

Minutes East Grand Fire Protection District  
Board of Directors Meeting  
December 10th, 2018

Board Directors Present: President Frank Dominguez, Vice President Mark Pappas, Treasurer Steve Loo, Director Garth Hein.

Staff Present: Chief Todd Holzwarth, Assistant Chief Dennis Soles, Training Coordinator Steve Waldorf, Office Manager Kristen Rybij.

Pension Board of Trustees Present: Chairman Brian Dolan.

Legal Counsel Present: Ms. Linda Glesne.

Public Present: Schelly Olson.

Director Frank Dominguez opened the Board of Directors meeting at 9:39 a.m. There was a quorum of Directors present.

Frank welcomed our guest, Grand County Assessor Mr. Tom Weydert, to the meeting and moved him to the top of the agenda.

Frank asked if there was any public comment. There was no comment.

Introductions were made and Frank explained to Tom that the Board had invited him to the meeting in the hopes that he could offer some guidance as to what the District could do to help mitigate the effects of Gallagher. Frank explained that after exhaustive discussions during the last several Board meetings, the District feels there are not many, if any, viable options left for how to deal with the Gallagher / TABOR intersection. Tom agreed that this is a huge Statewide problem and that we are not alone; but much more affected due to the urban / rural divide and our overabundance of residential property versus commercial property. He doesn't feel that anyone has the solution to this issue. The Board has been discussing the effects of residential units as short-term rentals (STRs) and the nagging question of why they are not taxed as commercial if they hold business licenses and are profitable. Frank asked Tom to clarify what the difference between residential and commercial property was. Tom explained that residential is defined as a single-family residence, leaving all other properties as commercial. Frank then asked how a residential property that operates with a business license such as a VRBO (Vacation Rental by Owner) can be still be considered residential? Tom explained that if it is a single-family residence, then it is residential, and whether they rent it out or not is does not affect the classification. This has been backed by court cases with the same concern. Tom referred to a case in which a family built a home for the sole purpose of making it a STR and confirmed to the courts they never intended to live in it, that is was for profit only, and the courts *still* classified it as residential because it was a single-family residence. Lengthy discussion then ensued regarding residential units acting as short-term or nightly rentals, commercial and residential properties with mixed use, and their subsequent classification and taxing. Some examples discussed were the Arapahoe Lodge where Todd and his family live (residential) alongside selling nightly rentals while being classified as mixed use, a 60/40 split of commercial / residential classification. The Holiday Inn rents out nightly but is taxed commercial (hotel classification) whereas the Zephyr Mountain Lodge rents out nightly as well but is taxed residential because individual units are classified as single-family residences. Frank commented that he runs a business and is considered commercial but is also surrounded by 500 business license holding STRs under a residential tax code. The classification system is certainly not apples to apples and does not represent the reality of our times. Tom agreed and noted that this was an issue that needed to be taken up with the State Legislature. It will take a Statewide vote to change Gallagher and / or TABOR and the outlook is not optimistic for many reasons. There are influential folks that have vested interest in STRs and keeping things classified as they are; and it never goes over well when you ask people to pay more in taxes, especially when they lack any knowledge of Gallagher, and do not understand its ramifications on emergency services. Several bills purposed in 2018 meant to help mitigate the effects of Gallagher died before ever leaving committee. Tom sympathized with our struggles but reiterated that the County Assessor does what the Legislature tells them to do and that our issues cannot be solved at this level of government. Frank brought the discussion back to mixed use property classification. He asked Tom who determines the percentage of use of each property? Tom confirmed it was the Assessor who does. Frank asked; if someone gets a VRBO license, does the Assessor go to each property to calculate what percentage is it being used as a STR. Tom answered no and reiterated that a single-family residence is classified residential whether it is rented out or not; and it will always be classified that way until the definition is changed statutorily. Frank asked if there was anything that we can do to change things at a local level? Tom explained that other communities facing this issue have dealt with STRs by denying them all together, limiting them by fixed

