



**MINUTES OF THE ARAPAHOE COUNTY
BOARD OF COUNTY COMMISSIONERS
TUESDAY, DECEMBER 14, 2010**

At a public hearing of the Board of County Commissioners for Arapahoe County, State of Colorado, held at 5334 South Prince Street, Littleton, Colorado 80166 there were:

Rod Bockenfeld, Chair	Present
Pat Noonan, Chair Pro-Tem	Present
Frank Weddig	Present
Susan Beckman	Present
Jim Dyer	Present
Kathryn Schroeder, County Attorney	Present
John E. Bush, Jr., Deputy County Attorney	Present
Nancy A. Doty, Clerk to the Board	Absent and Excused
Terri L. Maulik, Assistant Clerk to the Board	Present

when the following proceedings, among others, were had and done, to-wit:

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ADOPTION OF THE AGENDA

Kathryn Schroeder, County Attorney, announced there were two Consent Agenda item additions to the Agenda. She said Item 16 was a request from the Clerk and Recorder for an increase of \$31,438 for the contract with Custom Direct, LLP for additional 2010 election mailing costs. Ms. Schroeder stated Item 17 was a request from the County Attorney's office for approval of a waiver of bid to contract with Williams CS, Inc. for property tax appeal consulting services in 2011, in an amount not to exceed \$83,100.

The motion was made by Commissioner Dyer and duly seconded by Commissioner Beckman to adopt the Agenda, as amended, for the addition of Consent Agenda Item 16 regarding a request from the Arapahoe County Clerk and Recorder for an increase of \$31,438 for the contract with Custom Direct, LLP for additional 2010 election mailing costs and Consent Agenda Item 17 regarding a request for approval of a waiver of bid from the Arapahoe County Attorney's office to contract with Williams CS, Inc. for property tax appeal consulting services in 2011, in an amount not to exceed \$83,100.

The motion passed 5-0.

Commissioner Beckman asked if General Business Item E regarding the approval of a Third Amendment to a Final Development Plan (FDP) for Inverness Subdivision, Filing No. 52, Lot 2, Vallagio III could be heard early in the meeting. She stated there was a publication delay and the case is to be continued at no fault of the applicant.

Ms. Schroeder reported the Board of County Commissioners (BOCC) could change the order of the agenda, as desired.

Commissioner Bockenfeld stated he would make that adjustment.

ADOPTION OF THE MINUTES

The motion was made by Commissioner Dyer and duly seconded by Commissioner Weddig to adopt the minutes of the November 2, 2010 Public Hearing as presented.

The motion passed 5-0.

The motion was made by Commissioner Dyer and duly seconded by Commissioner Weddig to adopt the minutes of the November 9, 2010 Public Hearing as presented.

The motion passed 5-0.

The motion was made by Commissioner Dyer and duly seconded by Commissioner Weddig to adopt the minutes of the November 16, 2010 Public Hearing as presented.

The motion passed 5-0.

The motion was made by Commissioner Dyer and duly seconded by Commissioner Weddig to adopt the minutes of the November 23, 2010 Public Hearing as presented.

The motion passed 5-0.

CEREMONIES

Robert Olislagers, Executive Director for the Centennial Airport Authority, presented Commissioner Dyer with a token of appreciation for his service to the Board.

CITIZEN COMMENTS

There were no citizen comments on this date.

CONSENT AGENDA

The motion was made by Commissioner Dyer and duly seconded by Commissioner Noonan to approve the Consent Agenda, as amended, for the addition of Consent Agenda Item 16 regarding a request from the Arapahoe County Clerk and Recorder for an increase of \$31,438 for the contract with Custom Direct, LLP for additional 2010 election mailing costs and Consent Agenda Item 17 regarding a request for approval of a waiver of bid from the Arapahoe County Attorney's office to contract with Williams CS, Inc. for property tax appeal consulting services in 2011, in an amount not to exceed \$83,100.

The motion passed 5-0.

GENERAL BUSINESS ITEMS

Commissioner Bockenfeld determined to take the General Business Items out of order as requested by Commissioner Beckman.

Item E – Resolution No. 101024 - Third Amendment to Final Development Plan, Inverness Subdivision, Filing No. 52, Lot 2, Vallagio III

Jack Bush, Deputy County Attorney, joined the dais as legal council on the matter.

