

**ARCHULETA COUNTY PROCEEDINGS
BOARD OF COUNTY COMMISSIONERS**

The Board of County Commissioners held a Special Meeting on April 23, 2013 with County Commissioners Clifford Lucero, Michael Whiting and Steve Wadley, County Administrator Jesse Smith, County Attorney Todd Star and County Attorney Robert Kern present.

Chairman Lucero called the meeting to order at 1:32 p.m.

Consent Agenda

A. Ratification of the Chairman's signature on a Grant Agreement with the Colorado Judicial Department for the Court Security Officer Funding.

County Administrator Smith read the Consent Agenda for the record. **Commissioner Whiting moved to approve the Consent Agenda as read. Commissioner Wadley seconded the motion and it carried unanimously.**

New Business

A. Resolution 2013-19 Supporting the Second Amendment of the United States Constitution

County Administrator Smith submitted a resolution regarding the Second Amendment of the United States Constitution. Commissioner Wadley read the resolution for the record. The resolution stated that the Constitution grants rights to bear arms and allows for self-defense, hunting and sport shooting. The resolution also stated that neither the United States Congress nor the Colorado General Assembly of the State of Colorado should entertain consideration of any new legislation that would infringe on constitutionally protected rights under the Second Amendment. Chairman Lucero opened discussion by the Board.

Commissioner Whiting stated that the first two paragraphs were fine. He did suggest that instead of assuming what the rights of the amendment were and adding them to the resolution that the actual rights be set out in the resolution exactly as they are stated in the amendment. The Board agreed to this change. Then he suggested that in the last "Be it Further Resolved" that the wording be changed to read after the word "Assembly": 'should enact any new legislation that would contradict constitutionally protected rights under the second amendment'. The Board also agreed with this change and had County Attorney Starr re-read the resolution with the changes. **Commissioner Wadley moved to adopt the resolution as Resolution 2013-19 as read. Commissioner Whiting seconded the motion.** Chairman Lucero asked for public comment.

- Patricia Rydz of 67 Highland Ave asked if it was the intent of the Board to not address the laws already passed this past couple of weeks. County Attorney Starr answered the Board was not concerned with that legislature already passed he thought the Board was acting as requested. She asked if the resolution wouldn't be better if the word "new" in the second to last sentence be taken out. The Board agreed.

It was decided that withdrawing the motion would be easier than amending it. **Commissioner Wadley asked to withdraw the motion. Chairman Lucero stated that with no objections being presented, the motion was withdrawn.**

Commissioner Wadley moved to approve the resolution as Resolution 2013-19 as read with taking out the word “new” in the last paragraph. Commissioner Whiting seconded the motion and it carried unanimously.

B. Employment Contract between Archuleta County and Jesse Smith for the Position of Archuleta County Administrator

County Attorney Starr presented a contract between Archuleta County and Jesse Smith for the position of Archuleta County Administrator. Mr. Smith was offered the position of Archuleta County Administrator and accepted. The Board now needs to approve the contract. The term of the contract was only 6 months ending October 15, 2013. The Contract was in the amount of \$104,000. **Commissioner Whiting moved to approve the Contract with Jesse Smith for the position of County Administrator. Commissioner Wadley seconded the motion.** Chairman Lucero asked for public comment. **The motion carried unanimously.**

C. Appointment of Jesse Smith as Archuleta County Budget Officer

County Attorney Starr presented a request to appoint County Administrator Smith as County Budget Officer. Pursuant to Colorado Revised State 29-1-104, the governing body of each local government shall designate or appoint a person to prepare the annual budget for submittal to that governing body. The County Administrator has historically been designated as the budget Officer for Archuleta County. Now that the County has employed a full-time County Administrator that position should be appointed as Budget Officer. **Commissioner Wadley moved to appoint County Administrator Jesse Smith for the Budget Officer for Archuleta County.** Chairman Lucero asked for public comment.

- Pat Rydz of 67 Highland Ave asked if this position was the same as the Financial Officer and the answer was No.

