and may limit their access in and out of their subdivision. He voiced concern over the effects that construction may have on the existing utilities. Massively inconvenienced and where will the 6000 cars that use

Douglas Road annually, where will they go? The residents of Terry Point did not receive any outreach regarding the project.

Arnold and Patricia Korb spoke in opposition of the 1041 application. They stated that the City of Thornton have not seriously tried to be good neighbors. The simple solution is to leave the water in the river. He mentioned the coziness he noticed between the City of Thornton, Larimer County Planning Department as well as the Engineering Department. The plan submitted is incomplete.

Nancy Terry spoke in support of the 1041 application. Out of the ten options, Douglas Road utilizing the public right-of-way is the best option.

Sean Shelly spoke in opposition of the 1041 application. He stated that no private meetings were held. He found out about the project by reading information in the newspaper. Since then he reached out to the County and meetings have taken place. He has received good, positive feedback from both the County and the City of Thornton.

Khristine Kratt spoke in opposition of the 1041 application. She shared that this project is a huge disappointment to the residents in the area. The rights of the residents need to be preserved to protect their homes and property. She would like to request that if the pipeline is required, that land owned by the City of Thornton is utilized. She would like more clarity on the big picture and would to hear the truth behind the multiple stages of the project. She also expressed concern over the schedule of events and wondered if nothing is really going to happen until 2065? She is asking the County to not take any additional applications for this project. This project contributes to the lost of enhancement to the nearby properties.

Gloria Evans spoke in opposition of the 1041 application and asked for a comprehensive review. This project affects thousands of residents depending on the watershed of the Cache La Poudre and Poudre Rivers. She has concerns regarding the quality of the return flow and crisis management.

Theresa Rose spoke in opposition of the 1041 application. She stated that there is a black hole in the understanding of the project. She questioned how Larimer County benefits from this project.

Nan Sollo spoke in opposition. She stated that the biggest issue in America West is water. Water is the issue here. She feels that the residents have the right to preserve the rights we have in Larimer County.

Lucy Brickman spoke in opposition. She stated that future phases of the project need to be reviewed. What if the pump station is denied but the application is approved? Where will future pipelines go?

Rebecca Shelly spoke in opposition of the 1041 application. Ms. Shelly is a member of the Save the Poudre organization. She is in favor of preserving the wetlands and the beautiful landscape the river supplies. People come to enjoy the outdoors. She stated that more information is needed and that residents benefit from the reservoir.

Chairman Dougherty closed the hearing to public comment.

Chairman Dougherty asked for a rebuttal form the applicant. Mr. Koleber reviewed that the diversion from the river will continue as it always has during the irrigation season. The water then goes to the reservoirs and it is stored. It is then sent to the municipality to cover the year-long demands.

The project will have three pipelines and additional diversions. Initially, blocks will take place in the years 2025, 2035 and one later, but they will not need anything past 2065. The water rights decree only gives them the right to divert the water. Additional pipelines would require additional 1041 applications. And lastly, that any concerns that arise can be addressed as they occur.

Chairman Dougherty wanted verification that the City of Thornton was aware that future approvals should not be expected or that they would be grandfathered or able to be put into place without another hearing. Mr. Koleber verified that this was understood.

Commissioner Jensen asked for clarification as to why the pumping station was not part of the 1041 application. Mr. Koleber stated that when they had their per-application meeting with staff, they suggested that it go through a separate permitting process. His understanding now is that the pump station is part of this permit and that it will go through the Site Plan Review.

Mr. Helmick clarified that the pumping station is part of the 1041 application, and that there will be a subsequent Site Plan Review to ensure that qualifications are met. The pumping station was evaluated as part of this application.

Commissioner Jensen asked for clarification that the pump station was not left out of the plan and that additional requirement over and above the 1041 for the pumping station to meet additional requirements of a special review per our land code. Mr. Helmick shared that it is the County's position that additional information was requested of the applicant and that information was submitted and reviewed as part of this application.

Commissioner Miller asked if more than one pipeline would be needed. Mr. Koleber's short answer was no. He continued saying that the additional pipelines would be to fully implement a water court decree when they get to the point that they will need the additional water. Currently they are only requesting one pipeline for the delivery of the water associated with their water supply and storage company Jackson Ditch Company shares.

