Minutes of the Board of County Commissioners Meeting, held on December 14, 2011 at 8:30 a.m. in the Commissioners Chambers, Alamosa County Services Center, 8900 Independence Way, Alamosa, CO 81101.

Members Present: Darius Allen, Chair
George Wilkinson, Vice-Chair - Absent
Mike Yohn, Commissioner
Jason Kelly, County Attorney
Mark Garcia, Interim Administrator
Carol Osborn, Administrative Assistant

Call the Meeting to Order

Pledge of Allegiance

Additions/Deletions to the Agenda

Approval of the Agenda


M/S Yohn/Allen motion to approve the agenda of December 14, 2011 with additions.
Motion was passed unanimously with Wilkinson absent.

Consent agenda Items:

Approval of General Business/Minutes

The Following Minutes were presented:
  Regular Minutes - November 21, 2011
  Public Hearing-2012 Budget

M/S Yohn/Allen motion to approve the Minutes of November 21, 2011.
Motion was passed unanimously with Wilkinson absent.

Approval of Bills/Obligations

M/S Yohn/Allen motion to approve the Bills/Obligations
Motion was passed unanimously with Wilkinson absent.

Public Comment
Approval of Consent Agenda
Professional Services Agreement
Ratification of Caterpillar Financial Services Corporation Finance Proposals $209,300 & $176,800
Subcontract Amendment #2
VALE-Contract Grant Award
Colorado Department of Health Care Policy and Financing Amendment #2

M/S Yohn Allen motion to approve Consent Agenda
Motion was approved unanimously with Wilkinson absent.

Public Hearings
BOA – Leroy Polkowske

List of Exhibits
1. Board of Adjustment Checklist
2. Staff Report
3. Application
4. Receipt of Payment
5. Deed
6. Ownership & Encumbrance Report
7. Letter of Notification by SLV Federal Bank
8. Certificate of Taxes
9. Water Documents
10. GPS Aerial View
11. Survey
12. List of Adjacent Landowners within 1500 feet
13. Assessor Data
14. Notice to adjoining landowners within 1500 feet
15. Notice of Public Hearing before the Board of Adjustments
16. Notice to Applicant
17. Pre Application Conference

Mr. Crowder understands the situation at the financial aspect for Mr. Polkowske which is such a rare occurrence to have a home on an industrial park. He thought this would be more marketable and beneficial to them.

It is in the best interest for Mr. Polkowske to separate and mortgage that piece of property separately stated Mr. Vanlwarden because financial institutes don’t like to finance the whole thing. This is because if they default on the loan for the house they would have to default on the other property as well. That is the main reason for the split because it makes it easier to finance down the road.

Mr. Polkowske stated the loan he has now is split. He is just concerned that they would need to make additions to the home.
Mr. Vanlwarden states he understands what Mr. Polkowske is saying but their zoning regulations prohibits them in issuing them any building permits for any additions because it simply states you cannot enlarge, extend, or expand. The only way is to rezone this, or change where a single residence is allowed in a residential area, or they would change the use to a particular type of industrial use such as a shop. This is the problem. He sees no harm and it does not have a large impact on the neighborhood but the drawback is what would be a disadvantage for them is to have any additions on the home.

Commissioner Allen stated it is over one acre so he has the room to add on so if they could look at the scenarios case by case. Mr. Vanlwarden stated if he would apply for a building permit; he would have to go before the BOA. Commissioner Allen stated this is the first time this has happened and appreciates Mr. Vanlwarden meeting with the BOA. There is no rezoning this is giving a waiver against the existing rules. There is another way and try to follow the common sense approach and that is how Mr. Vanlwarden approached the application.

Mr. Polkowske requested the Board approving the possibility of adding on to their home if needed. Commissioner Allen requested input from Mr. Garcia. Mr. Garcia stated they are considering some different interpretations on the code language and the statutes. Mr. Kelly stated the code language says you cannot extend the use of the legal nonconforming property whereas the statutory language says they cannot extend the structure whereas it includes any structural alteration. The code is more liberal to say you cannot extend the nonconforming use. Nonconforming use is the land not necessarily the structure.

They are not spot zoning they are making that particular parcel part of the commercial district and have a special use permit for that particular piece of property. Mr. Crowder asked then all of the property would go to a commercial zone. Mr. Vanlwarden stated but one has to be careful if it fits into the industrial category it has to fit into the commercial category as well. You are just zoning where the house is. The problem is because the land development code is unclear about what we can and cannot do it is based on the state statutes.

