

RESOLUTION NO. R-2021-33

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LA
PLATA COUNTY, COLORADO ADOPTING A NEW CODE SECTION TO
CREATE THE WILDFIRE AND WATERSHED PROTECTION FUND
ADVISORY COMMITTEE**

WHEREAS, pursuant to C.R.S. §§ 30-11-101(1)(e) and (2), 30-11-103, and 30-11-107(1)(e), the Board of County Commissioners of La Plata County, Colorado (the “Board”), has the legislative authority to manage the business and concerns of the County and to exercise such other and further powers as are conferred by law when deemed by the Board to be in the best interests of the County and its inhabitants, and is further authorized by *inter alia*, C.R.S. §§ 30-28-101, *et seq.*, C.R.S. §§ 30-28-201, *et seq.*, and C.R.S. §§ 29-20-101, *et seq.*, to adopt regulations for the protection of the public health, safety, and welfare of the inhabitants of La Plata County; and

WHEREAS, pursuant to C.R.S. §§ 30-28-102, 30-28-106(3)(VIII), 30-28-106(3)(XI), and 30-28-115(1), the County is empowered to plan and provide for the physical development of the unincorporated territory of the County including with respect to the location and extent of forests, wildfire hazards, safety from fire; and pursuant to C.R.S. §§ 29-22.5-104(1), 30-11-101(1)(I), 30-11-124(4), 30-15-401(1.5)(A), and 30-15-401.7(1)(a)(I) to prepare for wildfires, conduct forest health projects and otherwise plan for management of fires within the county, fuel reduction projects, and removal of brush; and

WHEREAS, Colorado counties possess those powers enumerated by the Colorado Constitution and Colorado Revised Statutes, and such further incidental implied powers as are reasonably necessary to carry out their express powers; and

WHEREAS, in 2006 the County created the Community Wildfire Protection Plan (the “CWPP”) in collaboration with federal, state, and local government agencies and firefighting entities to identify community resources and detailed goals, strategies and recommendations for reduction of wildfire damage and such plan established five (5) goals with accompanying strategies for achievement. The CWPP goals are to (1) reduce risk in the wildland urban interface; (2) increase public involvement in wildfire prevention and education; (3) reduce ignitability of structures; (4) increase and strengthen tools for local governments and fire departments to encourage Firewise policies and practices; and (5) increase the number of fuel reduction projects on federal lands in the wildland urban interface and other priority areas; and

WHEREAS, the Disaster Mitigation Act of 2000 (“DMA 2000”) (P.L. 106-390) amended the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the “Act”) and requires proactive pre-disaster planning as a condition of receiving certain financial assistance under the Act. The County, along with other local jurisdictions and agencies, participated in the development and content of the 2018 Multijurisdictional Hazard Mitigation Plan Update (the “2018 Plan Update”) to create goals, objectives, mitigation strategies, and implementation methods to reduce risk; and

WHEREAS, the 2018 Plan Update evaluated at-risk populations, critical infrastructure, and improved parcels exposed to wildfire hazards and concluded that the percentage of such assets at risk of wildfire within the unincorporated areas of the county and the city of Durango were “very high/high” and the total parcel exposure for wildfire was \$517,233,835 for the City of Durango and \$2,593,460,280 for unincorporated La Plata County. The 2018 Plan Update estimated that with respect to wildfire risk within the unincorporated portions of the county, approximately 3,954 residents live in areas considered to be in the “high” and “highest” intensity zones, approximately 2,454 reside in “moderate” intensity zones and approximately 1,528 reside in low and lowest intensity zones; and

WHEREAS, the 2018 Plan Update established goals to (1) minimize loss of life and injury to people due to anticipated hazard events, (2) reduce damage to critical facilities and infrastructure; and (3) reduce risks to property, environment and the economy of La Plata County and the City of Durango from the impacts of natural hazards and established mitigation priorities, in which the County and other local jurisdiction stated an intent to (1) create financial assistance programs for citizens to create defensible space on their property; (2) conduct fuel reduction projects in City Mountain parks; and (3) complete hazardous fuels reduction projects within susceptible subdivisions; and