Commissioner Miller asked if the project would deliver polluted water to Larimer County? Mr. Koleber responded that as part of the water court decree allows them to take water off of the South Platte River, with the idea being that they would pump that water up to the Larimer County canal and so one of two things, first is that they would supply that water which would be suitable for agricultural use to farmers further down on the Larimer County canal and in exchange they would take the water that was going past their reservoirs into their pipelines. This is just a water trade. The other part of that is that they would pump water that's Thornton's coming down the South Platte River, would be pumped up to the Larimer County canal and they would reirrigate Thornton's farms. They cannot reirrigate those farms with the supply and storage shares but they could reirrigate those with other water from down on the river. But again, that is more than 50-years in the future.

Commissioner Miller asked if the lakes downstream or downline from the current reservoirs when they start pumping? Mr. Koleber responded that the four reservoirs in close association to where the pump station will be, WWSC #3, WWSC #4, Rocky Ridge and Coulver Reservoir. The way the municipal systems operate is that they generally will try to carry water from year to year, so their analysis from back in 2012. 2013 something like that show that the water levels average would stay higher in those four reservoirs. The other three reservoirs, Richard's Lake, Long's Pond and Lindenmeier Lake are operated by making trades with other ditch companies.

Commissioner Miller then asked where they are currently pulling water from? Mr. Koleber responded from the Larimer County head gate.

Commissioner Gerrard asked what would happen if the pumping station wasn't approved in the future? Mr. Koleber stated that they would not start construction on the pipeline until they have gone through the Site Review Plan Process and public input so that they would be approved concurrently.

Commissioner Miller asked why not at the same time? Mr. Koleber responded that the Site Plan Review process was a separate process and they wanted to make sure that the County was okay with the pipeline where it was proposed it to be before they worked through the process of designing the pump station.

Commissioner Gerrard asked about the corridor and the exact location of the pipeline and the easement. Mr. Koleber responded that it would be located in either the right-of-way or the easement. Once it is identified, the corridor concept goes away. Commissioner Gerrard asked for clarification that the lines on the map go away and everything narrows to the 50-foot easement plus the construction easement if it goes off the right-of-way and it ends up narrowing to 50-feet if it keeps within the right-of-way, to which Mr. Koleber replied that is correct.

Chairman Dougherty asked for clarification regarding the 4-hour road closures, always having 1 lane opened and 2 lanes opened after hours. Mr. Koleber responded that kind of traffic planning and construction staging would happen as they get into design to make they can meet all the County's conditions as they complete the design in the project planning so that those conditions are met.

Chairman Dougherty stated that this is affecting private residents and access to private properties. He asked for verification that one lane will always be open for access to private properties. Mr. Koleber responded that if that is a condition of approval for the permit, there will always be a lane open.

Mr. Peterson clarified that there are specific conditions from the Engineering Department and that occasional 4-hour closures will be allowed. The construction demands that there be some impact to the residents and their access.

Chairman Dougherty wanted to ensure that emergency vehicles will always have access when needed. Mr. Peterson stated that he could not be specific at this time without knowing the timeframe of the construction, but that they would be able to ensure that accessibility for emergency responders would be able to get to the properties.

Commissioner Jensen stated that the application is incomplete and does not have enough specificity. The design work is missing and it appears that they are putting the cart before the horse. Mr. Koleber stated that there may be things that weren't considered and things may be missing.

Commissioner Jensen inquired about the corridor and how much of the easement do they own? How much do they still need to acquire and are they considering using eminent domain? Mr. Koleber stated that they do not own any easements yet, but they do have road right-of-way in Timnath. Their goal is to negotiate whenever possible.

Commissioner Jensen asked if they would use eminent domain to acquire the easement in Larimer County? Mr. Koleber answered they use eminent domain as a last resort, they want to try and negotiate the easements and even if they do use eminent domain they pay fair compensation and they work with them the best they can.

Chairman Dougherty asked if they have used eminent domain in Larimer County to which Mr. Koleber answered no.