Mr. Kelly based on what was presented today; it is up to the board to make that finding that these things all exist. Mr. Kelly is not sure that the hardship cannot be shown today. Mr. Crowder asked then you are making the whole thing commercial. The tract he is going to create will be commercial state Mr. Kelly. They are going to allow residential in a commercial area and rezone from industrial to commercial. Mr. Vanlwarden stated that is the issue how do we allow him to get a building permit to put an addition to the house and make it all legal.

Commissioner Yohn stated Mr. Kelly is saying you would have industrial on the north and commercial on the south. Tract one would be rezoned to commercial so an industrial district will border a commercial district so you will have another industrial district on the south of that bordering.

Do you want to create a buffer between the two stated Mr. Vanlwarden such as fencing, shrubbery, or roads? The difference is industrial is a nuisance type-unwanted whereas a commercial is designated towards professional businesses, shops, and merchandise shops. The
appeal is not going to change. He does not know why it was zoned industrial it better fit the commercial district.

Mr. Crowder stated they should just leave it as industrial and approved it under the circumstances we have. We could say in the motion if they want to expand the home they could give them a variance now. If they were challenged the court system would refer to the statutes and the state statutes would trump the land development code.

Mr. Polkowske stated Mr. Crowder stated exactly what they wanted to do. Mr. Crowder asked could you get financing this way. Yes, Mr. Vanlwarden stated there is a letter in the packet from the bank stating so. Mr. Kelly stated the requirement code section 8.3.4 does address a nonconforming structure maybe enlarged or expanded provided that an expansion does not increase the degree of nonconformity and meets all the requirements. Nonconformity is a single family use not the 2000 ft structure but if he expands it into a duplex then it would be wise to deny the permit stated Mr. Garcia. Mr. Vanlwarden asked if they could put the building permit allowed into the motion. Mr. Garcia stated that wasn’t necessary as long as it is in the minutes. Mr. Vanlwarden stated the minutes will not be looked at five years down the road they look at the resolutions and if it wasn’t mentioned in the motion, it would be lost. Mr. Kelly stated that would have to come before the board in a separate request. At the time an application is made for a building permit that decision will be made and the key word is conforming.

M/S Crowder/Boos to approve the application Tract 1 and Tract 2 and to give the authority to Land Use to issue building permits to the conforming use on Tract 1. Both tracts will continue to be zoned industrial.

Unanimous roll call vote with Wilkinson absent.

BEFORE THE BOARD OF ADJUSTMENTS OF ALAMOSA COUNTY

RESOLUTION NO: 2011 – Z - 9

RE: APPLICATION FOR VARIANCE FILED BY LEROY POLKOWSKE REGARDING A TRACT OF LAND LOCATED IN SW ¼ SW ¼, SECTION 31, TOWNSHIP 38 NORTH, RANGE 10 EAST, N.M.P.M., COUNTY OF ALAMOSA, STATE OF COLORADO.

Board Member Crowder moved for the adoption of the following resolution. Board Member Boos seconded the motion.

WHEREAS:

1. Leroy Polkowske has submitted an application for a variance to the following described property:
A TRACT OF LAND LOCATED IN SW 1/4 SW 1/4, SECTION 31, TOWNSHIP 38 NORTH, RANGE 10 EAST, N.M.P.M., COUNTY OF ALAMOSA, STATE OF COLORADO

said property being zoned Industrial (I) District.

2. Said applicant seeks a variance in order to allow for applicant to apply for a minor subdivision which would divide the above property into two tracts of land with one tract containing a single family residence;

3. A public hearing was held on the proposed variance on December 14, 2011, before the Board of Adjustments and testimony in favor of the proposed variance was given or received.

4. No Testimony was received in objection to said variance.

5. The Board of Adjustments has determined that this application is pursuant to 7.14 of the Alamosa County Land Development Code, as amended.

6. The Board of Adjustments specifically finds that all of the requirements for approval of said variance have been met.

NOW, THEREFORE, BE IT RESOLVED that the variance of the above described property as submitted by Leroy Polkowske be approved.

Roll call vote resulting in approval: Crowder, Allen, Boos, Yohn in favor, none against. Wilkinson absent

DATED: December 14, 2011.

BOARD OF ADJUSTMENTS, ALAMOSA COUNTY

(S E A L)

By

Darius Allen, Chairman

ATTEST:

Melanie Woodward, Clerk of the Board
Mr. Vanlwarden asked that the fee paid for BOA be applied towards the minor subdivision application fee.

**m/s Yohn/Allen to approve the $500 fee to move the fee towards the subdivision fee. Unanimous roll call vote with Wilkinson absent.**

Commissioner Allen asked for an update on Splashland since they took it over. Mr. Polkowske state they are debating on whether to tear the Splashland building down or renovate. They need to work on the interior of the pool.

