

**GUNNISON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
March 6, 2007**

The March 6, 2007 Board of Commissioners meeting was held in the Commissioners Meeting Room at the Courthouse. Present were:

Hap Channell, Chairperson
Paula Swenson, Vice-Chairperson
Jim Starr, Commissioner

Matthew Birnie, County Manager
Marlene Crosby, Assistant County Manager
Kelly Balch, Clerk to the Board
Keri Hodgins, Admin. Assistant III
Others Present As Listed In Text

- The first portion of the Minutes were prepared by Kelly Balch

CALL TO ORDER: Chairperson Channell called the meeting to order at 8:35 a.m.

MINUTES APPROVAL: **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the February 20, 2007 Regular Meeting Minutes as submitted. Motion passed unanimously.

CONSENT AGENDA: **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the consent agenda items and authorize the signatures. Motion passed unanimously. The approved items are as follows:

1. Janitorial Services Agreements for Courthouse, Family Services Center, Blackstock Government Center and Mountain View Apartments
2. Ratify BOCC Signatures on Letters to:
 - a. Great Outdoors Colorado regarding Crested Butte Land Trust Slate River Project
 - b. Governor Ritter and Senator Schwartz regarding House Bill 1139

WHETSTONE MOUNTAIN RANCH LITIGATION: County Attorney Baumgarten reported that a complaint has been filed in District Court by Whetstone Mountain Ranch Owners Association, Inc. versus the Gunnison County Board of Commissioners and Hidden Mine Ranch, LLC. That document is a public record and can be discussed during the meeting, however, any legal questions or strategic decisions to be discussed by the Board would be appropriate in an executive session.

Moved by Commissioner Swenson, seconded by Commissioner Starr for the Board to go into executive session with County Attorney Baumgarten, County Manager Birnie and Assistant County Manager Crosby for the purpose of obtaining information on specific legal questions or strategic decisions pertaining to this complaint. Motion passed unanimously.

The Board went into executive session at 8:42 a.m. *Executive sessions of the Board of County Commissioners are conducted as per C.R.S. 24-6-402(4). This specific session was conducted as per C.R.S. 24-6-402(4)(b).*

Attorney Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402 (2)(d.5)(II)(B), I attest that I am the Gunnison County Attorney, that I represent the Gunnison County Board of County Commissioners, that I attended all of the above referenced executive session, that all of the executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4) and that, because in my opinion all of the discussion during the executive session constituted a privileged attorney-client communication, no record of the executive session was required to be kept and no such record was kept.

Date: _____

David Baumgarten
Gunnison County Attorney

Chairperson Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402(2)(d.5)(II)(B), I attest that I am the Chairperson of the Gunnison County Board of Commissioners, that I attended all of the above referenced executive session, and that all of that executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4).

Date: _____

Hap Channell, Chairperson
Gunnison County Board of Commissioners

The Board came out of executive session at 9:40 a.m. Chairperson Channell reported that Planning Director Joanne Williams had arrived at 8:45 a.m. and participated in the executive session as well. He also reported that the session stayed on the topic to discuss the technical aspects of the complaint and no formal decisions were made. County Attorney Baumgarten concurred.

LIBRARY SITE: Assistant County Manager Crosby reported that the Request for Proposals for architectural design service for a new library have been sent out and responses will come to County Manager Birnie. The Library Board has asked if they can post a sign at the new library site regarding the future location there. The Board discussed this request and agreed that a sign could be posted behind the fence some distance to try and avoid vandalism, and the sign could include the name "Ann Zugelder Library" and it should also acknowledge Ray Van Tuyl for his substantial donation of the property. The Library Board will pay for the sign and should be prepared to repair or replace the sign should it become vandalized.

WATER RIGHTS AGREEMENT: Upper Gunnison River Water Conservancy District Manager Frank Kugel requested the Board's participation in a photo to be taken at the Gunnison Whitewater Park early this evening. This photo will commemorate the signing of a Memorandum of Agreement between the County, the UGRWCD and the City of Gunnison regarding water rights. The Board had approved this document as an intergovernmental agreement in November of 2006. The Board agreed to be present for the photo.

