



**MINUTES OF THE ARAPAHOE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
TUESDAY, OCTOBER 20, 2009**

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:

<b>Susan Beckman, Chair</b>	<b>Present</b>
<b>Jim Dyer, Chair Pro Tem</b>	<b>Present</b>
<b>Rod Bockenfeld</b>	<b>Present</b>
<b>Frank Weddig</b>	<b>Present</b>
<b>Pat Noonan</b>	<b>Present</b>
<b>Kathryn Schroeder, County Attorney</b>	<b>Present</b>
<b>John E. Bush, Jr., Deputy County Attorney</b>	<b>Present</b>
<b>Nancy A. Doty, Clerk to the Board</b>	<b>Absent &amp; Excused</b>
<b>Terri Maulik, Assistant Clerk to the Board</b>	<b>Present</b>

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

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ADOPTION OF THE AGENDA**

County Attorney Kathryn Schroeder requested that the Board consider amending the agenda to add Consent Agenda Item 13 - Bid Waiver for COPLINK as reviewed and approved for agenda placement during the October 5, 2009 Board Study Session.

Deputy Attorney Jack Bush also recommended the agenda be amended to include Board consideration of the engagement of Sherman & Howard, LLC as bond and special counsel for the Arapahoe County Water and Wastewater Public Improvement District.

Commissioner Weddig asked that consideration of the engagement of Sherman & Howard, LLC be added to the agenda as General Business Item B.

**The motion was made by Commissioner Dyer and duly seconded by Commissioner Weddig to adopt the Agenda as amended.**

**The motion passed 5-0.**

## **ADOPTION OF THE MINUTES**

There were no minutes to adopt on this date.

## **CEREMONIES**

There were no ceremonies on this date.

## **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.**

**The motion passed 5-0.**

## **PUBLIC COMMENTS**

Commissioner Beckman said that she wanted to point out to those in the audience that the Board approved an incentive payment agreement with Pulte Mortgage (Pulte). She identified former Commissioner Lynn Myers, along with David Hersche, who was in attendance. Commissioner Beckman asked Ms. Myers and Mr. Hersche if they would like to say a few words.

Lynn Myers, Southeast Business Partnership (SBP), 304 Inverness Way South, Englewood, Colorado 80112, addressed the Board. She introduced David Hersche, Vice President of Facilities for Pulte Mortgage. Ms. Myers reported that SBP is delighted that Pulte has chosen Arapahoe County for a major expansion. She further stated that Pulte has constructed a new building and the address is 7390 S Iola in the Inverness Business Park. She said that Pulte performed their dedication and ribbon cutting ceremonies on December 17, 2008. Ms. Myers reported that Pulte was very complimentary regarding working with Arapahoe County on their new facility. She said the facility is approximately 95,000 sq. ft. It is a beautiful, state-of-the-art operation. She further stated that half of the facility's staff is moving into the new building this week and the other employees have already moved in. She said that Pulte has already hired 105 employees and their wages are well above the Arapahoe County average. Ms. Myers stated that the financial services industry is a key industry for the SBP and Arapahoe County. She said they have had some challenges during the current economic times. Ms. Myers is pleased that the County stepped forward to support Pulte's growth and hopes that Pulte will bring other company divisions to this great facility. She thanked the Commissioners and stated that it had been a pleasure to work with Mr. Hersche and his team.

Commissioner Dyer congratulated Ms. Myers on a good job. He welcomed Mr. Hersche and said the Commissioners love to see this kind of thing in Arapahoe County. He further stated the number of employees, payroll, and 95,000 sq. ft. warms his heart. Commissioner Dyer said the Commissioners welcome Pulte's participation in Arapahoe County and the Board will do

everything possible to make Pulte's stay smooth, successful, and pleasant. He said he would do all that he can to make their stay a successful one.

## GENERAL BUSINESS AGENDA

### **Item A – Resolution No. 090813 - Case No. W09-008, Land Development Code Amendment, Section 1-4100, Small Wind Energy Conversion Systems**

Attorney Tom McNish stated the Board has jurisdiction to hear the case.