number or lottery, and / or by charging them high fees to fill in the revenue lost by Districts. Mark asked if the fees can be earmarked for emergency services. Tom replied that that would be up to the Towns. Linda added that she thought this would be a legal move, but the Towns would have to adopt the ordinance. Frank is concerned with this idea because not only would the Town of Winter Park and Fraser have to be on Board, but the rest of the Towns and the County would have to be as well to make it a viable solution. Frank would like Tom's support for a County-wide unified effort across all municipalities. Tom does not feel that the outlook is good because each municipality have very different philosophies. Frank then asked if it would help to get County support if we got the Town of Winter Park and Fraser on board. Tom suggested we meet with the Commissioners. Schelly asked if the County had a task force set up to deal with the consequences of STRs that affect public safety such as egress, occupancy, dealing with neighbor's fall-outs, and abiding by the general safety rules businesses adhere to, like having appropriate fire prevention systems in place. Tom answered yes but it could be improved. Tom suggested that all County Fire Districts collectively demand a special meeting with the Commissioners to discuss these issues as their sole agenda. Todd then introduced a list of other tax code concerns he had such as vacant lots being illegally combined with residential ones and properties missclassified as Forest / Agriculture (Ag.). Todd noted that a property owner's ability to physically and legally combine residential and vacant lots when the vacant lot is clearly not essential for the residence should not be allowed, especially since they can turn around and sell them as separate lots all the while reaping the tax benefits of combined residential. Tom explained that these cases are an on-going issue in Grand County and that current lot combination applications (50 in Grand County, 300 Statewide) have been on hold for the last year while the Court of Appeals reviews the situation. Tom explained that the original intent of the law was to help rural area property owners combine vacant lots essential to their residence, for example, if your main egress cuts across the adjoining "vacant" property. The rules are that the property must be in the same ownership, it must be adjoining to your residential property, and must be essential to life on your property. The Board of Assessment Appeals, The Colorado Court of Appeals, and the Supreme Court are trying to conclude the definition of "essential to life" as over the years this has been loosely defined and taken advantage of. Todd then addressed his concern over the large number of properties in Grand County classified as Forestry / Ag. There are currently 45 of these in our State Forest Service District, with 40 of those located in Grand County and 20 of them in East Grand alone. Why so many here? Some requirements land must meet for Forest / Ag. are that the property must be at least 40 acres and it must demonstrate being able to produce tangible wood products for the primary purpose of obtaining profit in a 10-year time frame. Todd asked if the Assessor is examining these properties for this benefit. How it is possible to show production value for land that is a tree-less lot or how can a 40-year plan meet the 10-year requirement? Todd noted that that the Forest Service guys confirm that this is not possible in a lodge pole forest. Tom explained that the State Forest Service inspects the properties and gives their approved list to the Assessor which they then follow. Todd feels that the Assessor should be able to argue against the approved Forest / Ag. status on properties that clearly do not meet the requirements set forth by statute. The primary purpose for this classification, Todd noted, seems to not be for monetary profit but instead to for the benefit of a huge tax break. Tom commented that they have taken it to Court and lost; he referenced that Granby Ranch case where they claimed Forest / Ag. on all 5000 acres of subdivided, platted land, including the ski area and treeless golf course, worth 20-23 million in the Assessor's calculations. After a 7-year court case they settled on 13 million and the Supreme Court refused to hear the case further. Tom explained that Grand County is the epicenter of the pine beetle epidemic and the State Forest Service has been accepting having a Healthy Forest Management Plan in place as a met requirement for Forest / Ag. status. Todd then noted Forestry / Ag. properties with residences on it. Tom explained that it was hard to prove whether the residence is or is not pertinent to caretaking the land and he noted that the building would be taxed at 29% anyway. Todd asked Tom if he thought the Assessor's office had enough resources to keep up with our growing County, highlighting a case of a successful business operating on land tax-coded as vacant for the last 35 years with no intervention. Tom confirmed that the County is now working on this issue and noted that it is hard to catch situations like this as properties are only inspected when built or sold. He is hopeful the new County Pictometry Project will be able to pick up property value that has flown under the radar. Los Animas County picked up 31 million in assessed valuation in the first year of their Pictometry Project and 21 million in the second year. Tom believes they do have the adequate resources to deal with the current work load as well as the Pictometry Project. Frank then asked if there was any way to generate revenue from revenue-producing tax-exempt entities that we service. Tom replied that we would have to go to their boards and ask for money, but also noted that everyone is claiming the same financial struggle. Frank closed the discussion requesting that Tom share our concerns with the County. Tom closed with sharing his understanding of our dilemma and pointing out that we are in a more difficult situation as first responders as we are expected to continue excellent services in a growing community with ever decreasing funding and it is not acceptable to fail. Linda agreed that any current solution needs to be regional as she reiterated the 6 bills that died in committee, the unpopular solution of redefining STRs, and the minimal likely hood of people voting to raise taxes. She agreed that a County wide conversation about how to deal with STRs on a local level