**Health Care Program for Children with Special Needs**

Sue Foster, Kelly Robinson and Yvette Lujan were present to give an update to the Commissioners regarding HCP.

In the packet there is a local distribution plan. There are a lot of changes going on with Maternal Child Health Funding through the State Department Public Health and Environment that effects Alamosa County’s contract. This will also affect services and the budget. A report was presented showing the gains/losses of each county. Alamosa is shown on top of the losses of a $133,670 loss between now and 2016. The maternal health child is stated there has been a change in thinking. This is instead of providing services directly to children and families at the level that they have in the past through care coordination and medical specialty clinics to Population-Based Services and Infrastructure Building Services. These are things such as screenings and collaborating with other agencies to ensure policy development and needs assessment in the community. This thinking is driving budget reallocation. The funding has changed from calculation of population times by poverty times two and now it is only being calculated population by poverty. The decrease for us is because poverty is being discounted but not double weighted as in the past. Also their regional office which has been funded under the state HCP office has been changed this year. Alamosa County is the administrator for the regional office as well as those monies that come for Alamosa specific services. The state office is saying they can no longer to continue to run the south central regional office and subsidize the office. These two factors have contributed to the 84 percent reduction over the next three years. The rural areas have taken the hit.

Their plan is to work with the local health agencies and determine how they can move forward and work with the state health office. It is not clear how the regional offices will continue. There is a meeting this morning with their region and the state office will contribute in this meeting through conference call. Their greatest concern is when they did an assessment through epidemiology in 2010 the SLV; the South Central Region is the highest user of medical specialty clinics for children with special health care needs in the state. Those clinics are threatened at this time. They met with the Director of Children’s Hospital to let them know how they continue with these clinics because they are very important. Commissioner Allen inquired when they would have a better feel on what will happen. Ms. Foster stated this spring because they will be having a planning session and requested the Board be supportive. They know they will be making changes in their office and staffing but the first concerns are the services.
The highest risk children might not have the services that they need. With the 84 percent loss there is a possibility they might have to relocate to more populated areas. They are going to continue trying to strengthen the relationships with Children's hospital and advocate for families.

The good news is they get to present at a National Convention in Washington DC. They are very excited to be able to attend and facilitate these sessions. As a mother with a young adult with development delay and special needs she realizes what a scary time it is that they are no longer in school what are they to do with them. There are many different things that come up with that. She has researched a lot of different options and has helped determine what is best for the children and they are very excited to attend this conference. Commissioner Allen asked how this trip is being paid for. This is yet to be determined stated Ms. Foster. They have asked the state for assistance but they don't have any monies available. They are looking at $2500-$3,000 to assist for flights and the cost of convention. Mr. Garcia asked as a presenter they don't waive their costs of the convention. They don't stated Ms. Foster.

Two state people came to represent them today one being Jane Gerberding.

**Adoption of the Alamosa County 2012 Budget**

Commissioner Allen stated he appreciates all the work that was done on the budget. Mr. Garcia stated the budget included some minor changes such as re-classifications on some positions and discussion on the merit or cost of living increases. There have not been many changes since the preliminary. The budget is experiencing deficit funding in every fund for 2012 and there is 2% merit increases contingent on satisfactory evaluations at the employee's anniversary date.

The assessed valuation did decrease minimally and has been reflected to show the decrease. This is a $30,896,000 budget because of the reporting requirements for Social Services stated Ms. Deherrera. Mr. Garcia stated they don't have any capital improvements identified in the budget and no projects identified in Road & Bridge.

**MS Yohn/Allen to accept the 2012 budget. Unanimous roll call vote with Wilkinson absent.**

Mill Levy certifications are not included in the budget yet because they will be done at the December 21st meeting. A Supplemental Resolution will also be done at that meeting.

**Alamosa County Land Use**

Mr. Vanlwarden presented the activities report. He stated they had a meeting with FEMA, Water Control Board, City of Alamosa, Rio Grande County and County Surveyor Dan Russell December 17th regarding the flood plain. They took the map by Agri-Engineering and asked to adopt that to start from. There was a kickoff meeting and they will identify the flood hazard areas, assess the risks in the flood plains in the maps, and then there will be a planning stage. This is where they will take the community needs and their priorities such as their hospitals if they have any emergency use. They will begin mapping shortly and the state will foot some of the cost but the county will have to do some matching funds. Typically the mapping is very expensive around $2-300,000. It will take from 3 to 5 years and will come to fruition.
Commissioner Allen inquired if the county owns any property along the river. Mr. Vanlwarden is unsure and what happened is before the levy was built he was instructed to go on the county side and took one of the maps to figure out where some of the properties were in relationship to the County. If the county has any actual property in the flood plains; he is unsure.

