

Saguache County Board of Commissioners met in regular session, Tuesday, July 12, 2011 with the following present:

Sam Pace, Chairman
Mike Spearman, Co-Vice Chair on phone
Linda Joseph, Co-Vice Chair
Wendi Maez, Co-Administrator
Lyn Lambert, Co- Administrator
Ben Gibbons, County Attorney
Melinda Myers, Clerk and Secretary to the Board

Meeting called to order by Chair Pace at 1:00 P.M.

Guests: Jean Day, Ben Brack, Celia Rodriguez, Ivan Lakish, Teo Hastings, Leif Andersen, Lisa Bodey, Charles Stickles, Lucas Trout and Nathan Good – BGVFD; Rod Sawyer, Gerald Grey, Buck Moores and Wes Moores – NSCFPD; Shauna Ianson, Russell Schreiber- BGPOA; Scott Alexander & Pearl Brewer – NSC Ambulance District; Sandra Hammond – Co-Chair CFPD Formation Committee; Fredrick Dunets & Peter May – Kundalini Fire Management; Ralph Abrams – Mayor of Crestone; Robert Banaszek, Marianne Olsson, Jose Alves, Charles McClure, Treat Suomi, Deana Wilfong, Patudhee Hammond, Hamilton & Miriam Brannan, Bob & Rainbow Adler, Mark Jacobi, David Harper, Scott Norris, James Hawkins, Lance Dercum, Michael Onewing, Jim Farrell, Kimberly Brant, Vince & Mary Palermo, Claudia Wolfe, Dale Case, Reva Meyer, Diane Dunlap, Robert & Christine Chandler, Roylyn Allen, Joy Hill, Mary & Jim Hawkins, Sandia Belgrade, Pavita Decorah, Bill Johnson, Bob Garnett, Steve Smilack, Lisa Cyriacks – Baca Property owners; Kizzen Laki, Steve McDowell and Andrew Martinez – Crestone residents; Teresa Benns – Center Post Dispatch; Matie Bell Lakish – Crestone Eagle and Matt Hildner – Pueblo Chieftain.

Chair Pace called the Public Hearing at 1:05 P.M.

Public Hearing on formation of Crestone Fire Protection District

County Attorney Ben Gibbons outlined the purpose of the hearing to review the Service Plan for the Crestone Fire District, and the general rules for conducting the hearing.

Robert Chandler requested that Commissioner Pace recuse himself for the proceedings, due to conversations he had with citizens about the new District and comments made about the nature of some information circulating by opponents of the District. Commissioner Pace replied that he has only contacted citizens that wanted information on opting out of the District, and made some comments about the content and approach of some information in circulation by opponents. Attorney Gibbons affirmed that it is up the judgment of Board members to recuse themselves or not, with the criteria that they could hear all the testimony and decide whether the Service Plan meets statutory requirements for eligibility as a ballot item with an open mind. Chair Pace stated he felt he could, and the hearing was opened.

Jean Day - Presented the Service Plan on behalf of the Proponents of the Crestone Fire Protection District.

Chair Pace had the sign up to speak list and asked the citizen that opposed the formation of the new District to speak first.

Citizens spoke in opposition to the proposed District.

Citizens spoke in favor of forming the proposed District.

Pace asked Mike Spearman if he had any questions on the presentation, which he did not.

Commissioner Joseph asked the Representatives from the BGPOA to explain the issue around transfer of assets, and the POA process to address the legal and membership issues raised by some opponents.

Shawna Inanson – Explained the steps the BGPOA is working on to make sure they are following their governing documents and are seeking legal opinions to guide the process and legal questions, such as methods of transferring assets.

Pace asked Attorney Gibbons if being a resident of the area or if his negative opinion of some people and information in opposition to the district is enough to create a conflict of interest for voting on the Service Plan. Gibbons reiterated that the test was keeping an open mind to the testimony, and in deciding on the statutory criteria.

Sandia Belgrade – Asked Shauna Inanson if the BGPOA is one of the only POA that runs a fire protection district and will the POA be liable if there is a catastrophic fire. Inanson replied that she has received conflicting information on whether the BGPOA is currently the only one managing a fire department. There have been others, but few.

Paced pointed out that the questions on the BGPOA procedures and legalities needed to be dealt with somewhere else and were not part of the current proceedings.

