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Arapahoe County continues to weigh its options in Appeals Court ruling *The County may file a motion with Court prior to determining how to proceed*

ARAPAHOE COUNTY, CO. ---- Arapahoe County continues to weigh its options in response to the Court of Appeals ruling last Thursday in the case involving the release of 622 e-mails exchanged between Arapahoe County Clerk and Recorder Tracy K. Baker and his girlfriend, who remains his number two in command.

Overall, the County is pleased with the ruling but is considering filing a motion for clarification with the Court of Appeals prior to making a final decision about how to proceed. In addition, the County is evaluating the possible response from the print media, which was a party to the proceeding. The print media, as well as Baker and Leesa Sale, could decide to appeal the decision prior to any remand of the case to district court.

“First and foremost, the Appellate Court decision validates the Board’s action in seeking court guidance prior to releasing the e-mails and related documents regarding the Baker investigation,” said Commissioner Debra Vickrey, who serves as chair of the Board of County Commissioners. “The County followed the law and avoided a potentially expensive lawsuit against the County by Baker and Sale.

“However, the Board appreciates the fact that the Court of Appeals confirmed the e-mails are public record, and that the “elected official correspondence exemption” to the Open Records Act does not protect the e-mails, as Baker and Sale alleged it should. The County also is satisfied the District Court will have an opportunity to re-visit the e-mails individually in light of the findings of the Court of Appeals, and that the possibility remains that many or all of the e-mails will be released.”

The following aspects of the Court’s decision also support the Commissioners’ views concerning the e-mails.

- The Court affirmed Baker and Sale had little, if any, expectation of privacy in the e-mails due to the policies adopted by the County concerning Internet and e-mail use on County systems – policies that

were individually signed by Baker and Sale.

- The Court decided to protect other County employees by ordering their names be deleted from any e-mails that are eventually released.
- The Court indicated the sexually explicit e-mails exchanged by Baker and Sale violated the County's e-mail and Internet policy.
- The Court confirmed there is a compelling public interest in releasing those e-mails that demonstrate why Baker has failed to fire Sale despite allegations of embezzlement in a prior job, and why he has given her significant raises, bonuses, promotions and overtime during the course of their affair.

“Our disappointment is that the citizens of Arapahoe County – Mr. Baker’s employers – must wait longer before the e-mails are released,” Vickrey added.