Chairman Dougherty asked why the change was made from the Eagle Lake proposal. Mr. Koleber answered that they really never had a route through Eagle Lake or anywhere. They had a corridor from Douglas Road about a 1/2 mile north. They considered the change after meeting with staff from Larimer County regarding the Douglas Road ROW and resident input from the open houses.

Commissioner Cox inquired as to whether the Save the Poudre proposal was considered as a reasonable approach to take it further down from the Poudre? Was it not considered a reasonable alternative? Mr. Koleber responded that he didn't.

Commissioner Cox asked why? Mr. Koleber responded that their water court decree states that they can only divert from the Larimer County canal.

Commissioner Cox if they could go back and request a change? Mr. Koleber responded that if they did their water rights would be further reduced. Running the water down the Poudre River, they would lose, for that 18-miles, they would lose about 9 percent of their water. That is what the state charges them in losses to run the water down there. That would equal tens of millions of dollars in lost water. They would lose the use of the reservoir storage, it's there in the water supply and storage company system. They would put the water right back into the Poudre and run it down those reservoirs have no value. They have also purchased this reservoir storage. Building additional reservoir storage somewhere else is not an easy prospect. The cost to construct another treatment plant that could treat that water, operation of the plant, and additional chemical and energy costs are very expensive and it's really a safety issue for Thornton residents. That water is below three waste water treatment plants and urban runoff makes the water not as safe to drink as upstream. The stream in Windsor is not a water classified stream. Without that water supply classification, you don't have the protections upstream. Yes they could go to the Water Quality Control Commission and ask for a water supply designation, but having everybody be upstream from that be decades before that happens.

Commissioner Cox asked if the application is denied, would the City of Thornton would pursue another alternative. Mr. Koleber responded they would take a step back and look at all other alternatives.

Commissioner Gerrard asked for clarification regarding the easement. What would the property owners not be allowed to do? Mr. Koleber responded that that the easement would give them the right to put a pipeline in the ground. Once they are done, you can farm over the top, put non-permanent structures over the top. All they ask is that you do not build things like houses and garages, or put in vegetation with deep roots that might affect the pipeline or that would impact the ability to perform maintenance on the pipeline. Other than that, the use is pretty much the same as it was before.

Commissioner Cox asked Mr. Koleber about the \$50-100 million benefit to Thornton to use the alternative route. Mr. Koleber answered that it was in a different presentation but that didn't look at the value of lost of water and storage, or the cost for treatment capacity. So that was purely pipeline and pump stations. The way the water supply and storage operates, water comes into Thornton on its shares at about 70-million gallons a day and then the reservoir storage buffers that so they can build a 40-million gallons a day pump station. If they were to take that water down the Poudre River, and have to take it as available, they would have to build a much larger 70-million gallon a day pump station and a larger pipeline going south. Those kind of size impacts weren't included in those figures.

Commissioner Cox asked if they thought they have been good stewards? How do you balance what's beneficial to your neighbor and the costs to Thonrton? Mr. Koleber stated that it is cheaper to go downstream because you weren't building pipelines, but the issue is all the other costs. In the way they balance that poses safety issues for the Thornton residents.

DISCUSSION:

Chairman Dougherty asked that if the pumping station is included in the 1041 application submitted, would the pumping station be allowed in the FA-zoning and also asked about spot zoning. Mr. Helmick stated that 1041 application is for a 26-mile long, 48-inch pipeline in all the pertinent facilities. Pump station, water tank, blow offs, access ways, all of that is the package. All of that trumps zoning. The FA-1 zoning should be ignored as the pump station is allowed through the 1041 process.

Mr. Lafferty confirmed that zoning is not looked at during this process.

Chairman Dougherty asked about the outreach to residents. Mr. Helmich stated that early outreach was mostly north of Douglas Road, but that subsequent outreach included everyone inside the Douglas Road Corridor. 2600 residents were notified inside the ¼ mile corridor.

Commissioner Jensen expressed concern with the compatibility and harmonious nature of the area. Mr. Helmick responded by stating that this compatibility and harmony are not a standard in the 1041 review. He also shared the Planning Commission will not see a special review for the pump station. It will be an administrative process. They may tell Thornton that they need to do some public outreach on the design, but the Planning Commission will not see the pump station again.