Lisa Cyriacks – Asked if the Board's options are to approve or deny the service plan or can they make modifications. Pace replied that they can make conditions.

Russell Schreiber – Asked what the timeline for a decision on the Plan. Pace said they could make their discussion as late as next week at their next meeting, but that would not leave much time for the other procedural steps in bringing an item to ballot, such as gathering signatures for the court review.

Royalyn Allen – Wanted to know what all the options were that the BGPOA got from the study of the problem. It was clarified that there were 4 original options, two unfeasible. One to do nothing - which leaves many significant issues and dangers unaddressed, and the current service plan, which was developed through many public meetings of many agencies, as the best approach.

Teresa Benns - Stated that given the statements about the opposition by Commissioner Pace, the public hearing is in violation of the Colorado Open Meetings Act.

Pace closed the public hearing at 3:14

Break

Chairman Pace called the Board meeting to order at 3:23

- Chair Pace questions:
 1. Asked for a legal opinion about the ability of the BGPOA to transfer the assets. Gibbons stated that it is an issue for the BGPOA and not for the County to weigh in and he had no opinion on the issue and it has no bearing on the Service Plan. Spearman asked if Gibbons had an opinion. Legal questions will be addressed by the Judge.
 2. Pace would make modifications in the plan for any property owner on the current boundary that wanted to opt out, and a new map be drawn up by the District opponents.
 3. Also he would not approve a District plan that allowed opting out and creating a checkerboard map of emergency services coverage. Gibbons stated that opt out can be allowed if it is in the best interest of the District according to statute.
- Spearman was in favor of letting properties that would be split by the current boundary choose which district they would want to be in. He was not in favor of letting the next boundary property in line opt out. He cited 2(a), and 2.5(e)
- Gibbons read from statute on the formation of special districts on their abilities to give the same services to the area.

32-1-203 Action on the Service Plan criteria

(2) The board of county commissioners shall disapprove the service plan unless evidence satisfactory to the board of each of the following is presented:

- (a) There is sufficient existing and projected need for organized service in the area to be serviced by the proposed special district.
- (b) The existing service in the area to be served by the proposed special district is inadequate for present and projected needs.
- (c) The proposed special district is capable of providing economical and sufficient service to the area within its proposed boundaries.
- (d) The area to be included in the proposed special district has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

(2.5) The board of county commissioners may disapprove the service plan if evidence satisfactory to the board of any of the following, at the discretion of the board, is not presented:

- (a) Adequate service is not, or will not be, available to the area through the county or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.

(b) The facility and service standards of the proposed special district are compatible with the facility and service standards of each county within which the proposed special district is to be located and each municipality which is an interested party under section 32-1-204 (1).

(c) The proposal is in substantial compliance with a master plan adopted pursuant to section 30-28-106, C.R.S.

(d) The proposal is in compliance with any duly adopted county, regional, or state long-range water quality management plan for the area.

(e) The creation of the proposed special district will be in the best interests of the area proposed to be served.

Pace moved to approve a resolution to approve the Service Plan for the Crestone Fire Protection District dba Crestone Emergency Services District with the modifications contained in the adopted resolution. Joseph seconded the motion. The vote was two Ayes and one Nay.

- Spearman could not justify that it would be in the interest of the community, citing statute that service already exists and the lack of ability for some property owners to pay. He had concerns on who gets to vote and who doesn't.
- Joseph clarified with Gibbons that criteria in 32-1-203-2.5(e) refers to the best interests of the District itself and is reflected in the Commissioners' decision.
- Gibbons read aloud the full Resolution and the Board agreed and signed it
- Maez presented a letter from Tessera Solar that they have withdrawn their 1041 application.

Joseph moved to approve the contract with Stearns and Foster to film a commercial at the old Road & Bridge office. Pace seconded the motion. The vote was three Ayes.

- Maez presented a contract with Stearns & Foster Mattress Company to film a commercial at the old Road & Bridge office.

Joseph moved to adjourn at 4:20 P.M. Spearman seconded the motion. The vote was three Ayes.

Respectfully Submitted,

Melinda Myers Secretary to the Board of County Commissioners

Minutes Approved July 19, 2011

Chairman of the Board

Attest

Commissioner

Commissioner