IT AUDIT: Assistant County Manager Crosby said the Information Technology audit report will be provided to them tomorrow to review for the work session scheduled this Friday with the IT audit consultant Kelley Mitchell.

SAGE GROUSE MITIGATION FUND: Assistant County Manager Crosby stated that the Board previously informally approved expenditure of approximately \$10,000 for advertising and refreshments for tomorrow evening's public meeting regarding sage grouse habitat protection options, spring road closure advertisements and additional Sheriff staffing hours for enforcement of the road closures. This requires formal approval for the use of funds from the Gunnison Sage Grouse Mitigation Fund. The balance of that fund is approximately \$200,000 with the revenues coming from the landfill fee specified for this fund. Crosby stated that the Sage Grouse Mitigation Committee is aware of and supportive of this expenditure.

Moved by Commissioner Swenson, seconded by Commissioner Starr to approve the expenditure of approximately \$10,000 from the Sage Grouse Mitigation Fund as presented. Motion passed unanimously.

EMPLOYEE RECOGNITION BUDGET: Assistant County Manager Crosby reported that the Personnel Board recently discussed the inequities of recognition for employee retirement, special events, deaths in the family, etc. Some departments fund events themselves, others have no events. Crosby also cited an example that former Coroner C.J. Miller was not recognized at all when he retired several years ago after 35 years of service. She feels that honoring the employee is important and also sends a message to all employees regarding their value to the organization.

Assistant County Manager Crosby continued that there is currently an employee recognition at the County Christmas Party where certain levels of service are recognized and awarded a gift certificate. That is budgeted for already. She would like for funds to be budgeted for departments to access during the year for recognitions, flowers, etc.

The Board agreed that money should be budgeted but also noted that the department heads have the responsibility to access the funding and advise of major events involving an employee.

It was agreed to have the Personnel Board develop a recommendation of what types of employee events should be recognized. The Board will consider the recommendation and develop a budget for 2008.

CONSOLIDATED HEALTH CARE: Assistant County Manager Crosby commented that the Board set their next meeting with the Hospital Board for April 10 to discuss consolidated health care options. Prior to that meeting a great deal of information is required to be compiled by the Finance and Housing Authority departments. She feels the information may be difficult to complete by that date due to other major deadlines those departments are working under at this time. Discussion ensued regarding whether to reschedule the work session. It was agreed that County departments, the Hospital, and Health Care Center should continue preparing the information each was requested to provide and consider the status of the scheduled meeting in a few weeks.

KEBLER TRAILHEAD EASEMENT: Assistant Public Works Director Allen Moores presented a map of the Kebler winter trailhead area and said he has been working with the Forest Service for several years on ways the County could obtain more control and authority over that area. The County has been concerned with the large number of abandoned snowmobiles after the winter season and the Forest Service's process to remove them takes several months. As a result the Forest Service is now offering the County an easement in the way of a special use permit which generally encompasses 150 feet on each side of the road centerline and includes the winter parking area and particularly the hillside above the road where the snowmobiles usually are abandoned. The Trappers Crossing road and the Forest Service's toilet are excluded from the County's permit.

Assistant County Manager Crosby reported that the County's enforcement of abandoned vehicles will begin with advertisement in the newspaper and placing signage at the trailhead. Owners can be tracked through those snowmobiles which are registered and they will be contacted. Unregistered vehicles will have warning stickers placed on them. After a determined time the vehicles will be towed and the owner can either pay the tow company to retrieve theirs or the tow company can sell it. Allen Moores suggested that once people become aware that the County is enforcing the removal of abandoned vehicles it will greatly reduce the instances.

Moved by Commissioner Swenson, seconded by Commissioner Starr to approve and execute the agreement with the U.S. Department of Agriculture Forest Service for the permitting operation, maintenance and administration of a Winter Trailhead Parking Area on the Kebler Pass Road, County Road #12. Motion passed unanimously.

INCLUSIONARY ZONING: Chairperson Channell reported that he met yesterday with six staff members to discuss the purpose and composition of a proposed task force regarding inclusionary zoning regulations. The staff asked that the purpose and scope of the task force be clearly defined by the Board of County Commissioners. Specifically, that the Board first decide if the task force should develop information and a recommendation regarding whether to have inclusionary zoning in the County or if the task force is to develop a recommendation of how to implement inclusionary zoning regulations.