Sherman Feher, Senior Planner, reported the applicant had fulfilled their notice requirements for today's public hearing. However, with apologies to the BOCC and the applicant, Mr. Feher stated he failed to get the public notice into the newspaper in a timely manner, due to the Thanksgiving holiday. He tried to notice in the Denver Post and pay for that out of pocket; however, he would still have been two days short of the noticing requirement. He reported Ms. Schroeder recommended continuing the case until January 4, 2011 to avoid any improprieties.

Commissioner Beckman commented that time is of the essence in these things and suggested the BOCC conduct a special meeting to get this FDP approved.

Commissioner Weddig commented that it's not easy to push up a meeting due to the publication requirements.

Mr. Bush said the FDP must be approved at a public hearing under the Land Development Code (LDC); therefore, it must publish.

Kathryn Schroeder, County Attorney, said the BOCC could choose to proceed today, despite the situation; however, the case could be later challenged.

Commissioner Beckman asked the applicant what his thoughts were on the matter. She said it was important to move this case forward in a timely manner.

Peter Kudla, applicant, stated he understood Mr. Feher felt very bad about the publication issue. While he appreciated the BOCC's willingness to conduct a special meeting, he preferred to continue the case to January 4, 2011, as proposed. Mr. Kudla did not feel there were any controversial issues attached to the FDP approval and expects the case to move through with no issues. He wished everyone happy holidays.

The motion was made by Commissioner Beckman and duly seconded by Commissioner Dyer to continue the public hearing to January 4, 2011, to consider approval of the Third Amendment to the Final Development Plan, Inverness Subdivision, Filing No. 52, Lot 2, Vallagio III.

The motion passed 5-0.

Item A – Resolution Nos. 101025 through 101040 - Adoption of the 2011 Budget and Certification of Mill Levies

Mr. Bush stated pursuant to statute the 2011 Budgets for Arapahoe County (AC), the Arapahoe Law Enforcement Authority (ALEA), the Arapahoe County Recreation District (ACRD), the Arapahoe County Water and Wastewater Public Improvement District (PID), were submitted to the BOCC on October 12, 2010, and at a public hearing, were adopted as Resolution No. 100844. At that time the BOCC established October 26, 2010, at 9:30 a.m., as the public hearing date to allow for citizen comment on the recommended budget (Resolution No. 100875) and further established December 14, 2010, 9:30 a.m., as the date for the adoption of the budget. The October 26, 2010 public hearing was continued until this date; therefore, the BOCC has jurisdiction to proceed.

Todd Weaver, Budget Manager, stated he didn't have a long presentation to give to the BOCC. He provided the BOCC with draft resolutions, copies of which were retained for the record. He reviewed the proposed amounts for revenues and expenditures for all funds, including AC, ALEA, ACRD, and PID.

Commissioner Bockenfeld opened the public hearing.

There were no public comments.

The public hearing was closed.

Mr. Bush asked the BOCC to consider the adoption of the 2011 Budget for Arapahoe County, which resolutions were covered in pages 1 through 10 of the handout.

The motion was made by Commissioner Dyer and duly seconded by Commissioner Weddig to approve the 2011 Arapahoe County Budget as presented.

The motion passed 5-0.

Mr. Bush then asked the BOCC to consider the adoption of the certification of the County Mill Levies to include the General Fund Mill Levy (12.124), Road and Bridge (0.743), Social

Services (1.499), Capital Expenditures Fund (0.583), and the Developmental Disabilities Fund (1.000), which resolutions were covered in pages 11 through 16 of the handout.

The motion was made by Commissioner Weddig and duly seconded by Commissioner Noonan to adopt the Certification of the Mill Levies for the General Fund, Road and Bridge Fund, Social Services Fund, Capital Expenditures Fund, and Developmental Disabilities Fund.

The motion passed 5-0.

Mr. Bush then asked the BOCC to consider the Appropriation of funds for the Arapahoe County Budget, which resolutions were covered in pages 17 through 20 of the handout.

The motion was made by Commissioner Dyer and duly seconded by Commissioner Noonan to approve the Appropriation of funds for the 2011 Arapahoe County Budget.

The motion passed 5-0.

Mr. Bush then asked the BOCC to adopt the 2011 Arapahoe Law Enforcement Authority Budget, approve the mill levy of 4.982, and Appropriate funds for the 2011 Budget, which resolutions were covered in pages 21 and 24 of the handout.

The motion was made by Commissioner Dyer and duly seconded by Commissioner Beckman to adopt the 2011 Arapahoe Law Enforcement Authority Budget, approve the mill levy of 4.982, and Appropriate funds.

