

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

September 8, 2020

A regular meeting of the Board of County Commissioners of Gilpin County was held on September 8, 2020, in an online format; no physical meeting was held. Chair Gail Watson called the meeting to order at 9:00 a.m. In attendance were Chair Watson, Commissioner Linda Isenhardt, Commissioner Ron Engels, County Manager Abel Montoya, County Attorney Bradford Benning, and Deputy Clerk to the Board Sharon Cate.

Agenda Review. Commissioner Watson added a discussion of Gilpin County's political activities policy under Legal Status Report, the appointment of a Road Supervisor under the Board's Status Report, and a personnel matter under Executive Session.

COVID-19 Update.

Emergency Manager Nathan Whittington: He continues to organize the Emergency Operations Center's personal protective equipment and to support Public Health Coordinator Albrecht's work.

Public Health Coordinator Bonnie Albrecht: Gilpin County has 18 confirmed cases; this week's tests were rescheduled from September 8 to September 10.

Protect our Neighbors. Gilpin County has submitted a request to move to the Protect our Neighbors phase. It gives communities that meet certain criteria less stringent restrictions than Stay at Home and Safer at Home. The County is waiting to hear back from the State on the status of this request.

Draft IGA between BH, CC and Gilpin County. County Attorney Benning presented for discussion, a draft of an intergovernmental agreement (IGA) between Gilpin County, the City of Black Hawk and the City of Central regarding the maintenance of Lake Gulch Road. The draft IGA includes a terms sheet that addresses annexation for the Proximo, LLC, development. He displayed the IGA onscreen, answered the Board's questions and said he will soon submit a more complete version of the IGA.

Public Hearing, Resolution #20-15, Proposed Revisions to Gilpin County Zoning Regulations Regarding Short-Term Rentals. Commissioner Watson opened a public hearing for Resolution #20-15, "Revisions to Section 2 of the Gilpin County Zoning Regulations to Add Section 2.16 Short-Term Rentals," a proposal to add section 2.16 to regulate this growing industry in the County. She stated that because she is an owner/operator of an Airbnb, she would participate in the discussion, but would recuse herself from any vote on the Resolution. Senior Planner Stephen Strohminger said the Gilpin County Planning Commission held three meetings and developed a suggested list of requirements using examples from area jurisdictions. The Board held a lengthy discussion, examining each proposed requirement, asking many questions of staff, and talking about these businesses being residential or commercial uses and how they should be taxed. Senior Planner Strohminger also advised the Board that his department would need to hire at least a half-time employee to establish and administer a program for short-term rentals (STR) and to provide code compliance. Staff and the Board all agreed that most business owners are conscientious, but that a few "bad players" had prompted the need for regulations and would likely continue to trigger code compliance work.

Commissioner Watson opened the hearing to public comment and stated that each Commissioner had received public comment emails, which she would read after hearing verbal comments. Those who spoke were:

- Laura Richards, 159 Crest View Drive
- Patricia Eaton, 1280 Tolland Road
- Sandy Hollingsworth, 224 N. County Road
- Paula Fisher, 12 Dill Pickle Place
- Al Tazi, 92 Paradise Valley Parkway

Commissioner Watson then read emailed comments from:

- Jeff Bernfield
- Fred Peck
- Rebecca Lundberg, 481 Feldspar Road
- Daniel Williams 481 Feldspar Road
- Gabrielle Gerwitz, 106 Patricia Road

There being no further public comment, Commissioner Watson closed that portion of the hearing. Each Commissioner then told their views on STRs and the proposed regulations. Commissioner Isenhardt moved to approve Resolution #20-15, "Revisions to Section 2 of the Gilpin County Zoning Regulations to Add Section 2.16 Short-Term Rentals," as edited. Commissioner Engels seconded the motion, which passed by a vote of 2 to 0, with Commissioner Watson abstaining, due to being an Airbnb owner/operator. (The legal recording of the public hearing, including public comment, is an audio file available through the Clerk and Recorder's Office.)

Legal Status Report. County Attorney Bradford Benning advised the Commissioners on the following legal issues:

- FAA Pending Litigation Update—the parties joined with Gilpin County in a joint lawsuit against the FAA regarding the Denver Metroplex had agreed to a briefing schedule, which they will submit to the Court today. The group will have 75 days to complete a joint opening brief, although the County does have some concerns different from the other entities which will be included in the brief.
- County road right-of-way (ROW) issues—ROW Specialist Craig O’Connell has been working with County Attorney Benning on an encroachment case in the Chalet Park Subdivision. On S. Beaver Creek Road, an encroachment case might need a guardrail installed.
- A cul de sac on Willow Lane might need to have a culvert moved to address a drainage issue.
- The Dakota Hill communications tower site will require some research on the history of the access road. Former Sheriff Bruce Hartman has provided good information.
- Treasurer Mary Lorenz and Assessor Anne Schafer have been working on an inventory of properties owned by the County. County Attorney Benning will determine which can be put up for sale.
- A zoning case for 554 Hughesville Road has gone to court. County Attorney Benning will talk to the property owner today to schedule further actions for the Court.
- County Attorney Benning will work with Sheriff Kevin Armstrong on a potential parking ordinance for the East Portal area, and County roads. Citations and monetary penalties will be considered.

