

MINUTES OF THE MEETING OF THE  
BOARD OF COUNTY COMMISSIONERS  
GILPIN COUNTY, COLORADO

December 8, 2009

A regular meeting of the Board of County Commissioners of Gilpin County was held on December 8, 2009, at the Gilpin County Old Courthouse. Chair Whitman called the meeting to order at 9:00 a.m. In attendance were Chair Forrest Whitman; Commissioner Jeanne Nicholson and Commissioner Buddy Schmalz; County Manager Roger Baker; County Attorney Jim Petrock; and Sharon Cate, Deputy Clerk to the Board.

The Board of County Commissioners recessed and convened as the Board of Health.

**Assessment of Fine—Violation of ISDS Regulations.** Craig Sanders, Environmental Program Supervisor for the Jefferson County Department of Health and Environment, reported to the Board of Health that he had held an Administrative Hearing and had issued a Cease and Desist Order to Luke Fowler, owner of Parcel 1711-074-00-065, in Carter's Subdivision, for Mr. Fowler's occupation of a "tree house" which does not have an approved individual sewage disposal system (ISDS). The assessment of a daily fine for violation of the Gilpin County ISDS regulations requires the approval of the Board of Health, which Supervisor Sanders requested today. Also, because the structure was built without a building permit, the Community Development Department will likely cite Mr. Fowler for building and zoning violations.

Shanda Johnson, 330 Columbine Lane, spoke as adjacent property owner/resident saying:

- Mr. Fowler is occupying the tree house.
- A gas-powered generator supplies electricity to the structure.
- Human waste has been found on Mr. Fowler's property and on Ms. Johnson's.
- If Mr. Fowler were to apply for a property line setback variance, she hoped it would not be granted.

Wesley Arands of Parker, Colorado, spoke as Ms. Johnson's father and said:

- During his visits to his daughter's home he has witnessed the problems she listed.
- He hopes the County government can bring the structure into compliance with public health regulations or remove it from the property.

Supervisor Sanders explained that today's Board of Health meeting was not a hearing; the Administrative Hearing has already taken place and if today the Board of Health approved a daily fine assessment on the property, Mr. Fowler could appeal the fine. Commissioner Nicholson asked Supervisor Sanders if Mr. Fowler had been notified of the Board of Health Meeting. Supervisor Sanders said Mr. Fowler had not been notified. Commissioner Nicholson said she thought Board of Health action should be taken as soon as possible but did not think it was appropriate to take action before notifying Mr. Fowler of the Board of Health meeting. County Attorney Petrock agreed the agenda item should be tabled until Mr. Fowler can be notified.

Commissioner Nicholson asked Supervisor Sanders to notify Mr. Fowler of the next Board of Health meeting and moved to table until December 15, 2009, the discussion of the assessment of a daily fine for Parcel 1711-074-00-065, in Carter's Subdivision, owned by Luke Fowler. Commissioner Schmalz seconded the motion, which passed by a vote of 3 to 0.

Community Development Director Tony Petersen joined the discussion and said his department had cited Mr. Fowler for three violations and that a 90-day notice regarding occupancy of an unsafe building had been issued. If the County has to assume the task of removing the structure, it will hire someone and the cost of the job will be assessed onto Mr. Fowler's property taxes. Commissioner Schmalz said the public health aspect of the situation was the Board of Health's greatest concern and that having to table the item until the following week did not diminish that concern. County Attorney Petrock asked for clarification on the Cease and Desist Order and the 90-day notice and said he would help insure that the procedures were completed appropriately.

**Individual Sewage Disposal System Regulation Revision.** Craig Sanders, Environmental Program Supervisor for the Jefferson County Department of Health and Environment, presented a timeline to work on some proposed revisions to the Gilpin County Individual Sewage Disposal System (ISDS) regulations, to make them similar to the Colorado Department of Public Health and Environment's septic guidelines and to incorporate technological advances in septic systems. The revision process would involve many stakeholders—engineers, excavators, property owners—and the general public and would likely take 10 to 12 months to complete. Supervisor Sanders also noted that although the State was in the process of updating its current regulations, which could require legislative action over a two-year period, Gilpin County's ISDS regulations would not be in conflict with the State's new regulations if they were revised at this time.