Commissioner Starr listed topics he felt were identified as priorities at the essential housing work session held last week with the Planning Commission. These included:

1. To develop the "how", "where" and "why" to include essential housing in new development with 10-30% participation.
2. Prevent the loss of existing essential housing with new developments.
3. Helping municipalities to get housing developed within annexations.
4. Put policies for implementation in place before adopting regulations.
5. Differential payment in lieu based on distance to municipalities.
6. Targeting different Average Median Income (AMI) levels.
7. Using different AMI factors for the north and south ends of the valley.

He also suggested that the task force be advised what their resources might be to complete their task, including the availability of outside resources.

Chairperson Channell said that the Board of Commissioners agree with the philosophy that new development should contribute to the housing issues. The percentage of that contribution needs to be determined. He feels the task force should work with the philosophical agreement in mind, and to develop a recommendation of "where", "when", "how" and the policies and procedures.

Commissioner Swenson agreed that it is critical to not adopt regulations without having policies in place. She stated her concern with the use of the term "inclusionary zoning" in a County which does not having zoning regulations. In addition, some developments by location or type are not best suited to "include" essential housing. She feels the task force should answer some of the questions regarding the legality of inclusionary zoning, whether a nexus study is needed before proceeding, and to develop a multi-pronged approach to include housing within the development, payment of fees for housing elsewhere, and Transfer of Development Rights. As well, the task force should develop policies and procedures for implementation of regulations.

County Attorney Baumgarten asked if the task force has the ability to advise the Board whether inclusionary zoning is the right tool to accomplish the Board's philosophy.

The Board discussed the need to obtain more information regarding the legality of inclusionary zoning, the need for a nexus study, payment in lieu of fees policies, other names for "inclusionary zoning" used elsewhere, and implementation of the same elsewhere. County Attorney Baumgarten asked if the task force should obtain that information and provide the Board with their opinions. Chairperson Channell responded that he feels the County's legal

staff should develop the information for the Board regarding the legality of these issues. He further suggested that the task force not be appointed until the Board reviews the legal issues. Commissioner Starr stated concern that the implementation of regulations will be further delayed. Chairperson Channell suggested that the task force's work may be finalized much quicker once these questions are answered.

County Attorney Baumgarten said research and advice could be obtained from other counsels in areas where inclusionary zoning type regulations have been implemented, including the pros and cons of doing so. He would prepare a full disclosure report for the Board. He also discussed the need to have some funding available for obtaining the information.

The Board scheduled a work session for April 30 to receive the full report of information from County Attorney Baumgarten, and at its May 1 regular meeting will discuss the possible appointment of the task force to develop recommendations.

AIRPORT RULES AND REGULATIONS: Airport Manager John DeVore and Airport Administrative Director Kathie Lucas were present along with Pat Lazerus of Gunnison Valley Aviation for possible adoption of the Airport Rules and Regulations. These were reviewed with the Board at its February 22 work session. It was noted that this document formalizes the practices utilized at the airport for many years. Most of the regulations included in this document are required by the FAA and TSA and cannot be changed. DeVore reported that the County Attorney has advised that violations of these rules and regulations on public property would be a criminal offense. Lucas added that there has been some difficulty with enforcement of rules in the past and this document can now be provided to airport property users. Violations will be reported to Airport operations staff. It was noted that the table of contents needs to be revised to reflect some recent format and numbering changes.

Moved by Commissioner Starr, seconded by Commissioner Swenson to adopt the Rules and Regulations of the Gunnison/Crested Butte Regional Airport with today's date inserted and the table of contents updated. Motion passed unanimously.

AIRPORT MINIMUM STANDARDS: A public hearing was set for March 20 at 9:30 a.m. regarding the proposed Airport Minimum Standards document. Airport staff will advertise the public hearing.

AIRPORT TAXIWAY GRANT: The grant hearing regarding funding for the airport taxiway project is scheduled for March 23 in Trinidad. Chairperson Channell said he would attend that hearing with staff.