was a good idea. Todd is concerned that the fact that even though there are STR owners happy to pay high fees, there are many more that will claim they must rent out their 2<sup>nd</sup> bedroom just in order to afford to live there. There were ending comments regarding businesses under the guise of Real Estate Investment Trusts buying up property for the purpose of STRs and STRs operating without proper safety regulations. Tom again urged the conversation with our County Commissioners.

The meeting returned to the agenda timeline. The November 28<sup>th</sup>, 2018 minutes were discussed with one correction needed. In the Fire Prevention Bureau report where it states, “all buildings will be sprinklered” needs to be changed to “all buildings on the hillside, up out of the valley will be sprinklered.” Change is noted and will be made.

- ❖ Director Garth Hein moved to approve the revised November 28<sup>th</sup>, 2018 minutes. Director Mark Pappas seconded. The motion passed unanimously.

Todd presented the final 2019 budget as well as an extra report comparing the 2018 final numbers as if the new 2019 line items existed this year. Mark and Steve asked for clarification on certain line items. Expenses and placements were clarified. Garth asked us to clarify what seemed like discrepancies in the Payroll line item. It was due to Debbe Knutson’s severance pay. Garth then asked how we budget for the upcoming year’s payroll and when wage increases were discussed. Frank explained that they decide wage increases in January’s Executive Session. Garth asked the Board if this can be done prior to January so that staff can budget for the upcoming year and payroll does not need to be retro-fitted. Frank agreed that we can start this next December, but not this year, as the Board is not prepared.

- ❖ Director Mark Pappas moved to approve Resolution 2018-12-10-A To Set Mill Levy; Resolution 2018-12-10-B To Appropriate Sums of Money; and Resolution 2018-10-C To Adopt Budget. Director Garth Hein Seconded. The motion passed unanimously.

Discussion of Financials: Todd noted that not much happened in the short interim between meetings.

- ❖ Director Steve Loo moved to approve the bills. Director Garth Hein seconded. The motion passed unanimously.
- ❖ Director Garth Hein moved to recess the Board of Directors meeting to open the Pension Board of Trustees meeting. Director Steve Loo seconded. The motion passed unanimously.

The Board of Directors meeting was recessed at 11:26 a.m.

Director Frank Dominguez re-opened the Board of Directors meeting at 12:09 p.m.

Chief’s Report: There was no official report as there was only a small amount of time between meetings.

Fire Prevention Report: Dennis gave a quick report. Busy as usual.

Training Coordinator Report: Steve noted that we have two volunteers who have left. He also explained that we might have access to Beavers for training purposes and he is still not sure about the Hideaway Village Recreation Center.

Frank asked if there was any public comment. There was none.

Board Business: There was no further business.

- ❖ Director Mark Pappas moved to adjourn the Board meeting. Director Steve Loo seconded. The motion passed unanimously.

The Board meeting was adjourned at 12:27 p.m.

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Frank Dominguez

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Rick Kramer

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Garth Hein

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Mark Pappas

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Steve Loo