The motion passed 5-0.

Mr. Bush then asked the BOCC to adopt the 2011 Arapahoe County Recreation District Budget, approve the mill levy of 0.821, and Appropriate funds for the 2011 Budget, which resolutions were covered in pages 27 through 29 of the handout.

The motion was made by Commissioner Dyer and duly seconded by Commissioner Noonan to adopt the 2011 Arapahoe County Recreation District Budget, approve the mill levy of 0.821, and Appropriate funds.

The motion passed 5-0.

Mr. Bush then asked the BOCC to adopt the 2011 Arapahoe County Water and Wastewater Public Improvement District Budget, approve the mill levy of 18.150, and Appropriate funds for the 2011 Budget, which resolutions were covered in pages 30 through 34 of the handout.

The motion was made by Commissioner Dyer and duly seconded by Commissioner Weddig to adopt the 2011 Arapahoe County Water and Wastewater Public Improvement District Budget, approve the mill levy of 18.150, and Appropriate funds.

The motion passed 5-0.

Mr. Bush then asked the BOCC to authorize the Chair of the Board of County Commissioners to sign the certification of tax levy forms for submittal to the State of Colorado.

The motion was made by Commissioner Noonan and duly seconded by Commissioner Beckman to authorize the Chair of the Board of County Commissioners to sign the certification of tax levy forms for submittal to the State of Colorado.

The motion passed 5-0.

Item B – Resolution Nos. 101042 through 101044 - Certification of Mill Levies for Municipalities, School Districts, and Special Districts for 2011

Mr. Weaver explained staff was actively compiling all the mill levy certification forms for all the municipalities, school districts, and special districts across Arapahoe County (AC). He reported the actual deadline, for the jurisdictions to file the forms, was December 15, 2010. Therefore, he asked the BOCC to adopt these resolutions with data that would be inserted by staff at later date.

The motion was made by Commissioner Weddig and duly seconded by Commissioner Dyer to certify the tax levy of cities and towns, school districts, and special districts for collection by the County Treasurer in 2011, pursuant to C.R.S. 39-1-111.

The motion passed 5-0.

Item C – Resolution Nos. 101045 through 101058 - Adoption of Supplemental Budget Resolutions for Third Quarter, 2010

Mr. Bush said once a budget is adopted, prior to taking the revenues which require supplemental appropriations and/or fund transfers, it is necessary to notice a public hearing on the budget amendments. He reported the notice was published in the December 2, 2010 edition of The Villager; therefore, the BOCC had jurisdiction to proceed.

Mr. Weaver said the 14 resolutions reflect the supplemental appropriation requests recommended by the Executive Budget Committee (EBC) and were presented to the BOCC during the November 16, 2010 study session. He stated the BOCC directed staff to bring the matter forward to public hearing. He provided a short summary of the net impact of the appropriation requests and stated the most significant request involved the transfer of \$2.3 million in excess fund balance from the Social Services Fund to the General Fund.

Commissioner Bockenfeld opened the public hearing.

There were no public comments.

The public hearing was closed.

The motion was made by Commissioner Dyer and duly seconded by Commissioner Noonan to approve the fourteen supplemental appropriation resolutions (Nos. 1 through 14) as

recommended by the Executive Budget Committee and as presented by Todd Weaver at the December 14, 2010 public hearing, for the 2010 Arapahoe County Budget.

The motion passed 5-0.

Item D – Resolution No. 101059 - Third Extension of Time for the Issuance of Temporary Use Permits for Certain Temporary Signs

Tom McNish, Assistant County Attorney, joined the dais as legal council on the matter. He reported the item was considered an administrative matter; therefore, no notice was required.

Ron Hovland, Current Program Manager, said, for the past two years, the BOCC has approved a temporary use permit provision to allow additional signing for businesses located in multi-family residential developments. He stated the allowance was in response to a sour economy. Mr. Hovland said, unfortunately, staff does not see evidence of the recession ending. For these reasons, staff is recommending the BOCC extend the temporary sign provision to May 31, 2011, and then reconsider their position.

Commissioner Beckman asked if staff had received any complaints or voiced concerns regarding the temporary provision.

Mr. Hovland said there have been no concerns or complaints voiced. In fact, the general response from developers and businesses has been positive. He reported staff has not issued many of these permits.