OFFICE FOR RESOURCE EFFICIENCY: Gesa Michel and Bruce Van Buskirk were present from the Office for Resource Efficiency (ORE) to discuss the 2007 goals agreed on between ORE and the County. Gunnison County's funding allocation to ORE is \$12,500 for 2007. Michel reported that items #1-4 are programs benefiting the county community without involving county staff time. Item #5 – Local Energy Policies will include work with County staff. Chairperson Channell noted that Cities for Climate Protection has been added to the agreement for implementation in 2007. Michel said that working with the Gunnison County Housing Authority has been removed from the 2007 agreement due to the lack of success in developing that partnership last year. Discussion followed that staffing changes may have contributed to that difficulty.

The Board requested that work with the Housing Authority be added back into the agreement. Chairperson Channell stated that he has been the County's representative on the ORE Board.

Moved by Commissioner Starr, seconded by Commissioner Swenson to adopt the 2007 agreement between ORE and the County with the amended language adding "Assist Gunnison County Housing Authority in increased energy efficient building consultation for essential housing and Mutual Self Help Build Projects" as the fifth bullet under Goal #2 – Building and authorize the chairperson's signature. Motion passed unanimously.

Chairperson Channell reported that he and Gesa Michel secured funding from the Town of Crested Butte toward the Cities for Climate Protection program and they will meet soon with the Gunnison and Mt. Crested Butte councils to request the same. It has yet to be determined where the CCP software will be located.

RECYCLING: Gesa Michel asked about recycling issues at the north end of the valley. Assistant County Manager Crosby said the issues are more complex than the residents understand but she is working on a plan for recycling of green and clear glass and cardboard and will provide that information to the public once something is finalized.

TOURISM ASSOCIATION: The Board filled out their ballot for the Gunnison/Crested Butte Tourism Association Board election.

SCHEDULING: Upcoming meetings were reviewed and scheduled.

MAYOR MANAGERS MEETING: Chairperson Channell reported that the Upper Gunnison River Water Conservancy District would like to begin participating in these monthly meetings. He suggested they could host the May meeting instead of the County. Administrative Services Manager Balch suggested that the UGRWCD begin attending but not host a meeting until 2008 because the schedule of hosts for 2007 was negotiated among the parties and agreed upon by the group in November.

COMMISSIONER MEETING REPORTS: Commissioner Starr reported that he attended the Natural Gas Collaborative meeting in Montrose and the next meeting is April 9. He met with Crested Butte Mayor Alan Bernholtz regarding recycling concerns. Assistant County Manager Crosby reiterated the need to allow her time to work out a plan for the collection of glass and cardboard at the north end of the valley. Starr continued that he met with a citizen concerned about local issues with undocumented workers employed by local contractors and suggesting that the County license contractors including reference to undocumented workers. Following discussion of whether the County should get involved or not it was agreed that Starr would draft a letter to the Contractors Association regarding the County's willingness to discuss licensing of local contractors.

In response to a question from the Board about two citizen complaints Assistant County Manager Crosby reported that she is working on the Dos Rios sewer project reclamation issue, and much of the North Valley subdivision issues are the responsibility of that homeowners association. Although Chairperson Channell asked whether the County should lift the moratorium on new construction there since it was enacted upon request of the State, Crosby feels keeping the moratorium in place provides potential buyers of that warning.

Chairperson Starr also offered to draft a letter to Gunnison County Electric Association reiterating issues in the County's Resolution #2007-02 pertaining to coal fired generation plants.

BREAK: The meeting recessed for lunch from 12:00 p.m. to 1:05 p.m.

GUNNISON/HINSDALE BOARD OF HUMAN SERVICES: From 1:07 to 1:18 p.m. the Board met as the Gunnison/Hinsdale Board of Human Services. Those Minutes are a separate document.

TOOLS COVERAGE RESOLUTION: Finance Director Linda Nienhueser presented a resolution requested by the County's insurance carrier in order to provide coverage for the tools which the mechanics own. Assistant County Manager Crosby reported on the type of tools the mechanics own as well as the use and storage of those tools.

