



**MINUTES OF THE ARAPAHOE COUNTY
BOARD OF COUNTY COMMISSIONERS
April 21, 2009**

State of Colorado, County of Arapahoe. At a public hearing of the Board of County Commissioners for Arapahoe County, Colorado held at 5334 S Prince St. Littleton CO 80166 there were:

Susan Beckman, Chair	Present
Rod Bockenfeld, Commissioner	Present
Pat Noonan, Commissioner	Present
Jim Dyer, Commissioner	Present
Frank Weddig, Commissioner	Present
Kathryn Schroeder, County Attorney	Present
Nancy A. Doty, Clerk to the Board	Absent & Excused
Joleen Sanchez, 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

The motion was made by Commissioner Dyer and duly seconded by Commissioner Noonan to adopt the Agenda as presented.

The motion passed 5-0.

ADOPTION OF THE MINUTES

The motion was made by Commissioner Dyer and duly seconded by Commissioner Weddig to adopt the minutes of the March 17, 2009 Public Hearing.

The motion passed 5-0.

The motion was made by Commissioner Dyer and duly seconded by Commissioner Noonan to adopt the minutes of the April 7, 2009 Public Hearing.

The motion passed 4-0, Commissioner Weddig abstained.

CEREMONIES

There were no ceremonies.

CITIZEN COMMENTS

Larry Shughart, 5888 S. Sherman Way, Centennial, CO said he called the Commissioners' Office yesterday after he had gone to the Colorado Department of Health concerning a complaint he wants to log against the Littleton Emergency Medical Services. He said he was informed that the Commissioners are the ones that grant the license to this organization to function. He read a letter that he wrote to his insurance company about an incident that happened on June 24, 2008, a copy of which has been retained for the file. A copy was also handed to the Chair. The letter read in part, "...During February of '06 I had two heart attacks. On March 6th I had bypass surgery on five arteries, and on April of 2006, I developed a staff infection. I was readmitted to the hospital." The letter further stated that, "On or about 10:30 a.m. on June 24, my son asked me to watch my granddaughter ...Shortly after he left, I heard my granddaughter crying, so...I held her for a few minutes until she stopped crying. When I was putting her back into her crib, she began having a seizure. Her eyes rolled back in her head, she was drooling from the mouth, and she was not responsive. I went immediately to the telephone and dialed 911. The first attempt at calling 911 got a busy; the second attempt got a busy. I made the decision at this point to get her to the fire station on Weaver and Broadway as fast as I could. I took her to my pickup, laid her on the passenger's seat. She was limp like a rag doll. I buckled my seatbelt and put her on my lap and held her as secure as possible. I drove down South Broadway about 70 miles an hour because I didn't know for sure if my granddaughter was breathing or not. When I got to the fire station, I rang the doorbell numerous times but no one responded. I began pounding on the door and yelled 'Help me! Help me!' After five to ten minutes, someone finally answered the door, but by this time I was having severe chest pains and pains in my mouth and neck. I couldn't stand up straight. I felt as if I were having another heart attack. Emergency personnel arrived a few minutes later and administered care to me and my granddaughter. I am grateful for the care we received from the medical personnel. My complaint is that if I was initially able to connect to 911, or if there was personnel available at the fire station to answer the door, then I would not have been put into the stressful situation caused by the chest pains. I do not believe Anthem or myself should shoulder the full responsibility of paying the \$985 charged by the City of Littleton EMS. Why should we be responsible for the failure of the 911 system or the failure of the City of Littleton to properly staff their fire and rescue station...?" Mr. Shughart said his granddaughter could have died and he could have died. He said he also spoke to his city council person, Councilperson Habib, who emailed a copy of this letter to Sheriff Grayson Robinson. He said a copy was also sent to the head of the EMS at Littleton, who never responded. He said, "The Sheriff, in his infinite wisdom, commented that I didn't know how to dial 911", because on the third time, he must have been so upset, he must have set the phone down and connected on the third time because there were six cops sent to his house. He said after that he went to emergency, and the cop had the gall to come and say, "Do I need to be in here", like he had assaulted his granddaughter. He said all he was trying to do was get some help and anyone of the Commissioners would have done the same thing.

Commissioner Beckman said the Board would have some discussion with the Fire District Board.

CONSENT AGENDA

The motion was made by Commissioner Dyer and duly seconded by Commissioner Bockenfeld to approve the Consent Agenda as presented.

The motion passed 5-0.

Commissioner Beckman complimented staff regarding one issue on the Consent Agenda related to temporary signage.

