

**BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO. 2011-09**

**A RESOLUTION CONCERNING USE OF AVAILABLE FUND RESOURCES IN THE
GUNNISON COUNTY SEWER FUND AND THE GUNNISON COUNTY WATER FUND**

WHEREAS, Gunnison County is a statutory county with an elected Board of Commissioners that is responsible for setting policy, appointing administrative personnel and adopting an annual budget in accordance with state statutes; and

WHEREAS, pursuant to Colorado Revised Statute 30-20-402(1)(f), the Board of County Commissioners of the County of Gunnison, Colorado may prescribe, revise and collect, in advance or otherwise, rates, fees, tolls and charges, including but not limited to availability fees, tap fees, and reasonable delinquency penalties for water and sewerage facilities; and

WHEREAS, Gunnison County upgrades and maintains the water lines and treatment facilities within the Dos Rios Division of the Gunnison County Sewer and Water District; and

WHEREAS, Gunnison County upgrades and maintains the connection lines within the Dos Rios, North Gunnison, Antelope Hills and Somerset Divisions of the Gunnison County Sewer and Water District; and

WHEREAS, Article X, Section 20 to the Colorado State Constitution, commonly referred to as the Taxpayer's Bill of Rights (TABOR), requires prior voter approval for any debt issuance, unless the debt is to be serviced by an "enterprise"; and

WHEREAS, The Gunnison County Water Fund and the Gunnison County Sewer Fund are both separate and distinct enterprise funds, which allow the County to issue debt on behalf of sewer and water users to be paid back by those users; and

WHEREAS, National Council on Governmental Accounting Statement No. 1 defines the purpose of enterprise funds as: "...to account for operations (a) that are financed and operated in a manner similar to private business enterprises — where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through users charges; or (b) where the governing body has decided that periodic determination of revenues earned, expenses incurred, and/or net income is appropriate for capital maintenance, public policy, management control, accountability, or other purposes."; and

WHEREAS, Governmental Accounting Standards Board Statement 34 makes clear that enterprise fund reporting must be used for any activity whose principal revenue sources meet any of the following criteria:

- (1) Debt backed solely by fees and charges. Debt that is secured by a pledge of net revenues from fees and charges and the full faith and credit of the related primary government or component unit – even if that government is not expected to make any payments – is not payable solely from fees and charges of the activity.
- (2) Legal requirement to recover cost. Laws or regulations require that the activity's costs of providing services, including capital costs (such as depreciation or debt service), be recovered with fees and charges, rather than with taxes or similar revenues.
- (3) Policy decision to recover cost. The pricing policies of the activity establish fees and charges designed to recover its costs, including capital costs (such as depreciation or debt service); and

WHEREAS, Gunnison County has received professional water and wastewater engineering counsel from Rothberg, Tamburini, and Winsor, Inc. and is under advisement that user fees include a reserve for capital replacement, recovering twenty-five percent (25%) of the annual depreciation expense on sewer collection systems and ten percent (10%) of the annual depreciation expense on water distribution systems; and

WHEREAS, together with the reserve for capital replacement heretofore mentioned, tap connection fees, revenues over(under) expenditures as well as probable grant revenue/loans available in the future should be sufficient to meet the funding requirements for capital repairs and replacement of the system; and

WHEREAS, all communication during budget public hearings and otherwise has assured users of each Division that the funds generated within their respective Division will only be used for costs associated with the operation and capital costs associated with infrastructure within the boundaries of their Division; and

WHEREAS, The Board of County Commissioners of the County of Gunnison, Colorado desires to preserve the Sewer Fund's and Water Fund's enterprise status; and

WHEREAS, The Board of County Commissioners of the County of Gunnison, Colorado desires to protect the resources generated by customers of specific sewer and water divisions for use within the boundaries of their respective division in order to meet the financial needs that occur within their division;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Gunnison, Colorado, that the available resources within the Gunnison County Sewer Fund and Gunnison County Water Fund are to be segregated between the Dos Rios, North Gunnison, Antelope Hills and Somerset Divisions, memorializing current practice, effective immediately.

BE IT FURTHER RESOLVED that the intention of the Board of County Commissioners of the County of Gunnison, Colorado is to prevent the use of various unrestricted funding sources such as property taxes, sales taxes and sewer and water available resources for the extension of services or construction of facilities and improvements outside the boundaries of each Division.

BE IT FURTHER RESOLVED that the rates, fees, tolls and charges, including but not limited to availability fees, tap fees, and reasonable delinquency penalties shall be collected from those benefitting from the service within the boundaries of each Division.

INTRODUCED by Commissioner Swenson, seconded by Commissioner Chamberland, and adopted this 15th day of February, 2011.

BOARD OF COUNTY COMMISSIONERS OF
THE COUNTY OF GUNNISON, COLORADO

By 
Kap Channell, Chairperson

By 
Paula Swenson, Vice-Chairperson

By 
Phil Chamberland, Commissioner

ATTEST:


Katherine Haase, Deputy County Clerk