Commissioner Weddig said Arapahoe County (AC) has offered this provision for 18 months. He wondered about the condition of the temporary signs and asked if the older signs were becoming an eyesore due to weathering.

Mr. Hovland explained a couple of the signs had already been replaced due to weathering or other damage. He said those holding the permits have been very cooperative.

The motion was made by Commissioner Dyer and duly seconded by Commissioner Weddig to approve an extension of time for the temporary signs through May 31, 2011.

The motion passed 5-0.

Item F – Resolution No. 101060 - Case No. W10-002, Amend the Land Development Code to Adopt Regulations Restricting Medical Marijuana Facilities within Unincorporated Arapahoe County

Ron Carl, Assistant County Attorney, joined the dais as legal council on the matter. He said the public hearing was properly noticed and was published in both The Villager and I-70 Scout Newspapers; therefore, the BOCC had jurisdiction to proceed. Mr. Carl reported staff was requesting a continuance of this matter to February 29, 2011 (it was later determined 2011 was not a leap year, so March 1, 2011 was offered as the alternate continuance date). He said the Planning Commission (PC) heard the matter and requested additional time in order to learn more

on the subject and make a more educated recommendation. He stated, for these reasons, staff requested a continuance of the public hearing.

Commissioner Bockenfeld opened the public hearing.

James Dirkmaut, 4705 Oakland Street, Denver, said he was there on behalf of several landowners who chose him to speak on their behalf. A letter was sent to the BOCC on December 13, 2010. He stated until the LDC regarding medical marijuana land uses are worked out, agricultural landowners are concerned they may be left behind. He said medical marijuana is emerging as a multi-million dollar industry in Colorado. Mr. Dirkmaut reported, good or bad, House Bill 1284 gave counties the right to opt out of permitting medical marijuana in their jurisdiction. However, many believe that opting out may not be in best interest of AC. The Agricultural landowners he represents would like the BOCC to provide for agricultural uses in the LDC, as opposed to industrial/warehouse uses. He reminded the BOCC that we are still in a recession. Mr. Dirkmaut reported of the 500,000 acres in AC, only 60,000 of those acres are used for farming. He stated the average farm receives about \$200 per acre harvested. He said it would not be a good idea to turn our backs on a new cash crop. He asked the BOCC to give this case full consideration before banning use. He said concerns about safety and storage issues could be worked out. The agricultural land owners would appreciate further discussion/deliberation. He said the medical marijuana industry is expected to fully develop over the next 10 years and to continue to grow. The landowners, he represents, feel AC is behind the times. Further, public opinion is consistently shifting in favor of medical marijuana. Mr. Dirkmaut reported medical marijuana was the number one cash crop in the United States, generating more than \$50 billion a year. He stated public opinion is continually shifting in favor of the issue. He said it wouldn't be proper to dismiss the fact there are a lot of land owners in AC in an agricultural setting who are seeing the warehouse districts and cities benefit from medical marijuana. Mr. Dirkmaut asked the BOCC to consider the agricultural land owners when determining medical marijuana and land use application.

There were no further public comments.

The public hearing was closed.

Commissioner Weddig asked about the status of agriculture land use in the LDC.

Mr. Carl said under the current proposed revisions of the LDC, commercial/agricultural would not be permitted.

The motion was made by Commissioner Weddig and duly seconded by Commissioner Beckman to continue the Public Hearing for Case No. W10-002, to Amend the Land Development Code to Adopt Regulations Restricting Medical Marijuana Facilities within Unincorporated Arapahoe County, to March 1, 2011.

The motion passed 5-0.

COMMISSIONER COMMENTS

Commissioner Beckman acknowledged the finance staff, Executive Budget Committee, Commissioner Weddig, and Commissioner Bockenfeld for the time and effort spent on balancing the 2011 Arapahoe County Budget. She stated it takes a tremendous amount of effort to balance a budget. She directed staff to send out an email to thank budget staff for all their hard work. She wished everyone a happy holiday.

Commissioner Bockenfeld announced that Commissioner-Elect Nancy Jackson was in the audience and that he looked forward to her joining the BOCC in January, 2011.

Commissioner Weddig wished a Merry Christmas and a New Year to all Arapahoe County staff.

There being no other business before the Board, the Chair adjourned the public hearing at 10:09a.m.

ARAPAHOE COUNTY BOARD OF COUNTY COMMISSIONERS

NANCY A. DOTY, CLERK TO THE BOARD
BY TERRI L. MAULIK, ASSISTANT CLERK TO THE BOARD