The plan review is being worked on. Commissioner Yohn questioned the building & roofing permits if they were all from one contractor. Mr. Vanlwarden stated no various contractors and homeowners themselves. Commissioner Allen asked if they are required to have a roofing permit. Mr. Vanlwarden stated yes even for siding. Mr. Garcia asked if that included stucco. It does stated Mr. Vanlwarden. He went over the various things they look for when they issue these permits and have a final inspection at the end of the project.

2011-Z-5 for Zapata

Mr. Vanlwarden stated the map regarding the Zoning Map and discussed the map with the County Commissioners. Commissioner Allen was not present at this public hearing so Mr. Kelly stated they needed to wait until Commissioner Wilkinson will be available.

m/s Yohn/Allen to continue the resolution of 2011-Z-5 to the December 21, 2011 meeting.

Unaminous roll call vote with Wilkinson absent.

Alamosa County Clerk & Recorder

Liquor License Renewal – Discount Liquor

There were no problems with this renewal application stated Mr. Kelly. There was a background check done and it was clear. They paid their fees.

m/s Yohn/Allen to approve the liquor license renewal for Discount Liquor.

Unaminous roll call vote with Wilkinson absent.

Break

Alamosa County Department of Human Services

Larry Henderson and Laurie Rivera were present. Currently the ratio of staff to supervisors is 10.5-1 which is very overwhelming to the caseworkers and the supervisors. The DHS is very busy and is a very critical position in dealing with children’s welfare and lives. They want to pay close attention to the referrals and reports that come in as well as the Adult Protection. There are 62 active referrals as of December 8, 2011 and 144 welfare cases which include 40 children who are out of home care and each of those are named on a dependency and neglect petition, 74 adoption cases, 35 adult protection cases, and 5 independent cases. The supervisor functions is a practice expert in the area and has to have years of experience with a bachelors or masters degree to support them in this position. There is a lot of responsibility with the position such as courts, approving decisions of closing cases, whether not being involved with families or being involved with families and to what extent.
Commissioner Allen asked if possibly this position would be hired within. There is a possibility and this would cause a domino effect with a caseworker position opening. That would be appreciated if the caseworker position were to be included in motion. There is also a possibility of a case manager position being open as well.

There are two caseworker vacancies plus the one that they had previous approval for. Mr. Garcia asked once that is done what their ratio will be. It will be back down to 7 to 1 with her overseeing the supervisors stated Ms. Rivera. There is a subsequent potential of a case manager being opened which requires a bachelors degree which is not likely to be hired within with current staff.

M/S Yohn/Allen to approve the two positions with the potential of one more for a total of three positions. Unanimous roll call vote.

Alamosa County Sheriff

Sheriff Stong is requesting a total of seven employees. One position from the Court Security Grant which will be moved from detention and placed in Court Security. This would open up a position in detention with additional to be hired. They would hire a total of 3 temporary full time people and 2 half time employees. A total of seven employees.

M/S Yohn/Allen to approve the vacancy request of sheriff. Unanimous roll call vote with Wilkinson absent.

Mr. Garcia mentioned an air conditioning unit that needs to be replaced. There are no funds in Sheriff’s budget and none in Facilities Management so they will need to find some monies somewhere to replace this unit.

County Road & Bridge Report

Phil West was present. They have plowed snow on some days. The weather was good on Monday so they poured cracks. They also started trimming trees in between. Mr. West asked what the decision was on the allies. The Commissioners decided to send a letter out to the residents of east Alamosa to clear their allies.

Alamosa County Ambulance District

Dr. Bill Brinton was present and would like to give the Commissioners an update. There are three items to point out. They did some major upgrades to equipment this year. They completed a renewal of their agreement for services. The district itself owns the equipment but doesn’t manage the ambulance service. It is managed through the SLV Regional Medical Center. As of January 2012 the ambulance service is 100% paramedic service. He is not sure there is another small town ambulance service that is 100%.
Commissioner Allen asked if there were any district positions open. There is an election this spring with three members being open.

Mr. Garcia stated Center Ambulance District is having difficulty with staffing and asked if they came to them for help. Mr. Brinton stated no it is very likely they have contacted other ambulance services. The ambulance district is an ownership board and not a management board.

**Alamosa County Assessor**

Ms. Hostetter did meet with Value West and received a proposal and is requesting the proposal be accepted. They are the only ones that responded. They have two properties that took on appeals so they will look at them and estimate a value on them. Commissioner Allen stated he talked to three counties about Value West and they were all happy with them.