The standards review is the Master Plan, reasonable siting and design alternatives, conformance with the standards of review, average impact or effect or adequately mitigate those impacts, affecting historical sites, impacts to public health and safety, no significant risk from natural hazards, mitigate construction impacts, benefits outweigh losses to natural resources and agricultural land, and a reasonable balance between the cost to the applicant to mitigate significant adverse the benefits achieved by the mitigation, as well as the recommendations by staff and referral agencies.

Commissioner Cox inquired as to the Site Plan process in regards to the pump station and if this was simply an administrative action? Mr. Helmick answered affirmatively and shared that the footprint of the pumping station is not out of character for this area.

Commissioner Caraway asked for clarification on the pumping station and the review process. Mr. Helmick responded that they looked at a 6,000-10,000 square foot building from the information provided by the applicant. They are proposing to pursue a redundant power supply, so a diesel generator would ideally not be part of that. Within a mile of the proposed pump station, there are structures in excess of 10,000-feet.

Commissioner Jensen stated that the application is incomplete and lacks specificity to immediate actions. Mr. Helmick responded that the footprint shows a 50' by 120' building with four pumps. The 40' height limit will be enforced as it is throughout the county.

Commissioner Jensen wanted the noise, light and impact concerns addressed.

Mr. Lafferty stated that it would need to go to the Board of County Commissioners if the standards are not met.

Commissioner Jensen asked if public comment would be allowed during the Site Review process, or is there an appeal process in place? Mr. Helmick responded that public comment is not taken during the Site Review process and there is no public appeal. But, that code can be changed to accommodate this. Mr. Lafferty stated that the Site Plan process in the Larimer County Land Use Code was intended to address non-residential uses, except for 4-plexes, apartment complexes and things like that. It is basically to look at commercial and industrial type uses in the commercial type settings where the zoning already exists.

Commissioner Jensen asked for clarification regarding the 1041 process and the location and extent process, why it exists and what it would look like if there was no such process. Mr. Helmick responded that prior to the 1041 Location Extent Review, the only review that Larimer County had for public facilities was a Master Plan Review by the Planning Commission to have 30-days to review. No Board of County Commissioners review or decision. The Planning Commission decision could impose conditions or requirements on an applicant. However, the taxing entity responsible for the project, by a majority vote, can tell the County to go pound sand on a 1041 and do as they see fit. Mr. Lafferty clarified this was on an L&E. Mr. Helmick continued that on a 1041, the entity is concerned a person, and a person is required to obtain a permit to engage in the activity. Thornton is a person. The Board of County Commissioners has the authority to say yes or no or impose conditions at their request. The Board in adopting 1041, did it with some

trepidation, understanding that the ability to say no was a big stick. The big stick was to make those public entities act in good faith with Larimer County and Larimer County citizens. Mr. Lafferty clarified that is why Larimer County's regulations have review criteria. It is to keep Larimer County honest and keep the communication between the applicants and Larimer County going. The 1041 process has been a state statute for a number of years. Larimer County had the option to implement the process in their jurisdiction. Larimer County could have chosen to not implement the 1041 process and this would have slipped right through under an L&E with very little opportunity to drill into the details of the project.

Commissioner Jensen wanted to expand on the adoption of the 1041 process. He stated there was an overriding desire, need and responsibility the Commission felt they needed to have a seat at the table. That's why these regulations were brought about, it's why it is put on what it is put on, and he wanted people to understand it was adopted for justice purposes.

Commissioner Cox stated that there was a proposal that if the Planning Commission was to consider this pipeline that there would be two conditions. One condition being that Thornton would be limited to a single pipeline forever. And the other condition being that if there was another type of need that Thornton had, that they would not come back to the table until 2066. Are those acceptable conditions? Mr. Koleber responded that if the condition is a single pipeline under this 1041 permit, then yes that is an acceptable condition and they would come back for another permit.

Commissioner Cox clarified that Mr. Koleber was aware that this is not what they were asking for. That Thornton would not be coming back for another 1041 permit and that was the end of the story between Larimer County and Thornton. Mr. Koleber responded no that they have a water rights decree with future plans that they may need to implement depending on Thornton growth and density. He cannot unilaterally give up water rights. As far as coming back in 2066, that's Thornton's current planning horizon and believes 2066 is a good date. He does not believe that he could commit the City to say no to any future plans in Northern Colorado. If they grow faster, they would then come back again to have the County review their plans.