Moved by Commissioner Swenson, seconded by Commissioner Starr to adopt Resolution #2007-13, A RESOLUTION ADOPTING A POLICY AND PROCEDURE FOR INSURANCE COVERAGE OF PERSONAL TOOLS FOR COUNTY PURPOSES. Motion passed unanimously. (*See Attachment to Minutes*).

MEETING PAYMENTS FOR CERTAIN BOARDS: Finance Director Nienhueser presented information requested by the Board of Commissioners regarding payments for attendance at meetings to the members of the Environmental Health Board, the Board of Adjustments, and the Board of Appeals. A summary of impacts to the budget if the meeting payments were raised was reviewed. The Board discussed the frequency, length and amount of preparation needed for each of the meetings.

Moved by Commissioner Swenson, seconded by Commissioner Starr to change the pay to members for the Environmental Health Board, Board of Adjustments, and Board of Appeals to \$75 per meeting. Motion passed unanimously.

COMMISSIONER MEETING REPORTS: Chairperson Channell reminded the Board of several upcoming community meetings that each could attend.

Commissioner Starr reported that the next Gothic Transit Task Force meeting will be held on April 13 in the Crested Butte Town Hall. He said he will ask the Town of Crested Butte to arrange and pay for the lunches at that meeting. Mt. Crested Butte will be asked to reimburse the County for payment of lunches for the last meeting there.

Commissioner Swenson stated that she and Gunnison Sage Grouse Strategic Coordinator met with Saguache County and Hinsdale County regarding spring road closures to protect sage grouse habitat. They are also working with Montrose, Delta, and Hinsdale Counties regarding their participation in sage grouse issues. Commissioner Swenson also reported that she attended the last Animal Task Force meeting and the next one is scheduled for March 21.

Commissioner Swenson also met with Rep. Kathleen Curry to discuss new legislation being introduced regarding the composition of the Oil and Gas Commission, and met with Hospital Administrator Randy Phelps regarding the consolidated health care financial information requested by the Board.

Chairperson Channell summarized the items reported on by each entity at the March 1 Mayor Manager's Meeting. He also met with Gary Hausler regarding the hay cubing/wood pellet plant which has been discussed for several years. The size of the proposed plant may no longer fit on the Light Industrial Park site and other locations are being discussed. Channell reported that Hausler asked him for an expedited land use review process and was told that needed to be discussed with the Planning Director.

MCFAUL RESIDENCE: County Attorney David Baumgarten, Planning Director Joanne Williams, and Assistant Planning Director Neal Starkebaum were present. Attorney Art Trezise was also present on behalf of the property owner.

Trezise reported that the McFaul residence in Red Mountain Ranch was not constructed the same as the plans for which the building permit was issued. The changes include a basement not shown on the plans, different rooflines, and a large room not on the plans but with a window and no interior doorway. The building size was approved for approximately 7500 square feet, which is the maximum allowed by the Red Mountain homeowners association. He believes the finished size of the house is 10,000 – 11,000 square feet but it is being offered for sale advertising a size of 14,000 square feet. He believes the owner did not purposely intend to bypass the regulations and construct a house significantly larger than 7500 square, that the final construction size was the result of various litigation, contractor, and plan change issues that combined to this end result.

County Attorney Baumgarten stated that the issues are not only with the building not matching the plans but also the square footage of the construction exceeds some of the County's thresholds for different types of review and fees. He said that all of the parties are having a conversation regarding the issues and he is optimistic it will be solved. The resolution they are working on will include additional fees and fines. If the solution is not satisfactory he will return to the Board for authorization to initiate enforcement action.

Commissioner Starr said he feels this is the most blatant disregard of a building permit he has ever seen and is very concerned with the precedence of how this matter is handled.

Planning Director Williams commented that this raises the issue discussed by the Board in the past regarding putting resources into stronger enforcement. The Board agreed that if stronger enforcement is undertaken for this instance then it needs to be pursued for all violations.

County Attorney Baumgarten suggested that staff continue to work with the parties involved to resolve this matter and will report back to the Board on March 20, with the potential for further actions. Commissioner Starr requested that staff begin tracking their time in working on this.