Commissioner Schmalz said he was in favor of revising the ISDS regulations and wanted to involve public and septic system stakeholders. Commissioner Whitman suggested that neighborhood meetings be held to gather public input. Commissioner Nicholson summarized the discussion saying Supervisor Sanders should continue with the revision process using the timeline presented today. She added that because the number of building permits had declined severely and the workload for the Environmental Health staff was down, they would be good resources to help with the revision process.

The Board of Health adjourned and reconvened as the Board of County Commissioners.

**Eagles' Nest Early Learning Center—Land Lease Agreement.** County Attorney Petrock said the final step in the process of transferring ownership of the Eagles' Nest Early Learning Center (ENELC) property from the Gilpin County RE-1 School to Gilpin County was to execute a lease agreement for the land. He advised the Board of County Commissioners on several points in the Lease Agreement and said ENELC had applied for a loan, information on which would be forwarded to him soon. The loan requires that ENELC demonstrate their right to use the property over the term of the loan. County Attorney Petrock said he saw no reason not to approve the Lease Agreement while waiting for the information.

Commissioner Schmalz, the Board of County Commissioners representative on the ENELC Board of Directors, said the ENELC Board was trying to be proactive in their financial actions.

Commissioner Schmalz moved to approve the Land Lease Agreement between the Eagles' Nest Early Learning Center and Gilpin County in the amount of \$1 per year for a period of 15 years. Commissioner Nicholson seconded the motion. Upon advice from County Attorney Petrock, Commissioner Schmalz amended his motion adding "subject to receipt of the pending financial information." Commissioner Nicholson seconded the amended motion, which passed by a vote of 3 to 0.

**5311 Agreement for Gilpin Connector Public Transit Service.** County Manager Baker gave an overview of the 5311 Agreement between the Colorado Department of Transportation (CDOT) and Gilpin County saying the County would receive \$73,000 for the purchase of a new bus for the Gilpin Connector public transportation service from the American Recovery and Reinvestment Act (ARRA) and that it would be administered by CDOT. No matching amount is required from Gilpin County. Gilpin County Road and Bridge Director Earl Robinson will advise CDOT on vehicle specifications to help insure the bus will be durable under the driving conditions in the Gilpin area. The Commissioners agreed the bus chassis should be heavy duty to lessen the potential need for additional maintenance over the long term. CDOT will make the actual bus purchase, which should be delivered sometime during the summer of 2010.

Commissioner Nicholson moved to approve the 5311 Grant Agreement through which Gilpin County will receive \$73,000 in ARRA funds, to be administered by CDOT, exclusively for the purchase of an additional bus for the Gilpin Connector public transportation service. Commissioner Schmalz seconded the motion, which passed by a vote of 3 to 0.

**Planning Commission Resignation.** Commissioner Nicholson moved to accept, with regret, the resignation of Dave Lewis from the Gilpin County Planning Commission. Commissioner Schmalz seconded the motion, which passed by a vote of 3 to 0.

**County Manager Status Report.** County Manager Roger Baker updated the Commissioners on the following items:

Monthly Departmental Reports. The monthly departmental reports that had been submitted were discussed. Commissioner Nicholson requested information on the status of trying to heat the Community Center pools with solar energy; she also said she appreciated Director Petersen's chart regarding new housing construction by year which illustrates the possible need to adjust staff hours when the level of new construction is extremely low. She also noted the number of workers in the Property Tax Work Off Program had increased from two or three a few years ago to 16 this year; the program helps seniors and disabled citizens pay their property taxes while helping some County departments to accomplish extra tasks. Commissioner Schmalz said Colorado Counties, Inc., will sponsor legislation to alleviate the workers' compensation issues within the program.

**Public / Press Comment.** Lynn Volkens of the *Weekly Register-Call* had questions about the grant Gilpin County was awarded for the purchase a new Connector bus; the Board of Directors at the Eagles' Nest Early Learning Center; and the Cease and Desist Order on a structure in Carter's Subdivision, all of which were answered by County Manager Baker, Commissioner Schmalz and County Attorney Petrock.

**Minutes.** Commissioner Schmalz moved to approve the Board of County Commissioners Meeting Minutes for November 24, 2009. Commissioner Nicholson seconded the motion, which passed by a vote of 3 to 0.

**Executive Session/ Adjournment.** Commissioner Schmalz moved to adjourn to Executive Session to receive legal advice on the Dory Lakes Property Owners Association water dispute. Commissioner Nicholson seconded the motion, which passed by a vote of 3 to 0. There being no further business to come before the Board, they adjourned at 10:10 a.m.

Signed this 15<sup>th</sup> day of December 2009