Political Activities Policy. County Attorney Benning shared onscreen a draft of the County’s Political Activity Policy, taken in part from the Employee Handbook, but also includes State law, the Fair Campaign Act and the Hatch Act. County Manager Montoya noted that the County may no longer play a role in promoting ballot measures, but may provide factual information and documents. County Attorney Benning spoke to the information-providing process for ballot measures saying the public needs to contact Clerk and Recorder Sahari McCormick or the County’s Manager’s office, or to contact him with specific legal concerns. Commissioner Engels asked that the document be pared to one page of “do’s and don’ts” to post for residents and County employees.

County Manager Status Report. County Manager Abel Montoya asked Business Analyst Gabrielle Chisholm to give an update on the various grants the County has applied for and other grants awarded. She shared onscreen a comprehensive list that included purposes, funding amounts and important dates, and asked the Board if they knew of others to add. Commissioner Watson added the White Family Charitable Trust and the Alan Green Foundation. Discussion followed on the Community Development Block Grant COVID (CDBG-CV) grant application for the sewage lift station at the jail, which DOLA has determined will not qualify as serving a low-income population. However, Emergency Manager Whittington is pursuing funding for the lift station through a FEMA grant. Normally the County’s costs would be reimbursed, but due to Gilpin County being the jurisdiction hardest hit by the COVID-19 pandemic, the State and FEMA have issued a letter saying the County would receive a true cash advance. Afterward, the County’s projects undergo close scrutinization.

Business Analyst Chisholm said she was looking into an Energy and Mineral Impact grant for security of County-owned buildings. Commissioner Engels also noted that Public Health Coordinator Albrecht has been awarded numerous grants this year. County Manager Montoya said he would know soon how much Gilpin County will receive from CARES Act funding and how it can be used. Commissioner Isenhart will help with information on assistance at the County level for rental and mortgage assistance to prevent eviction.

Board of County Commissioners Status Reports.

Notice of Public Meetings. The Board’s public meetings will include: September 15 and 22.

Appointment of Road Supervisor. After discussion of a statutory requirement to name an employee as the County’s Road Supervisor, Commissioner Engels moved to appoint Dave Rich as the Road Supervisor. Commissioner Isenhart seconded the motion, which passed by a vote of 3 to 0.

County Surveyor. County Manager Montoya stated that current County Surveyor Robert Hennessy has said he will not be available for that office next year, an issue that will need to be addressed in the next couple of months.

Minutes.

Commissioner Engels moved to approve the Board of County Commissioners meeting minutes for August 6, 2020. Commissioner Isenhart seconded the motion, which passed by a vote of 3 to 0.

Commissioner Engels moved to approve the Board of County Commissioners meeting minutes for August 18, 2020. Commissioner Isenhart seconded the motion, which passed by a vote of 3 to 0.

Commissioner Engels moved to approve the Board of County Commissioners meeting minutes for August 21, 2020. Commissioner Watson seconded the motion, which passed by a vote of 2 to 0, as Commissioner Isenhart was absent on August 21, 2020.

Commissioner Engels moved to approve the Board of County Commissioners meeting minutes for August 25, 2020. Commissioner Watson seconded the motion, which passed by a vote of 2 to 0, as Commissioner Isenhart was absent on August 25, 2020.

Public / Press Comment.

- Sandy Hollingsworth had questions about ticketing vehicles parked illegally on Tolland Road. County Attorney Benning will look into the restriction on off-highway vehicles (OHV) using County roads.
- Kevin Moore, a casino employee, had questions about table games being discussed. Commissioner Engels explained that Gilpin County is working with the Colorado Department of Public Health and Environment on the County's application for Protect our Neighbor status. If approved, County staff will work with casinos on the rules and arrangements
- Scott Messersmith said he had sent a letter regarding short-term rentals to Deputy Clerk Sharon Cate yesterday, and that he understands some regulations have been written, but he thought the public had not been notified. He spoke about his vacation rental and his views on the topic. Commissioner Watson advised Mr. Messersmith that both the Planning Commission and Board of County Commissioners public hearings had been advertised and posted.
- Rea Orthner spoke about her family's two vacation rentals, her views on regulations. and said all appropriate ways to engage the public should be used.

Adjournment to Executive Session. Commissioner Engels moved to adjourn into Executive Session in accordance with C.R.S. 24-6-402 (4)(b) and C.R.S. 24-6-402 (4)(e), to receive legal advice on two personnel matters, and on negotiations for the Lake Gulch Road Intergovernmental Agreement with Black Hawk and Central City. Commissioner Isenhart 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 11:41 a.m.

Signed this 22nd day of September 2020.