ELKTON PLACER LAND USE PERMITTING: County Attorney Baumgarten, Assistant Planning Director Starkebaum and Assistant Public Works Director Moores were present for further discussion of the land use and other permits issues brought to the Board at the February 20 meeting. Starkebaum said that as a result of citizen complaints to the County reporting construction activity at the Elkton Placer last fall a stop order was issued to property owner Jed Frame. In January he was issued a violation of the Land Use Resolution.

County Attorney Baumgarten said that since the February 20 meeting when the initiation of enforcement action was discussed, he and staff members have met with the property owner/principals in the company to discuss the land use, building permit and ISDS permit violations as well as discussing the signage which was constructed regarding no public access. Baumgarten said the road is on federal land which goes through the series of mining claims and is a public road. The principals were also told that no use of the new yurts can occur until all necessary permits are issued. The property has historically had persons sleeping at the main house and old hut but not for the "booter" camp or other expanded activity which the property owner is now operating. The County has requested documentation of the historic usage. The principals have said they will not engage in new reservations for the commercial activity they are operating as a "booter camp" but Baumgarten will allow them to honor the reservations they

have in place to the beginning of April and to allow for sleeping at the main house and old hut only. The principals were also advised that the Snowcat at the property cannot be moved or be taken off the property without County permission, and no more signage shall be constructed. Signage previously placed has been taken down. Baumgarten suggested that at this time it would be appropriate to see how the principals follow through on the application processes they were directed to initiate, including the land use change review process.

County Attorney Baumgarten continued that another conversation which needs to occur is between the County and the Forest Service regarding what access and use they will allow. The public road characteristics also need to be resolved, including access through the Crested Butte Land Trust parcel. Another conversation which should occur would be between the County and the members of the Gang of Nine and Winter Travel Management Group which worked hard to develop restrictions on motorized recreational travel within the Washington Gulch area used to access the Elkton Placer.

Assistant Planning Director Starkebaum reported that there is approximately one mile of County Road #811 – Washington Gulch prior to the forest access to the Elkton Placer. The County can control over the snow use on its portion of the road. County Attorney Baumgarten agreed that the County has the ability to create rules and regulations for its roads and perhaps it might be useful to gather the Forest Service and other interested persons to discuss the type of access preferred by the public to that area. This would need to be a discussion which does not address the specifics of the land use change being contemplated by the Elkton Placer owners.

A special meeting for the purpose of having this discussion was scheduled for April 5 from 2:30 to 4:00 p.m.

County Attorney Baumgarten concluded that if enforcement action becomes necessary regarding the activities occurring at the Elkton Placer, that will be based on its own merits. He reiterated that the meeting regarding access to the Washington Gulch area on April 5 will be a general discussion.

HIGHWAY ENHANCEMENT FUNDS: Assistant County Manager Crosby reported that she continues to work toward obtaining Colorado Department of Transportation enhancement funds to develop the trail between Crested Butte and Skyland.

BREAK: The meeting recessed from 2:50 to 3:00 p.m.

WESTERN STATE COLLEGE GRADUATE PROGRAM: It was reported that Governor Ritter and Rep. Kathleen Curry will be in Gunnison Friday afternoon to sign the legislation re-establishing a graduate degree program at Western State College. The Board asked County Manager Birnie to prepare letters to Governor Ritter, Senator Gail Schwartz and Representative Curry thanking them for their work on this.

MILISAVLJEVICH SUBDIVISION: County Planner Cathie Pagano was present along with applicant Steve Milisavljevich for Board consideration of the Planning Commission's recommendation to approve the application to subdivide an existing parcel along Highway 50 into two parcels. Lot 2 is proposed to be 0.4257 acres with an existing home. Lot 1 is proposed to be 0.19 acres with the approval of up to three units to replace the existing mobile homes. Chairperson Channell noted one format language change and also that the ditch maintenance and back lot access issues raised at the Planning Commission have been worked out. Milisavljevich said he will give the renters of the mobile homes notice of the need to move out and he is looking for locations to move the two remaining mobile homes.

Moved by Commissioner Starr, seconded by Commissioner Swenson to adopt Resolution #2007-14, A RESOLUTION APPROVING LAND USE CHANGE PERMIT NO. 2006-51, A LAND USE CHANGE PERMIT FOR ILA MILISAVLJEVICH, ROSE HIP SUBDIVISION. Motion passed unanimously. (*See Attachment to Minutes*).