Mr. Lafferty commented that a condition can be formulated to add to this application regarding the pump station that would allow for the public notice regarding the site plan process, they can come in to look at the plans and then the public would have the opportunity to appeal.

Commissioner Caraway commented that Weld County will also required Thornton to go through the 1041 process. Mr. Helmick commented that he believed it is a Use by Special Review. Commissioner Caraway believed otherwise. Mr. Lafferty stated that Weld County is a home rule County and may not have adopted the 1041 regulations because they are not subject to the state standards.

The Commissioners reviewed the review criteria with Commissioner Jensen reading the 12 conditions aloud.

Chairman Dougherty stated that other alternatives were not reviewed and there is a lack of specificity when it comes to the application. He indicated that he would not support the application at this time.

Commissioner Cox moved that the Planning Commission adopt the following Resolution:

BE IT RESOLVED that the Planning Commission recommends to the Board of County Commissioners denial of the 1041 application, file #18-ZONE2305.

Commissioner Jensen seconded the motion.

Commissioner Cox stated that she was looking over the review criteria and #2 and #11 and that she agreed with Commissioner Jensen that the alternatives were vetted or that a reasonable balance was applied. They looked purely at Thornton's position. She also agreed that the lack of specificity will affect the people along the pipeline.

Commissioner Caraway understands that Thornton has a right to their water rights, but he agrees with the comments that have been made and that the application lacks specificity and that opportunities were missed. The lack of water law representation was disturbing. He stated that this is not in the best interest of the citizens of Larimer County.

Commissioner Miller has really struggled with what was presented. He wants to see the pipeline go through. He didn't think it was well planned and was very disappointed that the pump station was not included. He thinks Douglas Road is a good alternative, but there is a lot of unfinished business. He is not sure he is going to vote for the denial.

Chairman Dougherty has seen a lot of positives for the waterline. The County cannot say no more work until the year 2066, things change. This was the best alternative as it was not taking any private property. The lack of specificity gave the applicant a lot more ability to mitigate and bypass found deterrents. He doesn't like hearing eminent domain and causing fear.

Commissioner Gerrard stated that he is struggling with the specificity part of it. But he understands the corridor portion of it. Pipeline systems do already exist. Clean, potable water is important. He does not feel like he has the right to deny this.

Commissioner Jensen agreed with Commissioner Gerrard in that more information is needed and the lack of specificity. He does not feel that the application is complete. He thinks the Commission needs to land on the side of the people of Larimer County.

Commissioner Cox stated that her motion does not say denial forever. The way this 1041 was submitted and the information they have in front of them is ripe enough for the Commission to be making a recommendation.

Mr. Lafferty stated that it might be a more prudent recommendation to ask the Board of County Commissioners to table the project to a future date and ask the applicant to supply more information through the public hearing process. He recommended that the Planning Commission provide some type of indication as to what information is wanted.

Chairman Dougherty responded that the recommendation tonight and the comments stated should provide the direction needed. Mr. Lafferty responded that he understood that the recommendation to the Board of County Commissioners needs to specifically outline what is needed.

Discussion ensued between staff and the Commissioners regarding the lack of specificity and Thornton's failure to look at and explore alternative options.

Commissioner Caraway stated that asking for the Planning Commission to outline what they are looking for is crazy given the time and that the burden is on the City of Thornton. The motion should be voted on as presented.

Commissioner Caraway called for a vote on the motion. Chairman Dougherty reminded the Commissioners that a yes vote is to deny.

Commissioners Caraway, Jensen, Cox and Chairman Dougherty voted in favor of the Motion.

Commissioners Miller and Gerrard voted against the Motion.

MOTION PASSES 4-2.

REPORT FROM STAFF:

Staff had nothing to report.

ADJOURNMENT: There being no further business, the hearing adjourned at 11:15 p.m.

These minutes constitute the Resolution of Larimer County Planning Commission for the recommendations contained herein which are hereby certified to the Larimer County Board of Commissioners.

Sean Dougherty, Chairman

Mina Cox, Secretary