

Summary of Discussion on the [Resolution to Protect La Plata County Citizen's Property Rights](#)

On December 4, 2018, the organization of "[Free Counties](#)" presented the La Plata County (LPC) Board of County Commissioners (BOCC) with this resolution during a public hearing in regards to county zoning/planning and how it relates to private property rights of all LPC citizens.

On December 12, 2018 the BOCC discussed the resolution as an agenda item during their "Board Discussion Time" and the audio recording of this session can be found on this [wepage](#). This discussion included Judy Spady providing an overview of the resolution for the record and for the recorded audio session provided to citizens who were not allowed to attend the meeting. The BOCC and the County Attorney discussed some thoughts and concerns about the resolution where they pointed out the following:

Commissioner Westendorff

- Expressed concerns about the resolution needing to be written in a manner that reflects La Plata County needs and those of Colorado instead of being written in a general/national sense.
- Explained how there are parts of the resolution that are consistent with what they value in terms of property rights and she stated that she is "hoping our code can strengthen the property rights, as it relates to certain uses, so that it would add value."
- Wondered if this resolution should be the only "tool" used to protect the citizen's property rights and she suggested that we might want to include this into the Land Use Code.

County Attorney

- Explained that the county doesn't go onto private property for planning purposes unless they have a court order. The only exception is with respect to the enforcement of the state statute on invasive weeds...otherwise, she said that the county would have to have a court order to go onto people's property (even when they fly drones over them). Commissioner Blake expressed his concerns (below) about the assessors who go onto property without permission and then Ms. Rogers confirmed how they would need a court order for anything to do with planning purposes.
- Described how it isn't really her place to comment on but that she just wanted to clarify that the way the state Constitution and statutes work, private property rights, under law, are not the highest priority, they are one priority...but what the land use statutes require is a balancing and weighing of the interest of the community, as a whole, as opposed to an individual and that becomes more of an equal protection thing that even citizens who don't own property have. She said this was an interest that the board has to consider and the statutes also require them to consider different environmental things. She confirmed that none of them would deny the importance of private property rights but to say it's of the highest priority would conflict with state law and the Constitution. She also explained how the current code requires that they give notice to property owners if something is happening in proximity to their property within a certain distance.
- Expressed concerns as far as allowing people to opt out. She said that also becomes an equal protection issue...and so some opting out could run afoul and that the word "infringement" to one might be an advantage to another.

Commissioner Blake

- Pointed out that he has received complaints from citizens about the county assessors going onto people's property uninvited.