WHEREAS, in 2020 the County was selected to receive assistance from the Community Planning Assistance for Wildfire (“CPAW”) program which helped the County develop planning recommendations to reduce wildfire risk in La Plata County and included recommendations to increase wildfire resistance by, among other things, implementation of a voluntary parcel-level assessment program; and

WHEREAS, the General Assembly and Governor of the State of Colorado have, by the adoption of House Bill 21-1008, recently confirmed that measures to mitigate the risks of wildfire have a direct relationship to the protection of watersheds and sources of water; and

WHEREAS, the Board finds that inhabitants of the area continue to be threatened by the potential for catastrophic wildfires given the vast amounts of public and private land within the area at risk of wildfire and the significant and growing desire for ongoing development within the wildland-urban interface throughout the area; and

WHEREAS, the Board, City of Durango (“City”) and Durango Fire Protection District (“DFPD”) desire to enter into an agreement to implement the recommendations and strategies set forth in the 2018 Plan Update, the CWPP and CPAW and to provide for a more coordinated, collaborative, and effective approach to wildfire mitigation and watershed protection as described herein. Pursuant to the agreement, the parties will create the Wildfire and Watershed Protection Fund (“WWPF”) to receive and expend monies and management of projects and programs to include: working with landowners; improving landscape-scale mitigation; protecting community assets; implementation of plans; assistance to State agencies; implementation of emergency management plans; lessen economic impacts; protect watersheds; create economic opportunities; and manage initiatives, funding and operations; and

WHEREAS, the agreement provides for the establishment of the Wildfire and Watershed Protection Fund Advisory Committee (the "WWPF Committee"), which shall be comprised of seven (7) members who will act in an advisory capacity to the County, City and DFPD in all matters relating to the WWPF.

WHEREAS, the Board has received competent evidence and testimony that it would be in the best interest of the general health, safety, and welfare of the County's citizens to create the WWPF Committee and seeks its advice with respect to the operation of the WWPF.

NOW, THEREFORE, BE IT RESOLVED BY THE LA PLATA COUNTY BOARD OF COUNTY COMMISSIONERS:

1. New Section 2-701 of the La Plata County Code, as set forth in the attached Exhibit A, is hereby adopted. This Resolution is effective immediately upon adoption.
2. The County Attorney's Office is authorized to make additional form and style-type revisions including but not limited to spelling, numbering, statutory references, internal cross-references, and other conforming-type revisions, but not revisions that are substantive in nature.
3. The enactment of this Resolution is necessary for the preservation of public health, safety, and welfare.
4. The Board is authorized to appoint its two (2) members to the Committee consistent with this Resolution and Section 2-701, as it may be amended from time to time.

DONE AND ADOPTED IN DURANGO, LA PLATA COUNTY, COLORADO, this 23rd day of November, 2021.

BOARD OF COUNTY COMMISSIONERS OF
LA PLATA COUNTY, COLORADO

ATTEST:


