

Boulder County seeks attorney's fees, related costs in open records lawsuit

Kristin Bjornsen said in a Tuesday email that 'my case was the opposite of frivolous'

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Boulder County has asked the Boulder District Court to order Gunbarrel resident Kristin Bjornsen to pay more than \$3,900 in attorney's fees and related costs — an amount the attorney's office contends represents only a small portion of the expenses it incurred in defending the county in [Bjornsen's open-meetings and open-records lawsuit](#).

Bjornsen said in an interview that she intends to fight the county's motion for the court to award those fees and is deciding whether to appeal a judge's rulings that the county commissioners and their staff had not violated Colorado's open meetings and open records laws.

[Last February, Bjornsen](#) filed a lawsuit contending that Boulder County had been breaking its open meetings laws by the commissioners alleged holding unauthorized executive sessions.

Bjornsen also charged that the county had violated Colorado's Open Records Act by illegally denying her access or heavily redacting some of the documents she sought in connection with a proposed medium-density housing development on 20 acres of land the county Housing Authority and the Boulder Valley School District [own along Gunbarrel's Twin Lakes Road](#). In October, Boulder District Judge Thomas Mulvahill ruled against Bjornsen on her contentions about open-meetings violations. In November, Mulvahill ruled that Boulder County's denial of Bjornsen's request to inspect certain documents — and the county's blacking out of some of the information in the documents it did provide her — "was proper" under parts of the open records law that allow governments to exclude certain documents from public scrutiny.

On Friday, the county filed a motion to have the court award it \$3,905 in attorneys' fees and \$49.34 for copying, faxing and mailing costs associated with its defense, which Assistant Boulder County Attorney Trina Ruhland said in the motion would "recover a small portion of the actual costs to taxpayers in litigating this matter with Ms. Bjornsen."

The county is not seeking to have Bjornsen pay fees related to the county attorney's defense against Bjornsen's allegations of open-meetings violations but was asking the court to award part of the county's expenses in the open-records portion of Bjornsen's lawsuit.

The county's motion said that if all the attorney's office's time spent on that defense was added up, it could amount to "upwards of \$50,000."

Bjornsen represented herself when originally initiating the lawsuit. For a period of time last year, she was assisted by an attorney but said last year that that attorney had to withdraw his participation in October, "for reasons of his own." Since then, she has again been representing herself.

Bjornsen said she filed a motion on Monday seeking to have the court hold off on any proceedings over the issue of attorney's fees and court costs until after she's decided whether to proceed to appeal her case to the Colorado Court of Appeals.

She said she also needs time to get transcripts from conferences and hearings held as the lawsuit proceeded, in order to respond to the county's motion for the fee award.

Ruhland said that the office had concluded the fee request was necessary, in this case, "to discourage the waste of taxpayer dollars and judicial resources on litigation that amounts to abuse of the system."

She said that "despite the thousands of pages produced to Bjornsen and the hours spent responding to her open records requests and follow-up requests, including providing additional information, discussion and explanations not required by CORA," Bjornsen had proceeded to file her lawsuit alleging violations of the open-meetings and open-records laws in February.

Bjornsen, though, said in a Tuesday email that "my case was the opposite of frivolous."

She said: "It troubles me that the commissioners are trying to make an example of a citizen who is seeking greater transparency. They seem to be trying to intimidate people into silence, but that's all the more reason we should speak out for democracy in Boulder."

Ruhland said Bjornsen has "the right to request a hearing as to the reasonableness of the fees requested." The county will have an opportunity to file a reply to Bjornsen's response to the county's motion for the court to award the fees.

As for the county's "desire to set an example to others to not pursue these types of cases," Bjornsen wrote, she said she believes the county has "already accomplished that."

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