

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

December 15, 2009

A regular meeting of the Board of County Commissioners of Gilpin County was held on December, 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.

**Notice of Public Meetings.** The public meetings in the upcoming week that could be attended by more than one Commissioner and at which public business may be discussed will include:

- The raising of the wind turbine—part of an energy generation demonstration project with United Power and Colorado State University—at the Gilpin County Fairgrounds, December 21<sup>st</sup>, 1:00 p.m.

**Legal Status Report.** County Attorney Jim Petrock advised the Commissioners on the following legal issues:

Dory Lakes Property Owners Association Litigation. The Board of County Commissioners will need to conduct an Executive Session today to discuss the Dory Lakes Property Owners Association litigation.

Brannan Sand and Gravel Company Litigation. Approximately nine months ago, Petrock and Fendel, P.C., assembled the official public record of a quarry application submitted to Gilpin County by the Brannan Sand and Gravel Company (Brannan), which was denied by the Board of County Commissioners on August 18, 2008. Brannan has since filed a motion in District Court asking the Court to require the County to include its recordings of the Commissioners' Executive Sessions in the official public record. The County opposed the motion, which was ultimately denied by Judge Frederic Rodgers. County Attorney Petrock's office is finishing its work on the Commissioners' public record and will file it with the Court soon. That filing begins the period of filing briefs; the Court will set a schedule; the County and the other parties involved will file their responses, after which the Court reviews the record and briefs and could then ask for arguments. County Attorney Petrock said he did not expect the Court to rule on the case until summer of 2010.

**Intergovernmental Agreement—Gilpin Ambulance Authority.** County Manager Baker stated that an intergovernmental agreement (IGA) was needed to transfer the assets from Gilpin Ambulance, Inc., to the Gilpin Ambulance Authority in order to implement the provisions of the Establishing Contract by which the Authority was created. Commissioner Schmalz said a new ambulance would be coming into service and would need to be transferred to the Authority with all of the other vehicles.

Commissioner Nicholson moved to approve the Intergovernmental Agreement between the City of Black Hawk, the City of Central and Gilpin County, effective January 1, 2010. Commissioner Schmalz seconded the motion, which passed by a vote of 3 to 0.

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

**Assessment of Fine—Violation of ISDS Regulations.** County Manager Baker gave a brief history of a case involving violations of the Gilpin County Individual Sewage Disposal System (ISDS) on Parcel #1711-074-00-065, in Carter's Subdivision. On December 8, 2009, Craig Sanders, Environmental Program Supervisor for the Jefferson County Department of Health and Environment, reported to the Gilpin County Board of Health that Luke Fowler has been occupying a "tree house" which does not have an approved ISDS. The assessment of a daily fine for the violations requires the approval of the Board of Health, which Supervisor Sanders requested on December 8, 2009. At that meeting, the Board of Health tabled the item until today to allow time to notify Mr. Fowler that the Board would be meeting today to discuss the assessment of a daily fine against him. Mr. Fowler did receive the notification, but was not present today. County Planner Ray Rears said the property also had numerous building code and zoning code violations and that the Gilpin County Community Development Department had spoken with Mr. Fowler several times, making him fully aware of the violations and possible penalties. He added it was evident Mr. Fowler continues to occupy the tree house. Gilpin County Public Health Coordinator Ann Marie Bailey confirmed that Mr. Fowler was well aware of the County's public health concerns.

Commissioner Nicholson moved to assess a \$50 per day fine for sanitation violations on Parcel #1711-074-00-065, in Carter's Subdivision, effective today, December 15, 2009. Commissioner Schmalz seconded the motion. Commissioner Nicholson said she believed it was appropriate to impose the highest fine possible because County staff has worked closely with Mr. Fowler, but he continued to ignore their warnings about violations and subsequent fines. Commissioner Schmalz said the structure posed serious public health and safety risks, which needed to be addressed quickly. The motion passed by a vote of 3 to 0. County Attorney Petrock stated he would prepare a notice of today's action by the Board of Health.

**Memorandum of Understanding for Local Food Establishment Inspections.** Gilpin County Public Health Agency Coordinator Ann Marie Bailey gave an overview of a proposed memorandum of understanding (MOU) between the Colorado Department of Public Health and Environment (CDPHE) and the Gilpin County Public Health Agency (GCPHA) through which the GCPHA would assume the responsibility for the licensing and inspection of food service establishments; maintaining records of those actions; and adopting a regulatory and enforcement program. Gilpin County contracts with the Jefferson County Department of Health and Environment (JCDHE) for many of its public health services; the licensing and inspection of food service establishments would be added to that list, with the exception of billing the license holders for those services and receiving payments, which would be done by the GCPHA.