Clerk to the Board


Marsha Porter-Norton, Chair


Matt Salka, Vice-Chair


Clyde Church, Commissioner

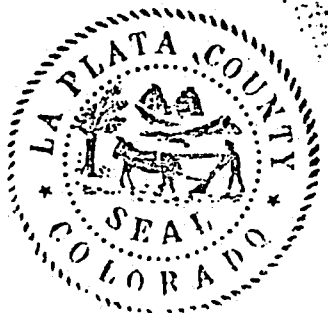


EXHIBIT A

CHAPTER 2. ADMINISTRATION

ARTICLE III. BOARDS, COMMITTEES, COMMISSIONS

DIVISION 39. WILDFIRE AND WATERSHED PROTECTION FUND ADVISORY COMMITTEE

Sec. 2-701. Wildfire and Watershed Protection Fund Advisory Committee

- I. **Established.** There is hereby established a wildfire and watershed protection fund advisory committee (the “WWPF Advisory Committee”).
- II. **Membership, qualifications and terms.** The members of the WWPF Advisory Committee shall be composed of the following seven (7) members: two (2) members appointed by the Durango City Council (“City”); two (2) members appointed by the County’s Board of County Commissioners (“County”); two (2) members appointed by the DFPD Board of Directors (“DFPD”), and one (1) at-large member appointed through a majority vote of the other appointed members of the WWPF Advisory Committee. The WWPF Coordinator shall attend meetings of the WWPF Advisory Committee but shall not be a member of the Advisory Committee.
 - A. **Qualifications and terms of office of regular members.**
 1. *Qualifications.* Each regular member of the WWPF Advisory Committee shall be a resident of La Plata County and shall have reached the age of 18 years on the effective date of their appointment.
 2. *Background, education or experience.* Each member should have a demonstrated background, education, or experience in one or more of the following areas: forestry, forest and watershed health, improvement and restoration, natural resource management, wildfire mitigation, local government or similar subjects that will aid the purposes of the advisory committee.
 3. *Terms.* The term of office for members shall be staggered with one appointment from each of the appointing entity serving one (1) year and the second appointment serving a two (2) year term. The at-large appointment shall serve a term of two (2) years. A member may be reappointed for successive terms. Unless removed in the manner described in this Section, a member shall hold office until a successor has been appointed.
 4. *Removal and filling of vacancies.* Committee members shall serve at the pleasure of the entity that appointed them and may be removed by the appointing entity at any time for any reason. The effective date of such removal shall be determined by the appointing entity and without regard to the vacancy provisions set forth herein. Vacancies other than by reason of expiration of terms shall be filled by the original appointing entity for the unexpired term.
 - B. **Compensation.** A committee member shall receive no compensation for services, but shall be entitled to the necessary expenses, including travel expenses, incurred in the discharge of their duties.

C. Financial interest of committee members.

1. No WWPF Advisory Committee member nor any immediate member of the family of any such member shall acquire any financial interest, direct or indirect, in any project or in any property or concession associated with the Wildfire and Watershed Protection Fund (the "Fund"), nor shall they have any financial interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with the Fund; provided, however, no WWPF Advisory Committee member shall be precluded from participating in a wildfire mitigation program sponsored or funded by the Fund on the same terms and conditions as any other property owner.
2. If any WWPF Advisory Committee member owns or controls a financial interest, direct or indirect, in any property or in any concession, contract or proposed contract for materials or services associated with the Fund, he or she shall immediately disclose the same in writing to the WWPF Advisory Committee and the City, County and DFPD, and such disclosure shall be entered upon the minutes of the WWPF Advisory Committee. Upon such disclosure, such member shall recuse himself or herself and shall not participate in any action by the WWPF Advisory Committee affecting the project, property, concession, or contract unless the WWPF Advisory Committee determines that, in the light of and notwithstanding such personal interest, the participation of such member would not be contrary to the public interest. Acquisition or retention of any such interest without disclosure to the WWPF Advisory Committee or participation with respect to a project, property, concession, or contract without a determination by the WWPF Advisory Committee that such participation is not contrary to the public interest shall constitute misconduct in office.

III. Meetings and records.

- A. Officers and bylaws. The WWPF Advisory Committee shall elect a chair from its members, whose term shall be for one (1) year. The WWPF Advisory Committee may create and fill such other offices as it may determine necessary. The WWPF Advisory Committee shall be empowered to adopt and amend bylaws governing its procedures as it may consider necessary or advisable. Such bylaws shall be consistent with this code.
- B. Meetings and records of proceedings. All meetings of a quorum of or three or more members of the WWPF Advisory Committee, whichever is less, at which any public business is discussed or at which any formal action may be taken are public meetings. Meetings of the WWPF Advisory Committee shall be open to the public and conducted in accordance with the Colorado Open Meetings Law, C.R.S. § 24-6-401, *et seq.* and records of its proceedings shall be kept and open to inspection by the public at all reasonable times pursuant to the Colorado Open Records Act, C.R.S. § 24-72-201, *et seq.* Notices and agendas of public meetings of the WWPF Advisory Committee shall be posted at the legal posting locations for the County, City and DFPD. The WWPF Advisory Committee shall meet as often as necessary to fulfill its responsibilities.