Mr. Garcia inquired when this started there was going to be some departmental reorganization. The personal property desk has been vacated and the desk will be incorporated with the appraisal staff. They will absorb the personal property duties. The state will be visiting for training and will train the entire office and will have basic knowledge. She requested this. The employee who has done the commercial appraisals is still employed and will absorb some of the other duties.

All of the positions are covered and Ms. Hostetter is confident this will work. Commissioner Yohn stated the support of this contract will give on the commercial appraisals will benefit the office a lot. It will make the appraisals more credible stated Ms. Hostetter.

**M/S Yohn/Allen to accept the proposal for Value West for the County Assessor.**

**Unanimous roll call vote with Wilkinson absent.**

**County Administration**

Mark Garcia presented a report. He is continuing working on staff issues, job reclassifications, departmental reorganization and employee conflict resolutions. He has met with the Planning Commission to discuss proposed changes in the Land Use Code. The zoning map is also being revised. They completed the budget with Barry Shioshita assistance. Mr. Shioshita’s hope was that staff would be able to take over the budget process in future years stated Mr. Garcia. Mr. Garcia believes they will be able to do that. They met with Sergeant Ancyta and discussed staffing levels within the detention facility. They toured and reviewed the facility challenges. Mr. Garcia thanked the Commissioners for including him at the CCI Conference. It was beneficial with much needed information.

**M/S Yohn/Allen to approve Resolution 2011-F-3.**

**Unanimous roll call vote with Wilkinson Absent.**
BEFORE THE BOARD OF COUNTY COMMISSIONERS OF ALAMOSA COUNTY

RESOLUTION NO: 2011 - F - 3

RE: A RESOLUTION APPROPRIATING SUMS OF MONEY TO THE VARIOUS FUNDS AND SPENDING AGENCIES IN THE AMOUNT AND FOR THE PURPOSES AS SET FORTH BELOW, FOR THE COUNTY OF ALAMOSA, COLORADO, FOR THE FY2012 BUDGET YEAR.

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS has adopted the annual budget in accordance with the Local Government Budget Law, on December 14, 2011, and;

WHEREAS, the Board of County Commissioners has made provisions therein for revenues in an amount equal to or greater than the total proposed expenditures as set forth in said budget, and;

WHEREAS, it is not only required by law, but also necessary to appropriate the revenues and reserves or fund balances provided in the budget to and for the purposes described below, thereby establishing a limitation on expenditures for the operations of Alamosa County.

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

Section 1. That the estimated expenditures for each fund are as follows:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Current Operating Expenses</th>
<th>Capital Outlay</th>
<th>Debt Service</th>
<th>TOTAL FUNDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund #110</td>
<td>$ 6,951,363</td>
<td>$ 500</td>
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<td>Road &amp; Bridge Fund #120</td>
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<td>$15,854,570</td>
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<tr>
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<tr>
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<tr>
<td>Solid Waste Management Fund #126</td>
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<tr>
<td>Community Development Fund #128</td>
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<td>Capital Expenditures Fund #130</td>
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<td>Lease Service Fund #140</td>
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TOTAL - COUNTY FUNDS $30,072,028 $ 563,282 $261,400 $ 30,896,710

FY2012 Budget Appropriation
December 14, 2011
Page 2
## Component Units of Government

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<tr>
<th>Fund</th>
<th>Current Operating Expenses</th>
<th>Capital Outlay</th>
<th>Debt Service</th>
<th>TOTAL FUNDS</th>
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<td><strong>$41,500</strong></td>
<td><strong>$145,245</strong></td>
<td><strong>$697,545</strong></td>
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*Note - Does not include expenditure for Treasurer's Fees in funds with property tax revenues.*

ADOPTED this 14th day of December, A.D. 2011.

The roll having been called, the vote was as follows:

- Commissioner Allen: Yes, No
- Commissioner Wilkinson: Absent, Yes, No
- Commissioner Yohn: Yes, No

The foregoing resolution passed by roll call vote resulting in a 3-0 vote.