Sherman Feher reported to the Board that Case No. W09-008 is the first of a number of minor revisions to the Land Development Code (LDC) over the next few months, per the study session held a week ago. He further stated that this revision will be followed by a four-phase overhaul of the LDC over the next couple of years. Mr. Feher explained that the majority of Section 1-4100 of the LDC will remain the same with regards to intent; however, most of the LDC revisions are being made to create consistency and clarification to the code, as well as to update the section. He further stated that the most substantial change to the LDC is in reference to the maximum permissible noise levels. The changes will be consistent with Colorado Revised Statutes. Mr. Feher explained that the reason for the change was, as currently constituted in our LDC, the maximum permissible noise level is at 40 decibels. He said there are some areas of our County where the ambient noise, along major arterials, is louder than 40 decibels. Mr. Feher stated that the Planning Commission wants to make the change more enforceable on that basis; therefore, staff and the Planning Commission is recommending Board approval of the LDC Amendment, with one condition.

Commissioner Weddig asked what the State level for noise decibel is.

Mr. Feher explained that the state statute decibel levels are varied and are based on time frame, whether it is during the day or evening, and is further based on land use, whether it's residential, commercial, or industrial. He said depending on these variables the decibel level may increase or decrease accordingly.

Commissioner Weddig commented that the State is ahead of the County on refining the allowable decibel levels because the County should already have a day/night difference. He recognizes that a wind turbine could end up in somebody's back yard and he is concerned with the neighbor who might be facing the turbine. Mr. Weddig further stated that it sounds as if the Planning Commission has taken care of the issue in the proposed amendment to the LDC.

Commissioner Beckman opened the Public Hearing. There were no community comments. The Public Hearing was closed.

**The motion was made by Commissioner Dyer and duly seconded by Commissioner Weddig in the case of W09-008 – Land Development Code Revision, Small Wind Energy Conversion Systems, Section 1-4100, that the Board finds itself in agreement with staff findings one (1) through three (3) including all plans and attachments as set forth in the staff report dated September 16, 2009 and approve this case, subject to the following condition of approval:**

**1. All minor modifications to the text will be done prior to incorporation into the Land Development Code.**

Commissioner Beckman said that 40 decibels, out in the middle of the eastern plains, is a lot of noise. She said that level is not as noisy in the city.

Mr. Feher said he is not a noise expert but he thinks that under certain circumstances 40 decibels could be a fair amount of noise. He said that is what the current regulations state. He further stated that one of the problems was that the County doesn't have a way of enforcing the noise code. He said the County does not have a noise meter to accurately measure the decibels, nor do we have the staff to police the problem. He stated that by getting in-line with the Colorado Revised Statutes, the County, if necessary, can call on the State Department of Public Health and Environment to go out and measure noise. Mr. Feher said he believes the noise decibel range, depending upon land use and whether it is night or day, is somewhere in the neighborhood of 50 to 65 decibels.

Commissioner Beckman stated that there has been a lot of discussion about wind farms in the eastern plains. She stated that 65 decibels in the city or an urbanized area is alright, but 24 hours of 50 decibels in the middle of the plains would sound like war. She said if you have absolutely no noise and you introduce 50 decibels it is extremely loud. Commissioner Beckman explained that if you're in the city with background noises such as cars, highways, etc., 65 decibels is not an issue. She stated further that these windmills could start show up in the eastern plains and then the County could be involved in property line issues.

Mr. Feher explained that this amendment refers to small wind energy conversions. He said that a wind farm is dissimilar to what we're talking about today. Further, wind farms are governed under different decibel restrictions. He stated that wind farms are not covered under this code.

Commissioner Beckman clarified that she was speaking of a single wind turbine.

**The motion passed 5-0.**

**Item B – Resolution No. 090814 – Engagement of Sherman & Howard, LLC for Legal Services as Bond and Special Counsel for the Arapahoe County Water and Wastewater Public Improvement District.**

Commissioner Weddig asked if Deputy Attorney Jack Bush if as a member of the Arapahoe County Water and Wastewater Public Improvement District (PID) Board, by virtue of being on the Board of County Commissioners, they have the authority to say no.