The motion carried unanimously.

Chairman Lucero deferred “Item D” the Contract with Todd Starr as Archuleta County Attorney until after the Executive Session.

Chairman Lucero stated it was necessary for the Board to convene into Executive Session.

Executive Session

Commissioner Wadley moved to enter in Executive Session per C.R.S. 24-6-402(4)(b), (e) and/or (f); (b) Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions, (e) Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators; and/or (f)(I) Personnel matters except if the employee who is the subject of the session has requested an open meeting or if the personnel matter involves more than one employee, all the employees have requested an open meeting, Purpose of Executive Session is to discuss: 1. replacing Jodi Halstead and related matters and 2. County Attorney. Commissioner Whiting seconded the motion and it carried unanimously.

Chairman Lucero stated those entering into Executive Session would be Commissioners Lucero, Whiting and Wadley, County Attorney Todd Starr, County Attorney Robert Kern and County

Administrator Smith and Jodi Halstead for the portion of the session that pertained to Casa de los Arcos.

Chairman Lucero recessed the Special Meeting to convene into Executive Session at 1:50 p.m.

Chairman Lucero reconvened the Special Meeting at 2:38 p.m.

Chairman Lucero stated no decision was made in Executive Session to generate a motion. He did ask that Jodi Halstead call a special meeting of the Archuleta County Housing Authority Board.

D. Renewal of the Contract with Todd M. Starr as Archuleta County Attorney

County Administrator Smith presented the renewal of the Contract for Todd Starr as County Attorney. Commissioner Wadley suggested that on Page 5, Section 4, that strike the paragraph and add: The salary provided for herein shall be reviewed annually with the intent the County Attorney's salary be equal to the County Administrator.: Commissioner Lucero wanted to say that he (County Attorney) was being courted by many firms and businesses and he apologized for dropping the ball on his contract. It was not the Board's intention to have him work without a contract for so long. **Commissioner Whiting moved to enter into a contract as amended by Commissioner Wadley with Todd Starr as Archuleta County Attorney.** Chairman Lucero asked for public comments.

- Sheriff Pete Gonzalez read a statement to the Board. His statement was in regards to the \$3,900 pay raise for the County Attorney. He stated that based on the revenues going down to give a pay raise was wrong. He gave out copies of his statement. He pointed out the portion of the contract where it said the contract automatically renews. So in his opinion, the County Attorney was not working without a contract. He spoke on the new line added to the contract where it grants the County Attorney the same salary as the County Administrator. He asked when it was inserted and who asked for it to be added? If the original contract was renewable why was a new contract being done? Was it to add the line regarding the matching of the salary for the County Administrator? He felt this decision hurt the other County employees who have not received raises for over 5 years.

Chairman Lucero stated that this was looking like "Rule by Committee" and it had to stop. The Board was elected to do a job and the budget was that job. They are the ones to make decisions on the budget, not other elected officials. County Clerk June Madrid responded by saying the decisions made by the Board do affect the other Elected Official's offices and felt they should be heard.

- County Clerk Madrid read a statement for the record. A copy of this statement will be attached to the minutes. She was also upset with the raise for the County Attorney. It was not fair to those employees still working for the County to see an employee under the purview of the Board to receive a raise when no one else has for 5 years.
- County Assessor Natalie Woodruff stated her discontent about tying the salary of the County Attorney to the County Administrator. She also stated the unfairness of a raise to one, when all employees should be treated equally.
- County Treasurer Betty Diller read a statement for the record. A copy of the statement will be attached to the minutes. She was concerned with the wisdom of the Board today. Commissioner Whiting had stated in an email that County Attorney Starr should be

granted special pay for how he was treated this past couple of months by elected officials and she took offense to this statement but was not going to address it. For the last 5 years we have been told there is no money for raises. The responsibility of allowing raises lays 100% with the Board. The Board is right in saying they approve the budget, they do so 100%. She felt the Board made this decision with no plight to the other 150 employees. The Board by this action, gave one employee preferential treatment in a public meeting.