- C. **Quorum.** Except as may be otherwise provided by statute, four (4) members of the WWPF Advisory Committee shall constitute a quorum for the transaction of business by the Committee at any meeting. If a quorum is present, the decision of one (1) or more members of the WWPF Advisory Committee to abstain from voting thereon shall not be deemed to constitute less than a quorum for the transaction of business. Action of the WWPF Advisory Committee shall be by majority vote of those entitled to vote. Abstention shall not be counted as votes for the purpose of determining a majority. A tie vote constitutes a denial of the proposed action by the WWPF Advisory Committee.
- D. **Subcommittees.** The WWPF Advisory Committee may create and appoint members to any subcommittees it deems appropriate to accomplish its duties; however, any recommendations of any subcommittee to the WWPF Advisory Committee must also be reviewed and approved by a majority of the members of the WWPF Advisory Committee.

IV. General responsibilities and function of the WWPF Advisory Committee. The WWPF Advisory Committee shall act in an advisory capacity to the WWPF Coordinator and the City, County and DFPD in all matters relating to the Fund. Its duties shall include, but not be limited to, the following:

- A. **Work plan.** Advise and assist with the implementation of the 2021-22 work plan and develop and update the work plan for each subsequent year's targeted projects with specific attention to long-term sustainability of the Fund. Solicit input for such plans from the public, the La Plata County Wildfire Advisory Board, and the City, County and DFPD and their relevant departments and staff. An updated work plan with proposed in-kind contributions and initial budget recommendations shall be made to the City, County and DFPD by the WWPF Advisory Committee and the WWPF Coordinator no later than June 1st and updated not later than September 1st of each year to allow the City, County and DFPD an adequate opportunity to evaluate those requests and to consider the inclusion of the requested funding in the draft budgets of each City, County and DFPD.
- B. **Marketing and public relations.** Advise and assist the WWPF Coordinator in the development of an annual marketing and public relations strategy to promote use of the Fund and its programs and services.
- C. **Grants or other funding opportunities.** Advise and assist the WWPF Coordinator in the application for and receipt from any source gifts, bequests, grants, aid or contributions of money, equipment, services, property, labor, or other things of value to be held, used, and applied to carry out the purposes of Fund. Particular focus should be placed on opportunities that allow collaborative landscape level treatments or the lowering of expenses through the capture of efficiencies not otherwise available through a piecemeal approach.
- D. **Programmatic evaluations.** Advise and assist the WWPF Coordinator in the development of tools to measure the success of sponsored treatment programs and use of Fund revenues. Perform periodic evaluations on at least a yearly basis and

report outcomes to the City, County and DFPD. Develop tools to monitor completed programs. Coordinate monitoring efforts with other initiatives.

- E. Budget. Provide input into the preparation of the annual budget recommendations to the City, County and DFPD for the Fund's operations and provide an annual report to the City, County and DFPD relative to future growth and development of Fund programs and activities, including recommendations for short-term and long-term programs, services, revenue, expenses, staffing, and other relevant matters. Review the WWPF Coordinator's monthly budget report and report of operational activity regarding the Fund.
- F. Policies and procedures. Develop and adopt advisory policies and procedures regarding watershed protection or forest health programs and activities involving the Fund. Set fees and charges for services, programs or facilities provided through the Fund.
- G. Other duties. Perform any such other and further duties and responsibilities consistent with the purposes of the Fund as may be requested or assigned.