

**RESOLUTION NUMBER 22-44**

**BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF GILPIN**

**DISCHARGING WEEKLY REGISTER-CALL FROM ALL DUTIES AS LEGAL NEWSPAPER OF RECORD FOR THE COUNTY OF GILPIN**

**WHEREAS**, C.R.S. §24-70-103, requires any and every legal notice and advertisement be published in either a daily, triweekly, semiweekly, or weekly newspaper of general circulation, published or printed in whole or in part in the county in which such notice is required to be published; and

**WHEREAS**, C.R.S. §24-70-103(1) requires the newspaper in which any legal notice is published to have been published in any such county continuously and uninterrupted during the period of at least fifty-two consecutive weeks prior to the first issue containing such notices or advertisements if the paper is published weekly; and

**WHEREAS**, C.R.S. §24-70-102 requires that a publication be admitted to the United States mail with periodicals mailing privileges to be a legal publication; and

**WHEREAS**, C.R.S. §30-15-405 regarding publication of ordinances requires that any ordinance must be published in a newspaper having general circulation within the limits of the County in which such ordinance effects; and

**WHEREAS**, the Weekly Register-Call and Mountain-Ear are legal publications published in whole or in part in Gilpin County and both meet the legal requirements to serve as our local newspaper of record; and

**WHEREAS**, the Weekly Register-Call and Mountain-Ear are weekly newspapers published and circulated in Gilpin County, Colorado, and have been for at least fifty-two consecutive weeks which meets the necessary publication and mailing requirements as established by Colorado Statute; and

**WHEREAS**, the Gilpin County Board of County Commissioners ("Board") designated both Weekly Register-Call and Mountain-Ear as Gilpin County's Newspapers of Record on January 18, 2022 with the best interest of the citizens of Gilpin County in mind. Their intent being that by designating two newspapers of record that there would be more outreach to the community. The Board agreed during the January 18, 2022 meeting that the 2022 year is a trial year for this arrangement, following previous meetings and discussion and that additional costs and staff impacts would be considered if having two newspapers of record were to continue; and

**WHEREAS**, since the dual designation, it has become apparent to Gilpin County employees, elected officials, and the general public that the cost, quality, and efficiency of the two newspapers differ drastically from one another; and

**WHEREAS**, as of November 28, 2022 Gilpin County has spent a total of \$23,499.53 on publications between the two newspapers. \$18,891.65 to Weekly Register-Call and \$4,607.88 to Mountain-Ear. All publications required by statute were published in both newspapers. These figures illustrate publication costs are costing the County on average, over four times more to publish with Weekly Register-Call than the Mountain-Ear; and

**WHEREAS**, there is a significant cost difference between the two newspapers with 80.4% of newspaper costs paid to Weekly Register-Call to date, and the Board of County Commissioners are charged to serve as fiscal stewards of limited public funds; and

**WHEREAS**, Weekly Register-Call failed to publish two separate ordinances, which resulted in a delay of adoption of said ordinances and additional costs and staff time to remedy the oversight; and

**WHEREAS**, Weekly Register-Call has had several changes, typos, and errors in their publications which varied from the notices provided to them by Gilpin County staff, which has caused greater demands on limited staff time to review the publications to ensure accuracy; and

**WHEREAS**, Weekly Register-Call charges more for their public and private pay publications than Mountain-Ear; and

**WHEREAS**, Weekly Register-Call has been informed of these issues by staff and by the Board of County Commissioners during a public meeting held on August 9, 2022; and

**WHEREAS**, Weekly Register-Call has billed Gilpin County in excess by mistake on occasion which in turn results in additional staff time to remedy this billing error. A detailed account of some of these happenings is memorialized in the August 9, 2022 Staff Report, which was presented to and discussed by the Board of County Commissioners, is attached hereto as Exhibit A; and

**WHEREAS**, Staff continue to report high costs and customer service issues remain following the August 9, 2022 discussion, and

**WHEREAS**, County staff continue to report that having two newspapers of record causes a greater burden on them and delays in process due to two sperate processes and deadlines required by having both; and

**NOW THEREFORE**, be it resolved by the Board of County Commissioners as follows:

1. The Board finds that the benefit of more outreach no longer justifies the additional cost to the County, our taxpayers, the additional staff time demands associated with two newspapers of record for Gilpin County and hereby declares that Weekly Register-Call is hereby discharged effective immediately from all duties as legal newspaper of record for Gilpin County government and hereby further declares the Mountain-Ear as the sole designated legal newspaper of record for Gilpin County government.

ADOPTED this 20<sup>th</sup> day of December, 2022, by a vote of 2 to 1.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF GILPIN COUNTY

Margaret Keller  
Deputy Clerk to the Board

Sandy Hollingsworth  
Sandy Hollingsworth, Chair

ACKNOWLEDGMENT

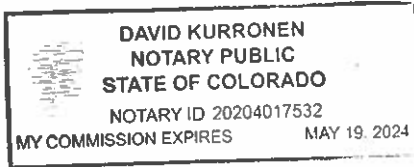
STATE OF COLORADO )  
  ) ss  
COUNTY OF GILPIN )

The foregoing Resolution was acknowledged before me this 20 day of December, 2022 by Sandy Hollingsworth, Chair, and Margaret Keller, Deputy Clerk to the Board, County of Gilpin.