**ATTEST:**

Melanie Woodward, Clerk of the Board

(S Seal)

**BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ALAMOSA, STATE OF COLORADO**

Darius Allen, Chairman

George Wilkinson, Chairman Pro-tem

Michael Yohn

**M/S Yohn/Allen to approve Resolution 2011-F-5.**

Unanimous roll call vote with Wilkinson absent.
BEFORE THE BOARD OF COUNTY COMMISSIONERS OF ALAMOSA COUNTY

RESOLUTION NO: 2011-F-5


WHEREAS, the Board of Commissioners of the County of Alamosa in its capacity as the Weed & Pest Control Board, has adopted the annual budget in accordance with the local government budget law on December 14, 2011; and

WHEREAS, the amount of money necessary to balance the budget for General operating expenses is $60,000; and

WHEREAS, the 2011 valuation for assessment for the Alamosa Weed & Pest Control District as certified by the County Assessor is $10,700,307; and

WHEREAS, after reviewing the requirements for anticipated expenditures and revenues from all the sources for FY2012, the Board of County Commissioners of Alamosa County (serving as the Board of Directors for the District) has determined that for the year 2011 the proper mill levy, which shall be collected in the year 2012 upon each dollar of the assessed valuation of all taxable property in the District shall be 1.513 mills less a mill levy credit of .216 mills = 1.297 mills.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF ALAMOSA, COLORADO, as follows:

Section 1. There is hereby levied upon each dollar's worth of property within the Alamosa Weed & Pest Control District, County of Alamosa for the purpose of defraying the necessary expenses and paying all legal obligations of said District for the calendar year beginning January 1, 2012, a tax of 1.513 mills less a mill levy credit of .216 mills = 1.297 mills on each dollars' worth of property as per the assessed value thereon as show by the valuation for assessment, as certified by the Alamosa County Assessor for the year 2011, as fixed by the Alamosa County Board of Equalization.
Total Authorized Levy

1.513 Mills

Mill Levy Credit

(0.216) Mills

Total

1.297 Mills

ADOPTED THIS 21ST DAY OF DECEMBER, A.D. 2011.

The roll having been called, the vote was as follows:

Commissioner Allen ☑ Yes ☐ No
Commissioner Wilkinson ☐ Yes ☐ No
Commissioner Yohn ☑ Yes ☐ No

The foregoing resolution passed by roll call vote resulting in a 2-0 vote.

ATTEST:

Melanie Woodward, Clerk of the Board

(SEAL)

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ALAMOSA, STATE OF COLORADO

Darius Allen, Chairman

George Wilkinson

Michael Yohn

Board/Staff Updates

Lunch
WORKSESSIONS

E911 Telephone Equipment

Alamosa County Treasurer

There being no further business, the Regular Meeting of the Board of Alamosa County Commissioners was adjourned.

ATTEST:

Belina Ramirez, Administrative Secretary

Carol Osborn, Administrative Assistant

Darius Allen, Chairman

George Wilkinson, Vice-Chair

Mike Yohn, County Commissioner
Minutes of the Public Hearing for Board of Adjustment for Leroy Polkowske was held on December 14, 2011 at 8:30 a.m. in the Commissioners Chambers, Alamosa County Services Center, 8900 Independence Way, Alamosa, CO 81101.

Members Present: Darius Allen, Chair  
George Wilkinson, Vice-Chair -Absent  
Mike Yohn, Commissioner  
Mark Garcia, Interim Administrator  
Jason Kelly, County Attorney  
Carol Osborn, Administrative Assistant

Ken Vanlwarden and Leroy Polkowske were present.

Proposal: The applicant has applied for an administrative appeal as set forth in Section 7.16 Administrative Appeals, of the Land Development Code, as adopted July 15, 2009 as amended, appealing the decision of the Land Use Administrator who denied his intent to subdivide a single tract of land into two parcels. An appeal by any person aggrieved by a final order, interpretation, or decision of the administrator may be taken to the Board of Adjustment and the applicant shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions as described in the Land Development Code.

Legal Description: A tract of land located in the SW4 SW4, Section 31, Township 38 North, Range 10 East, NMPM, which tract is more particularly described by metes and bounds as follows, to wit:

Beginning at the Southwest corner of the tract herein described, whence the Southwest corner of said section 31 bears S 45°54' West, 43.03 Feet distant; Thence North 1°43' East, 300 feet parallel to and 30.00 feet easterly of the West line of said Section 31 to the Northwest corner of the Tract herein described; thence S 89°55' East 300.00 feet parallel to the South line of said Section 31 to the Northeast Corner of the Tract herein described; thence S 1°43; West 300.00 feet parallel to the West line of said Section 31 to the Southeast Corner of the tract herein described; Thence N 89°55; West 300.00 feet parallel to and 300.00 feet northerly of the South line of said Section 31 to the place of beginning.