Mr. Bush explained that as the ex officio Board of Directors of the PID the Commissioners wear a different hat. He said the goal of the PID Board is to ask themselves if the action is in the best interest of the residents and tax payers of the PID. Mr. Bush said in relation to that, the PID is basically a financing mechanism for the Arapahoe County Water and Wastewater Authority (ACWWA). He further stated that ACWWA is the water service provider and does not have the ability to tax. He explained that ACWWA is the manager in relation to any funds provided from the PID with regard to capital construction. Mr. Bush reported that ACWWA handled the last three previous bond issues without any negative impact. In fact, ACWWA has managed all their previous projects well. He stated that this project is a continuation of the initial allocation that

the voters approved for capital projects for the PID. Mr. Bush stated further that Gary Atkin had confirmed in a previous meeting that the project would be a benefit to the District and to the people who receive the water. Mr. Bush said the intent of the project is to provide water that will come from a renewable source as opposed to groundwater. He said that most people agree that renewable water is better than groundwater for service to the people who need that water service.

Commissioner Weddig said the Board understands what needs to be done. He further stated that the Commissioners rely on the testimony of the ACWWA Board and Manager, as well as financial information, which was provided previously in a study session, to make a sound decision. He stated further that the plan appears to be financially workable.

Mr. Bush said there was previous documentation provided to the Board that indicated what the projected mill levy would be, for the residents of the area, based on a projected 3% annual growth. He said that this is a reasonable projection. Mr. Bush reported that there are two financial advisors in the County's Finance Department that will review all financial documents associated with this transaction. He further stated that he will be involved with legal review as well. Mr. Bush said that he is not a water provider so he is also relying, in good faith, on the ACWWA Board for their determination. He believes that renewable water is appropriate and that this is a project that will deliver renewable water to the people who are served by ACWWA.

Commissioner Weddig said that when 3% compounds over 25 years there is huge growth and revenue potential.

Mr. Bush said the 3% shows doubling in approximately 24 years, whereas the assessed value over the last ten years has doubled in value already.

Commissioner Weddig said that seems like a reasonable risk.

**The motion was made by Commissioner Weddig and duly seconded by Commissioner Dyer that the Board approve the engagement of the law firm Sherman & Howard, LLC for legal services as bond and special counsel for the Arapahoe County Water and Wastewater Public Improvement District. The Board further agrees that the Chair be authorized to sign the engagement letter.**

**The motion passed 5-0.**

## **COMMISSIONER COMMENTS**

Commissioner Beckman stated that yesterday she spoke to the Board of County Commissioners about writing a letter on behalf of Burt Chevrolet in Littleton. She said there have been many country-wide dealership agreement terminations, to alleviate financial commitments and to better supply the decrease in demand, with General Motors (GM). She further stated that one of our leading minority-owned businesses in the United States, and an icon in the community since 1939, with over \$2 Billion in sales last year alone, was targeted by GM for closure of two key dealerships. Further, the dealership was given no explanation as to why they were being closed down. Commissioner Beckman explained that the Littleton dealership has been a state leader in automotive sales for years while the Parker location is a 3-year old, state-of-the-art facility that has exceeded sales objectives. She reminded the Board that she had asked if she could write a

letter, as Chair of the Board to our legislators, asking that they persuade the GM leadership to reconsider their decisions. She said the discussion included consideration of all the other car dealerships in Arapahoe County who may be adversely affected by GM's actions. Commissioner Beckman reported that she will write the letter as a District 1 Representative County Commissioner and not as the Chair of the Board. She said her letter will not include any other dealerships. Commissioner Beckman said that this has a huge economic impact to the County. She further stated that she has known Lloyd Chavis for many years and worked with his family as part of the Metro Chamber and in the business community. She said she will provide copies of the correspondence she writes to the Commissioners, and if they want to add on to the letter, and write their legislative representatives about the dealerships in their Districts, then that would be appropriate. Commissioner Beckman will sign the letter as Susan Beckman from District 1, not as Board Chair. She said that she does not know what kind of research would have to be done with regard to the other dealerships that have been mistreated by GM. Further, Commissioner Beckman stated that she knows this family personally and that she hopes Commissioner Dyer will join her in signing the letter.