GENERAL BUSINESS AGENDA

Item A – Resolution No. 090344 – General Business: Hills at Cherry Creek, request for Waiver-of-Fees associated with Location and Extent application

Carol Kuhn, Senior Planner, stated that staff has been working on and off with the Hills at Cherry Creek Metropolitan District (HCC). She said the District received a grant from the Arapahoe County Open Space fund. She said the plan was for a basketball court, volley ball court, and fencing for park improvements. She said the fence has been installed and staff worked with them on that. She said at the first pre-submittal meeting staff reviewed the fees associated with the Location and Extent plan (L&E). She said the applicant was not aware that they had to do an L&E. She explained that an L&E is required for all governmental and quasi-governmental projects within Arapahoe County and is required by state statute. She said L&E's have been required in the Arapahoe County Land Development Code since 1986. She said in 2007 the HCC applied for an open space grant, but due to the highly competitive grant cycle, they did not receive the grant request. She said the County held a grant workshop in October of 2007, a representative from the District attended; at that meeting, County staff let all participants know about the fees associated for all governmental and quasi-governmental entities' projects within the County. She said staff also pointed out that there could be additional fees if the project is located within a city's jurisdiction. She said the County's fee schedule was distributed and staff hoped that the message had gotten across. She said later that year, the Board held a study session with Planning staff; the Board decided that all grant applicants must include the fees within the grant application for projects because of a similar situation with the Strasburg Park and Recreation District. She said the HCC applied for and received a grant for 2008 but when they came in for a building permit, they were not aware that they had to do an L&E. She said HCC was told by the Building Division that they had to speak with Zoning, and Zoning told them they had to speak with Planning. She stated that the fees for the L&E could be a maximum of \$13,000; this request did not include the Building Division's plan review fees. She said those fees would be separate and are not part of this request. She said there was another pre-submittal meeting recently and that is when the possibility of asking the Board for a fee waiver was discussed. She said it is possible that the District wants to make changes to their grant, and that would have to be presented to OSTAB (Open Space and Trails Advisory Board). Ms. Kuhn said Larry Jacobsen, on behalf of the District, is present.

Commissioner Bockenfeld said there are amendments to the original plan and that would have to go back to OSTAB. He asked why the District can't ask for these fees to be included in the grant request if they are able to amend the plan.

Ms. Kuhn said that the District is thinking about asking OSTAB to work the fees in. She said Dan Einarsen is present and could elaborate. She said any changes recommended by OSTAB would have to be presented to the Board of County Commissioners.

Commissioner Bockenfeld said there has been extensive discussion about this issue and the Public Works Department is a self sustainable program and functions from fees. He said instead of waiving fees, the fees must be included with the projects and have the projects and fees adequately funded with the money that the constituents earmarked for that purpose.

Ms. Kuhn said that was communicated to the applicant, but the applicant wanted to ask for a waiver.

Commissioner Beckman said she is concerned that this request is ahead of the process. She said the applicant must first have that discussion with OSTAB. She said she would like to hear from Mr. Einarsen.

Dan Einarsen stated that this was the second proposal that came from the Hills at Cherry Creek for this project. He said in 2007, HCC applied for a grant to do the fence replacement, the basketball court, and a volley ball court; that particular grant proposal was not funded. He said the District returned in the 2008 cycle and proposed the same project with the same budget. He said during that time, staff hosted a workshop in October of 2007, which was the first grant workshop. He said one reason the workshop was created was to inform potential grant applicants about anything that they needed to pay attention to because of the experience with the recreation district in Strasburg. He explained that the Strasburg plan failed to include building and engineering fees and after Strasburg Parks and Recreation was awarded the grant, they realized that they had some planning issues and the L&E plans had to be submitted. He said based on that experience, staff decided it was important to build into the grant application materials and into the workshop a section that dealt with planning and putting together a good budget. He further stated that Ms. Kuhn was at the workshop and she handed out the County Planning and Engineering fee structure and told the applicants that they had to have a pre-submittal meeting. He said that was not built into the budget in this case and staff did not call the metro district at that point and time to review that missing item. He said staff didn't realize that line item was missing but wasn't looking for it either. He said now, staff does look for that and in the future, there must be a line item in the suggested budget page. He said this issue would only come up when an entity is not working through its own city to get the permits. He said the lack of an estimate for these fees came to the applicant's attention when the applicant came to the County, knowing that they had to follow through. He said the applicant requested a waiver and staff told them that the request would have to be presented to the Board. He said the applicant has also proposed a change in scope to the plan to eliminate the volley ball court in favor of a putting green. He said it is clear in the IGA (intergovernmental agreement) that any change to the project must be pre-approved by the County and the IGA would have to be amended. He said the proposal to change of scope and restructuring the budget to include the fees under the County grant and charge it to the grant is coming to OSTAB on April 27th. He said HCC also wanted to ask for a waiver of fees from the BOCC. He said there are two separate issues, but the IGA addresses the fact that the County does not pay for cost overruns and that any changes to the scope of the project must be pre-approved.