Project History and Background: The applicant is proposing to subdivide a single tract of land into two parcels of land located in an Industrial district. The single tract currently has two structures; a shop owned at one time by J&J Yamaha and a single family dwelling occupied by the owner of the business or by a family member of the business. Mr. Polkowske is proposing to separate the Yamaha Shop from the residence for financial purposes. The shop and single family residence were in existence on the property when the County adopted zoning regulations in the early 1970’s. The property was zoned to Industrial and the property remains in an Industrial District. The applicant maintains that the home and business have resided before zoning regulations were enacted and the applicant has stressed that the use of the land will remain the same as it has for years.
Staff Comments: Zoning ordinances are adopted to bring order, stability, and predictability to land uses within a community. This doesn’t happen overnight because new zoning rarely, if ever, starts with a clean slate because some development preceded it. This means that as soon as the ordinance is adopted, the problem of “legal non-conformance” exists. New zoning creates non-conformances because something pre-existing does not comply with new limitations on use. Since the idea of zoning is to ensure the compatibility between uses grouped by zoning district and to provide minimum standards for every lot within a district, every zoning ordinance contains provisions to decrease non-conforming land uses and lots.

The question is, are we creating a legal non-conforming lot by allowing the applicant to divide the lot? Indeed, any use that is not permitted in the district by right or special use is a legal non-conforming use. When does the legal non-conforming use, a single family dwelling in an Industrial District, diminish or cease to exist? The permitted use table, section 2.3.2 of the Land Development Code, does not allow residential uses in an Industrial District.

Mr. VanIwarden stated when the application was submitted he felt it was not going to impact the neighborhood because there is an Industrial District located to the north and there is a Commercial District located to the west. His question is what are there responsibilities to allow a residential use in an industrial district when our Land Development Code prohibits this. If the board chooses to allow this for variance he recommends they allow the fees paid for this variance be applied to the Minor Subdivision which was requested in the first place.

Mr. Polkowske stated this was a residence prior to becoming industrial and he would like to divide so his daughter can live on the property. If this is residence they can get a better interest rate. He spoke with the neighbors and no one is against that. He would like no restrictions on this property so if they want to make a factory in the back or add to the house they can. Mr. VanIwarden stated as long as it is in an industrial district that property or structure is prohibited from receiving a building permit because it is nonconforming. They could not expand or build any additions to the home because it is a legal nonconforming use. The financing is not a problem for them now but in the past there have been applications that the financial institutions do not like to loan money on property that is nonconforming.

Mr. Kelly stated there is a legal nonconforming and the concern is a subdivision and creating a new parcel in an industrial area. Under a special use permit it cannot be changed and not sure what the solution is.

Commissioner Allen asked if anyone was in favor of or opposition to the application for Leroy Polkowske.

BEFORE THE BOARD OF ADJUSTMENTS OF ALAMOSA COUNTY

RESOLUTION NO: 2011 - Z - 9

RE: APPLICATION FOR VARIANCE FILED BY LEROY POLKOWSKE REGARDING A TRACT OF LAND LOCATED IN SW ¼ SW ¼, SECTION 31,
TOWNSHIP 38 NORTH, RANGE 10 EAST, N.M.P.M., COUNTY OF ALAMOSA, STATE OF COLORADO.

Board Member Crowder moved for the adoption of the following resolution. Board Member Boos seconded the motion.

WHEREAS:

1. Leroy Polkowske has submitted an application for a variance to the following described property:

A TRACT OF LAND LOCATED IN SW ¼ SW ¼, SECTION 31, TOWNSHIP 38 NORTH, RANGE 10 EAST, N.M.P.M., COUNTY OF ALAMOSA, STATE OF COLORADO

said property being zoned Industrial (I) District.

2. Said applicant seeks a variance in order to allow for applicant to apply for a minor subdivision which would divide the above property into two tracts of land with one tract containing a single family residence;

3. A public hearing was held on the proposed variance on December 14, 2011, before the Board of Adjustments and testimony in favor of the proposed variance was given or received.

4. No Testimony was received in objection to said variance.

5. The Board of Adjustments has determined that this application is pursuant to 7.14 of the Alamosa County Land Development Code, as amended.

6. The Board of Adjustments specifically finds that all of the requirements for approval of said variance have been met.

NOW, THEREFORE, BE IT RESOLVED that the variance of the above described property as submitted by Leroy Polkowske be approved.

Roll call vote resulting in approval: Crowder, Allen, Boos, Yohn in favor, none against. Wilkinson absent

DATED: December 14, 2011.
BOARD OF ADJUSTMENTS,
ALAMOSA COUNTY

(S E A L)

By
Darius Allen, Chairman

ATTEST:

Carol Osborn, Deputy
Melanie Woodward, Clerk of the Board

There being no further business, the Public Hearing for Board of Adjustment for Leroy Polkowske was adjourned.