BOARD RETREAT: The Board retreat with staff which was postponed from February 25 – 26, due to the funeral of former long-time County Commissioner Fred Field, was rescheduled for the Arrowhead Inn on April 15 – 16.

WEST ELK CONDOS: Assistant Planning Director Neal Starkebaum, applicant Mark Lucas, and applicant's attorney David Leinsdorf were present for review of the plat map for the Back 9 Condos Building C located on Fairway Lane in Dos Rios. Leinsdorf said that each additional lot being constructed on will have a supplemental plat.

Moved by Commissioner Starr, seconded by Commissioner Swenson to authorize execution of the plat by the chairperson of the West Elk Condos LLC Back 9 Condos, Building C. Motion passed unanimously.

BREAK: The meeting was recessed from 3:35 to 4:00 p.m.

- The remainder of the Minutes were prepared by Keri Hodgkin

PUBLIC HEARING

Proposed Amendments to Gunnison County Land Use Resolution, Particularly But Not Limited to Section 11-106 Concerning Wildlife Habitat, Incorporating Portions of the “Temporary Regulations for Gunnison County Land Use Change, Access, Reclamation, Individual Sewage Disposal System (ISDS) or Building Permits on Lands Located Wholly or Partially Within a 0.60 Mile Radius of a Gunnison Sage-grouse Lek, or Located Wholly or Partially Within Gunnison Sage-grouse (GUSG) Occupied Habitat.

CALL TO ORDER: Chairperson Channell called the public hearing to order at 4:00 p.m. Planning Director Joanne Williams confirmed proper public notice of the hearing. Chairperson Channell asked if there were any perceived or otherwise conflicts of interest from the Board members on discussing this issue. Commissioners Starr and Swenson answered no.

Planning Director Joanne Williams stated that the Board had adopted temporary regulations in June of 2006 for the purpose of addressing ISDS, building and land use change permits that were within 0.6 miles of a known GUSG lek or within sage-grouse occupied habitat. A date was given at that time to begin looking at permanent changes to the Land Use Resolution (LUR). Her recommendation to the Planning Commission was to incorporate these amendments into the Wildlife Section of the LUR rather than add it on the end. She noted that even though these are being referred to as permanent changes, the LUR can be amended at any time. She said some of the Planning Commission recommendations had been unintentionally left out of the document posted to their web-site, but was correctly posted last week. She then reviewed each amendment as listed in the document.

Sage-grouse Coordinator Jim Cochran said that the process for reviewing permits would remain the same under these amendments as what they’ve been using for the temporary regulations. He said all applications are submitted to the Planning Department. They use the maps to determine if the proposed activity is within occupied habitat and they transfer the ones which are to Cochran. He then uses mapping information from the Division of Wildlife (DOW) and other sources to determine if an on-site analysis is needed. The Planning Department then coordinates the on-site visits, which involves the Public Works Department, the Building Inspector or someone from the Planning Department, and the DOW. Cochran then prepares an assessment memorandum, which is given to the DOW and the Planning Department. He noted that this process allows the DOW to locally review what he does, which saves a lot of time. He said the process has worked very well for the forty one reviews completed under the Temporary Regulations. Commissioner Swenson noted that Cochran had presented these proposed amendments to the Gunnison Basin Strategic Sage-grouse Committee and a few of the Committee members had submitted written comments to the Board of County Commissioners (BOCC). Chairman Channell asked if there was a specific provision for updating the two referenced maps. Cochran answered no. He said Gunnison County makes the maps from the DOW data and would ask the DOW annually if updating was necessary. Commissioner Starr asked Joanne Williams if the second line in A.3. would need to say ‘generated and adopted...’ Williams said that paragraph is the adoption paragraph so the additional wording would not be needed. Chairman Channell opened the public hearing to public comment.