Commissioner Nicholson moved to approve the MOU between the Colorado Department of Public Health and Environment and the Gilpin County Public Health Agency, effective January 1, 2010 through June 30, 2014. Commissioner Schmalz seconded the motion, which passed by a vote of 3 to 0.

**H1N1 Influenza Update.** Gilpin County Public Health Agency Coordinator Ann Marie Bailey updated the Board of Health on the status of the H1N1 influenza in Gilpin County citing the number of vaccines that had been administered at three recent daytime vaccination clinics. A fourth clinic for all Gilpin residents—not just those in high-risk groups—will be held at the Gilpin County RE-1 School on December 16, from 3:00 p.m. to 7:00 p.m. to accommodate residents unable to attend during daytime hours. A fifth clinic is scheduled for a Saturday, January 9, 2010, at the School from 10:00 a.m. to 2:00 p.m. Gilpin County contracts with the Jefferson County Department of Health and Environment (JCDHE) for many of its public health services, one of which is the vaccination clinics, through the Jefferson County Emergency Preparedness Office. Coordinator Bailey said only one Gilpin County case of H1N1 had been confirmed and no deaths were reported. She said this probably means there were several cases but laboratory confirmation was not pursued and the unconfirmed cases were not severe enough to require hospitalization. Commissioner Nicholson pointed out that initially, the Emergency Preparedness group would agree to perform the clinics only during daytime hours on weekdays, but Coordinator Bailey pressed Jefferson County to make the services more convenient for our commuter population. Commissioner Nicholson said this issue will need to be discussed with Jefferson County to prevent the same problem from occurring if future pandemic or epidemic events occur. Complete information about the vaccination clinics was posted on Gilpin County's web site and flyers have been distributed throughout the community.

The Board of Health adjourned and reconvened as the Board of Adjustment.

**Variance Request Extension.** BOA #09-02A. County Planner Ray Rears briefly explained the background of a property line setback variance request that had been granted by the Board of Adjustment on August 18, 2009, to Michael Husler for a garage built at 1174 Karlann Drive. The variance had been approved with two conditions, one of which was that a Boundary Line Adjustment or Boundary Line Elimination would be completed by the end of 2009. The bank involved with the property loan has not completed its part of the procedure, necessitating an extension of the recording date. Commissioner Nicholson moved to approve BOA #09-02A, the request for an extension of approval condition #1 of BOA #09-02, to April 1, 2010. Commissioner Schmalz seconded the motion, which passed by a vote 3 to 0.

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

**Treasurer's Monthly Report.** Treasurer and Public Trustee Alynn Huffman reported on operations in the Treasurer's Office for the month of November 2009. She also explained that due to the high number of foreclosures being processed by the Public Trustee's Office, her Third Quarter report would be postponed to a future Board of County Commissioners meeting.

**Annual Liquor License Renewal Application—Mid-County Liquors.** Commissioner Schmalz moved to approve, at the local level, the annual renewal application for retail liquor store license # 12-68962-0000, owned by XTRACT, LLC, at 17270 Highway 119. The renewed license will have an expiration date of February 15, 2011. Commissioner Nicholson 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.

County Manager's Annual Employment Contract Renewal. County Manager Baker stated that the only change to his annual employment contract was the elimination of paragraph #8 regarding the use of a County-owned vehicle, which has been discontinued. Commissioner Nicholson moved to approve the renewal of the employment contract between Gilpin County and Roger Baker, effective January 1, 2010, through December 31, 2010, in the amount of \$105,000. Commissioner Schmalz seconded the motion, which passed by a vote of 3 to 0. The Board of County Commissioners thanked County Manager Baker for his service to Gilpin County.

**Public / Press Comment.** Lynn Volkens, of the *Weekly Register-Call*, asked questions about the County's PILT (Payment in Lieu of Taxes) fund and about the County's legal costs for its defense in the litigation by the Dory Lakes Property Owners Association (DLPOA). County Manager Baker explained how PILT funds are used and that most documents in the DLPOA case were confidential due to attorney/client privilege.

**Minutes.** Commissioner Schmalz moved to approve the Board of County Commissioners Meeting Minutes for December 8, 2009. Commissioner Nicholson seconded the motion, which passed by a vote of 3 to 0.

**Adjournment.** Commissioner Nicholson moved to adjourn to Executive Session to discuss the Dory Lakes Property Owners Association litigation. Commissioner Schmalz 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 \_\_\_\_\_ day of \_\_\_\_\_, 2009

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Forrest Whitman, Chair

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Sharon E. Cate, Deputy Clerk to the Board

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Jeanne Nicholson, Commissioner

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Buddy Schmalz, Commissioner