Commissioner Bockenfeld said if there is a city grant program, and the city has fees associated with the planning and development of a park, that the city's fees should also be rolled into the grant, not just the County's. He said one of the alternatives is that the BOCC could postpone this meeting and give time to the applicant to go back to OSTAB and ask for amendments and inclusion of these fees. He said since it is the Board's intention to do this forward, he doesn't know why the Board wouldn't try to accommodate the constituents and try to work through these issues at the OSTAB level, then bring it back to the Board for approval.

Ms. Kuhn explained that the applicant doesn't want to change their budget if they don't have to and decided to ask the Board to waive the fees, then the change in scope would be presented to OSTAB rather than presenting both. She said that is why this request was brought to the Board first. She said the applicant is present and could add insight.

Larry Jacobson, 6270 S. Carson Street, Centennial, stated that he is the president of the Hills at Cherry Creek Metro District. He said he is confused after listening to the background. He said he doesn't want to take up the Commissioner's time if it isn't necessary. He said he is not sure of what the OSTAB process is. He said this is a citizen board and every board member is a volunteer, and the members are not well versed in this process.

Commissioner Beckman said the Board doesn't waive fees, so it would be better to move forward to the OSTAB group. Commissioner Beckman said it might be beneficial to have OSTAB make some policies to look for unknown costs for citizen boards.

Mr. Jacobson suggested that this remain as an open agenda item; he would speak with staff to get a better understanding of the process.

Commissioner Bockenfeld supported a continuance instead of a denial because if the request is denied, “the door is closed” and he would like to see this request come back to the Board through the appropriate process.

Commissioner Weddig agreed and said it sounds like this case is still being sorted out and he doesn’t want to lose an opportunity to do something.

Commissioner Beckman said it is important for OSTAB to understand that the Commissioners are not likely to waive a fee and take it out of the Public Works Department. She said there is a self sustaining funding stream. She speculated that it would be a hard sell to have this Board waive fees.

The motion was made by Commissioner Dyer to continue this request for a waiver of fees to a date to be determined by the parties involved.

Seconded by Commissioner Bockenfeld.

The motion passed 5-0.

COMMISSIONER COMMENTS

Commissioner Bockenfeld discussed tax incremental financing (TIF), which is an issue that he has been working on at the capital. He said Colorado Counties, Inc. (CCI) is involved in House Bill 1327, and is trying to even up a playing field for tax incremental financing going forward. He said tax incremental financing has been growing to the tune of about 18% per year and is robbing revenues from the counties and school districts, which are being backfilled by the State government, which hardly has revenues to be backfilling much of anything going forward. He said the projections by CCI show that, if we continue on this path for the next two years, it could grow to a backfill of \$300 million from \$50 million. He said there is also about \$65 million in revenue that is not going to special districts in counties because of TIF. He said the TIF has been around for a number of years but it is the current abuses that have occurred over the past few years that have multiplied substantially. He said some of those abuses cram down the assessed value of those particular projects, several years before the planned TIF to reset the base, so that the base is at a very low level. He said most recently there is raw land and agricultural land TIF. He said these are revenues that are being robbed from the school districts and the counties, which provide the health, safety, and welfare function of government. He said it is very important that we get involved in these issues and that we plan for the future. He said it is sustainability of the long-term sustainability of county government financing that’s in jeopardy at this point. He said we have no other option. He said if TIF continues and these abuses continue down the road that they’re at, other than go back to our tax payers and raise taxes, and raise property taxes, which is not economic development, that’s what drives commercial development away from this state, when we are raising taxes. He asked that this issue be looked at, that it be studied well. He said there are some projects coming forward to the Board and he hopes that each Board member will use the necessary insight to make sure that this is really long term and the best interest of all Arapahoe County citizens for sustainable funding of this County government.

Commissioner Dyer commented that he had the opportunity to meet with Representative Coffman. He said they were after “above the line” financing earmarks, which have been refined to the point that they are not actually earmarks. He said there is a formula that our lobbyist discussed that it comes down to a percentage vote what has already been provided, which vets certain projects. He said that project list is given to the representative of that congressional district from which he makes a selection. He said it is very direct. He said Representative Coffman committed that he would seek that financing for Arapahoe and I-25 and for Santé Fe and C-470. He said that is great news for the county and is great news for Douglass County.

There being no other business before the Board, the Chair adjourned the hearing at 10:00 a.m.

ARAPAHOE COUNTY BOARD OF COUNTY COMMISSIONERS

**NANCY A. DOTY, CLERK TO THE BOARD
BY JOLEEN SANCHEZ, ASSISTANT CLERK TO THE BOARD**