- Larry Walton Contracts and Procurement for the County stated he was one of the employees who had not had a raise in some time. He felt we (the County) are in a position where we have lost the Finance Director who had history and we lost the County Administrator. He felt it would be blow to the County to loose another senior person who has history. He thinks it's in the best interest of the County to make this decision now and raises can be given on down the line. We need as much stability as we can to do what we need to do for the future to put us on level ground.

Chairman Lucero asked the Board members to make their comments then he would call for the vote.


- Commissioner Whiting stated that this group of people, he had respect for what they were elected to do. Last October he suggested a \$350,000 cut to help this project. He pointed out our spending and revenues are not in line for the County. He did not get any support in those efforts. People worked tooth and nail to hang onto the money in their budgets. But he didn't think it was necessary for this group of people to be arguing over \$3,900 when he did not see how this could cause grief to taxpayers. He suggested the Board's first obligation was to taxpayers not employees.
- Commissioner Wadley wanted to say that he appreciated everyone's statements. He said it was easy to say we (the Board) are looking at their own necks. The Board must maintain professional employees because their employee positions are not career employees. If we were to lose our County Attorney, we would be hurt.
- Commissioner Lucero stated that this seemed like this was being 'ruled by committee'. They (the Board) were elected on the behalf of the taxpayers. He thanked the County Attorney for all his work and stated that he was a great employee and was being courted by several other counties. A lot of people don't care but the does. He was hurt about the comments regarding his not caring about employees. He does. He said they are in charge of the budget and they have to make the decision based on their ideas of what is best for the County not requests from others.

The motion carried unanimously.

With there being no further business before the Board, the meeting was adjourned at 3:08 p.m.


June Madrid
County Clerk & Recorder

Approved this 7th day of May, 2013.


Clifford Lucero, Chairman

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RESOLUTION 2013-19

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ARCHULETA COUNTY, COLORADO IN DEFENSE OF 2ND AMENDMENT RIGHTS

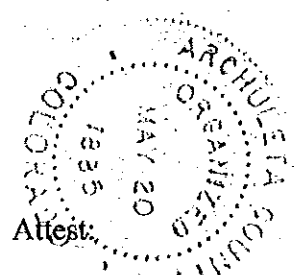
WHEREAS, the right to arms and self defense is recognized in State Constitutions; and

WHEREAS, the Second Amendment of the Constitution of the United States provides "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."; and

THEREFORE, BE IT RESOLVED that Archuleta County by and through its Board of County Commissioners, will uphold the Second Amendment of the Constitution of the United States,

BE IT FURTHER RESOLVED that neither the United States Congress nor the Colorado General Assembly should enact any legislation that contradicts the Second Amendment.

APPROVED AND ADOPTED THIS 23rd day of April, 2013.



Attest:
June Madrid by
Cherie Nendern Deputy County Clerk + Recorder
June Madrid
Archuleta County Clerk and Recorder

The Board of County Commissioners
Archuleta County, Colorado

Chairman

Dated: April 23, 2013

4-23-13 Archuleta County Sheriff

This is the first time in my 41 years in my profession that I am going to read a prepared statement. I'm here today to ask you not approve this pay raise for Mr. Starr. First of all I was shocked to see that in light of what this county is facing financially (this is your own statement) and based on your (BOCC) plans to reduce finances by cutting personnel that you are giving an administrator (in this case the county attorney) a pay raise. I took the liberty of obtaining the original contract between you (BOCC) and Mr. Starr which went into effect in 2009. I have made copies which I will now hand to you. If you would refer to section 4 entitled Compensation you will note that Mr. Starr agreed to a salary of \$100,100. It also states in section 2 that the contract (agreement) shall automatically renew for 1 year terms. In reviewing the agreement which is before you today I noted in section 2 entitled Term that it is for a 3 year period and afterwards renewed automatically for 1 year terms. I further noticed that an additional sentence was added under section 4 (Compensation) of the new agreement which states "Provided, further, at all times during the term of this Agreement, Employer shall pay Employee no less than the amount of total compensation paid to the County Administrator." Questions to you among others are, when was this provision inserted, and whose suggestion was that that provision be added? It is my understanding that the new interim county administrator has a salary of \$104,000. Is the insertion of this provision the justification to raise Mr. Starr's salary? Another question that I have is, if the original contract was automatically renewable why is a new contract being written up for approval unless the purpose is to insert that particular provision? Further, if Mr. Starr's salary is to be no less than the amount paid to the county administrator and if the interim county administrator, is successful during his six month contract and is offered the permanent position and upon becoming permanent asks and receives a pay raise then obviously Mr. Starr will again receive an additional pay raise as per the contract. This truly alarms me because of the fact that our deserving county employees have not had a pay raise since 2007 yet Mr. Starr stands to possibly receive several pay raises.