My commission expires: 5-19-2024

Witness my hand and official seal.

D. Kurronen  
Notary Public



## AGENDA ITEM

### Staff Report

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**TO:** Board of County Commissioners  
**FROM:** Ray Rears, County Manager  
**CC:** Brad Benning, County Attorney  
**DATE:** August 9, 2022  
**ITEM:** Failure to Publish Notices, the Weekly Register Call  
**NEXT STEP:** Informational only

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- ORDINANCE
  - MOTION
  - INFORMATION
- 

**I. REQUEST OR ISSUE:**

It has recently come to our attention that the Weekly Register Call (WRC) has failed to publish a number of public notices over the past several months. A number of public notices sent for publication, as required by state law and/or county code were not published and therefore not made public. As a result, public hearings have been continued and/or republished to ensure proper notice to the public of Board of County Commissioners (Board) action.

**II. BACKGROUND:**

On January 4, 2022, the Board discussed their list of annual appointments. During that meeting a discussion ensued regarding considering which newspaper should be the Newspaper of Record of either the Weekly Register-Call and/or the Mountain-Ear.

On January 14, 2022, the Board held a public work session to hear input from both newspapers, which included prior legal opinions on each newspaper's eligibility to be appointed as a jurisdiction's newspaper of record and on a jurisdiction appointing two newspapers.

On January 18, 2022, the final decision was made to appoint both the Weekly Register-Call

and the Mountain-Ear the newspapers of record for 2022, as a trial arrangement, with additional costs and staff work to be considered.

On May 25, 2022, Director of Community Development Robert Gutierrez submitted to the Weekly Register-Call and the Mountain-Ear requests to publish notice of a Public Hearing on July 5, 2022 for Temporary Use Permit (TUP) 22-05, Central City Cemetery Crawl. Notice of the Public Hearing for TUP 22-05 was published in the June 2 issue of the Mountain-Ear. The Weekly Register-Call did not publish the requested notice of the Public Hearing for TUP 22-05.

On June 22, 2022, Director Community Development Robert Gutierrez followed-up with the Weekly Register-Call after it was discovered by County staff that the notice had not been published. As a result of this failure to publish, the Public Hearing for TUP 22-05 was postponed until the August 2, 2022 Regular Meeting.

On July 6, 2022, Paralegal Sarah Baciak submitted to the Weekly Register-Call and the Mountain-Ear requests to publish notice of Public Hearing on August 2, 2022 for the Second Reading of Ordinance 22-01, Concerning the Restriction of Open Fires, Fireworks, Public Displays of Fireworks, and Use of Combustible Devices, and Ordinance 22-03, Establishing a Licensing Authority to Regulate Massage Businesses. Notice of the Second Reading of Ordinance 22-01 was published in the July 14 issue of the Mountain-Ear and the July 14 issue of the Weekly Register-Call. Notice of the Second Reading of Ordinance 22-03 was published in the July 14 issue of the Mountain-Ear. The Weekly Register-Call did not publish the requested notice of the Second Reading of Ordinance 22-03.

On July 6, 2022, Paralegal Sarah Baciak submitted to the Weekly Register-Call a request to publish notice of Public Hearing on August 9, 2022 for the Second Reading of Ordinance 22-02, Prohibiting Firearms in All County Buildings. Notice of the Second Reading of Ordinance 22-02 was published in the July 14 issue of the Mountain-Ear. The Weekly Register-Call did not publish the requested notice of the Second Reading of Ordinance 22-02.

On August 3, 2022, it was discovered again by County staff that the Weekly Register-Call had failed to publish notice of the Public Hearing for the Second Reading of Ordinance 22-02 and the Second Reading of Ordinance 22-03. As a result of this failure to publish, the Public Hearing for the Second Reading of Ordinance 22-02 will be opened and continued to the September 6, 2022 Regular Meeting. Since Ordinance 22-03 was not properly noticed in both Newspapers of Record, its approval during the August 2, 2022 Regular Meeting is suspended pending a repeat of the process. This new hearing is also scheduled for the September 6, 2022 Regular Meeting.

### **III. RECOMMENDED ACTION / NEXT STEP**

Informational only. Staff is requesting direction from the Board.

**IV. FISCAL IMPACTS:**

Year-to-date, Gilpin County has paid to the Weekly Register-Call \$6,020.53 in publishing fees. Year-to-date, Gilpin County has paid to the Mountain-Ear \$1,366.88 in publishing fees. The Weekly Register-Call has indicated that we will be required to pay the full publishing cost. Gilpin County will also incur additional costs due to the need to re-publish notice in the Mountain-Ear.

**V. LEGAL ISSUES:**

Previously discussed with the Board.

**VI. CONFLICTS OR ENVIRONMENTAL ISSUES:**

None.