Commissioner Dyer said it is outrageous that when you try to contact GM, which is owned by the U.S. Government, the Canadian Government, the labor unions, and a few lucky bond holders that you cannot get them to answer phone calls or letters. He wants to know why an institution, which has been successful in this area for so long, is being adversely affected by GM's decisions. He said it is an outrageous slap-in-the-face of the District. He further stated that GM has elected not to talk to the elected officials of the District for which payroll will be affected, the congress will be affected, and the tax base will be affected. Commissioner Dyer said that GM is a government-run organization and for GM to continue to ignore stock holders, tax payers, and others who are affected by their business decisions, is a bad sign of the state of our Government. He said that he wants these bad business practices stopped. Commissioner Dyer stated that while he feels the Board may not be successful in making a change, he wants the voices of those affected by GM to be heard.

Commissioner Weddig asked if Commissioner Beckman was telling the Board about the letter as an informational piece.

Commissioner Beckman responded in the affirmative. She said that the Board had a discussion yesterday that there were concerns about other dealerships. She stated that the family deserves to have a letter written from her, and Commissioner Dyer, as their District Representatives. Commissioner Beckman said that instead of making the letter much broader, to include all the other the dealerships along Colfax, she is going to write a dealer-specific letter from herself as a Commissioner.

Commissioner Weddig asked if letters, with the Board's title as Commissioners, supporting private businesses is permissible. He said he was not aware of this occurring in the past.

Commissioner Beckman responded that Commissioner Weddig may do whatever he wants as an individual Commissioner. She can write a letter if she wants and to do so does not require Board approval. In fact, Commissioner Beckman suggested that the entire Board may want to consider writing letters for the dealerships in their Districts. She said that the Littleton dealership has been a leader in the state and GM has not given them a reason for the closure. She believes that this is something the congressional delegation needs to hear about from elected officials. Commissioner Beckman further stated that writing a letter is appropriate and that she plans to

join forces with other business leaders who support this family. She said GM has treated the Chavis' poorly.

Commissioner Dyer explained that GM is owned by the governments of two countries, labor unions, and bond holders. He further stated that the Chief Executive Officer was hand picked by the administration. He said this is a sorry way to treat people when they are trying to create jobs in an economic downturn.

Commissioner Weddig asked for clarification and gave the example of the Aurora Chamber of Commerce. He said that the Chamber occasionally requests letters of endorsement. At times a business, who is part of the Chamber, wants a letter written on behalf of a cause. He asked if there was any protocol that prevents the Commissioners from doing this.

Commissioner Beckman responded by saying that she was not writing on behalf of the South Metro Chamber of Commerce. She said she is writing the letter as a District 1 Commissioner Representative, who knows a business man, who has just had his life's work ripped out from under him. Commissioner Beckman stated that when the Board spoke on this topic yesterday the other Commissioners were concerned about the dealerships as well. She further stated that this is not a politically-motivated issue. She said the Commissioners must look at how this action affects jobs and growth in our County. Commissioner Beckman stated that the Commissioners should request that their legislators ask GM to reconsider their decision(s). She further stated that writing a letter is absolutely appropriate; however, she does not have the time to look at the magnitude of the effects of GM's actions on a county-wide basis. Therefore, Commissioner Beckman stated that she will write her own individual letter and give the other Board members a chance to make additions if they choose.

Commissioner Weddig thanked Commissioner Beckman for the clarification.

**There being no other business before the Board, the Chair adjourned the public hearing at 9:58 a.m.**

## **ARAPAHOE COUNTY BOARD OF COUNTY COMMISSIONERS**

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