ATTEST:

ABSENT
Belina Ramirez, Administrative Secretary

Carol Osborn, Administrative Assistant

Darius Allen, Chair

George Wilkinson, Vice-Chairman

Mike Yohn, County Commissioner

Joe Bbos, BOA

Larry Crowder, BOA
Minutes of the Public Hearing for Board of Adjustment for Leroy Polkowske was held on December 14, 2011 at 8:30 a.m. in the Commissioners Chambers, Alamosa County Services Center, 8900 Independence Way, Alamosa, CO 81101.

Members Present: Darius Allen, Chair
George Wilkinson, Vice-Chair - Absent
Mike Yohn, Commissioner
Mark Garcia, Interim Administrator
Jason Kelly, County Attorney
Carol Osborn, Administrative Assistant

Ken Vanlwarden and Leroy Polkowske were present.

Proposal: The applicant has applied for an administrative appeal as set forth in Section 7.16 Administrative Appeals, of the Land Development Code, as adopted July 15, 2009 as amended, appealing the decision of the Land Use Administrator who denied his intent to subdivide a single tract of land into two parcels. An appeal by any person aggrieved by a final order, interpretation, or decision of the administrator may be taken to the Board of Adjustment and the applicant shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions as described in the Land Development Code.

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Project History and Background: The applicant is proposing to subdivide a single tract of land into two parcels of land located in an Industrial district. The single tract currently has two structures; a shop owned at one time by J&J Yamaha and a single family dwelling occupied by the owner of the business or by a family member of the business. Mr. Polkowske is proposing to separate the Yamaha Shop from the residence for financial purposes. The shop and single family residence were in existence on the property when the County adopted zoning regulations in the early 1970's. The property was zoned to Industrial and the property remains in an Industrial District. The applicant maintains that the home and business have resided before zoning regulations were enacted and the applicant has stressed that the use of the land will remain the same as it has for years.
**Staff Comments:** Zoning ordinances are adopted to bring order, stability, and predictability to land uses within a community. This doesn’t happen overnight because new zoning rarely, if ever, starts with a clean slate because some development preceded it. This means that as soon as the ordinance is adopted, the problem of “legal non-conformance” exists. New zoning creates non-conformances because something pre-existing does not comply with new limitations on use. Since the idea of zoning is to ensure the compatibility between uses grouped by zoning district and to provide minimum standards for every lot within a district, every zoning ordinance contains provisions to decrease non-conforming land uses and lots.

The question is, are we creating a legal non-conforming lot by allowing the applicant to divide the lot? Indeed, any use that is not permitted in the district by right or special use is a legal non-conforming use. When does the legal non-conforming use, a single family dwelling in an Industrial District, diminish or cease to exist? The permitted use table, section 2.3.2 of the Land Development Code, does not allow residential uses in an Industrial District.

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Commissioner Allen asked if anyone was in favor of or opposition to the application for Leroy Polkowske.

**BEFORE THE BOARD OF ADJUSTMENTS OF ALAMOSA COUNTY**

**RESOLUTION NO: 2011 – Z - 9**

**RE:** APPLICATION FOR VARIANCE FILED BY LEROY POLKOWSKE REGARDING A TRACT OF LAND LOCATED IN SW ¼ SW ¼, SECTION 31,
Board Member Crowder moved for the adoption of the following resolution. Board Member Boos seconded the motion.

WHEREAS:

1. Leroy Polkowske has submitted an application for a variance to the following described property:

   A TRACT OF LAND LOCATED IN SW¼ SW¼, SECTION 31, TOWNSHIP 38 NORTH, RANGE 10 EAST, N.M.P.M., COUNTY OF ALAMOSA, STATE OF COLORADO

said property being zoned Industrial (I) District.

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3. A public hearing was held on the proposed variance on December 14, 2011, before the Board of Adjustments and testimony in favor of the proposed variance was given or received.

4. No Testimony was received in objection to said variance.

5. The Board of Adjustments has determined that this application is pursuant to 7.14 of the Alamosa County Land Development Code, as amended.

6. The Board of Adjustments specifically finds that all of the requirements for approval of said variance have been met.

NOW, THEREFORE, BE IT RESOLVED that the variance of the above described property as submitted by Leroy Polkowske be approved.

Roll call vote resulting in approval: Crowder, Allen, Boos, Yohn in favor, none against. Wilkinson absent

DATED: December 14, 2011.
There being no further business, the Public Hearing for Board of Adjustment for Leroy Polkowske was adjourned.

ATTEST:

Belina Ramirez, Administrative Secretary
Carol Osborn, Administrative Assistant

Darius Allen, Chair
George Wilkinson, Vice-Chairman
Mike Yohn, County Commissioner
Joe Blos, BOA
Larry Crowder, BOA