Finally, you Mr. Lucero responded via email to Mrs. Madrid's inquiry as to this pay raise by informing her that Mr. Starr's salary is "way below" what is being paid for instance to the county attorney in Montezuma County. My response to that is that Mr. Starr negotiated and agreed to the salary listed in the original contract regardless of what the county attorney in that county or any other county was making. Based on your reasoning re: Montezuma County, then what needs to be done in Archuleta County is that we pay across the board the same salaries to all of our employees what their counterparts in that county are being paid. I agree as you stated in your email that it is "within the purview of the BOCC" to give Mr. Starr the raise but in my opinion it is not ethical or right.

Finally, I close by asking the following: Is this decision to give Mr. Starr a pay raise simply showing bad leadership and judgment or is it simply a case of the tail wagging the dog? Thank you.

April 23, 2013

To the Archuleta County Board of Commissioners

I know what I say today will not matter because you have already made your decision but for the sake of my office I need to say something on their behalf. I have worked with several boards over the past years and you have proven to be the Board that consistently walks around the County, comes to Elected Official's meetings and really talks the talk. But you have just proven today that everything you have said about taking care of the employees we have left after the financial crisis holds not one ounce of truth. During discussions of morale, how many times have you told us when we say we cannot continue working employees at the stress and work level they are at you replied "They should be thankful they still have a job". Even when we have gone so far as to tell you some are looking for another job because of no pay increases and the stress and workload, what did you say? You told us that if they feel they should, what can we say? Where will they go? You have proven today that no employee in Archuleta County is worthy of you finding money for compensating their hard work unless they are directly under your Administration where the money is controlled.

I know we jumped the gun in thinking we were going to have to cut \$1.5 million out of next year's budget but when you as a Board gave the go ahead to your staff and you asked us to begin thinking where we could cut staff (because that's all that is left), that's exactly what I did. I had an employee that went to part time. I have always given up anything I could when asked and my budget is now down to nothing. We pinch every penny in supplies just to see if we can have something left over to show we are trying to help. Now the question is why, why would anyone want to work for Archuleta County unless they are one of your admin employees? You can use the excuse Chairman Lucero that other counties are paying more for county attorneys as you said this morning but do you really think Montezuma County is equal to us? In your email to me you almost sounded surprised by the fact that the county attorney salary had increased so much. Was that really a revelation for you? You must know that all positions in our County have been increasing on a yearly basis in other counties, so when we are ready to grant raises and we do our research with other counties our appropriate size, you will probably see all positions at a lot higher salary than we are currently paying. Five years is a lot of cost of living and merit raises our staff didn't receive. And I hope at that time, you as a Board will be as giving to all the rest of the employees as you are today for one employee.

I need to go on record today by saying that I know in my heart you do not seem to have the best interest of all county employees in mind when granting this salary increase. So when it comes time to begin the 2014 budget, you will need to force me to give anything else up. There is nothing left in my budget except maintenance, supplies and employees. I will not willingly give up anything else to you as a Board to be used to continue to hurt all the other staff. We both know you can and you will do as you please, but I hope you understand your continued actions towards all staff and your record of not keeping your word has led me to the point where it is very hard to give you the respect a Board of County Commissioners should have.