Erich Ferchau requested that the incentive process for 35 acre parcels be referenced in the LUR. Commissioner Swenson thought that incentive process would fall under F.1.a.- Consideration of Beneficial Efforts. Jim Cochran said there was a staff recommendation to build a specific reference and acknowledgement of the incentive process into the LUR, and added that it would be premature to reference it before the incentive process is actually defined. Gary Hausler said that the definition of GSUG occupied habitat needs some clarification. He said you can’t prove lack of use, so the definition should be changed to say that there has to be documented proof of use in the last 10 years. Cochran said that wording comes from the Rangewide Conservation Plan (RCP) and is used by the DOW for their mapping. He said he’s reluctant to change that definition and said the site-specific analysis will determine whether it’s occupied or not. Sue Navy added that if the population increases the bird might need habitat which is not currently being used. Commissioner Swenson said it would be best to use the definition as it is in the RCP since the county is working with several agencies who have adopted that plan. Hausler suggested the county commit to the on-site visits, so any predecessor to Cochran would be held to the established policy.

Gary Hausler also requested clarification to the 0.6 mile language in Section 11-106 C.3, since physical barriers such as cliffs and roads can modify that range. Cochran suggested wording to address that concern. There was further discussion about illegally created barriers and there was general agreement that the first sentence gives the latitude needed because the characteristics are determined by a decision making body. The reference to fencing was also discussed. Commissioner Swenson said there is a separate section for agricultural fencing and this refers to residential fencing. Erich Ferchau said he thinks the fencing needs revisited so people have the opportunity to use different types of fencing.

Hausler asked if these regulations will be applied to previously approved building envelopes. Commissioner Swenson answered yes. He mentioned that the DOW information used to place the building envelopes on his lots is no longer applicable or correct. Cochran said some lots at Eagle Ridge were reviewed under the Temporary Regulations that had the same issues. He said they made their recommendations for house orientation and cover within the existing building envelope, but also recommended that the applicants work with the Home Owner's Association to move the building envelopes. Cochran cited this as a good reason for developing the incentive process for the larger parcels. Jim Oates echoed Hausler's comment that the information used to protect the wildlife at Eagle Ridge is no longer the information used. Chairperson Channell said these regulations would be reviewed in order to mitigate and make recommendations based on a goal of preserving the species. He said this might not be perfect for pre-approved subdivisions, but we still have to do the best that we can do within those circumstances. There was discussion about what would happen if the County denied a building permit for one of these lots. Joanne Williams said they have already set the precedence for doing cutouts for existing subdivisions where they are subject 'to the maximum extent feasible.' She suggested utilizing that section for these subdivisions. Cochran said that would make him more comfortable.

Sue Navy asked if there could be specific wording that someone qualified, such as a biologist, would be doing the analysis. She also asked if the 21 day review could be extended to ensure sufficient time for comment. Commissioner Starr said that if the bird gets listed, the 21 day review is one of those things that would favor the United States Fish and Wildlife Service leaving these decisions within this document, rather than taking over the process. Joanne Williams said this language is targeted to review of these specific permits and that there is an allowance for an extension of time for Minor and Major Impact Subdivisions. Cochran said the DOW agreed to the 21 day time frame.

Moved by Commissioner Swenson, seconded by Commissioner Starr to continue the Public Hearing Regarding the Proposed Amendments to the Gunnison County Land Use Resolution Regarding Wildlife Habitat Particularly Sage-grouse to March 20th at 3:00 p.m. Motion passed unanimously.

ADJOURN: The Public Hearing and Regular Meeting were adjourned at 5:20 p.m.

Hap Channell, Chairperson

Paula Swenson, Vice-Chairperson

Jim Starr, Commissioner

Minutes Prepared By:

Kelly Balch, Deputy County Clerk

Keri Hodgin, Deputy County Clerk

Attest:

Stella Dominguez, County Clerk

**GUNNISON COUNTY BOARD OF COMMISSIONERS
ATTACHMENT TO MINUTES
OF RESOLUTION TEXT**

**BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY
RESOLUTION NO. 07-13**

**A RESOLUTION ADOPTING A POLICY AND PROCEDURE FOR INSURANCE COVERAGE OF
PERSONAL TOOLS USED FOR COUNTY PURPOSES**

WHEREAS, the Board of County Commissioners has determined that insurance coverage may be extended for employee's personal tools when used for county purposes; and

WHEREAS, the Board of County Commissioners has determined that certain policies and procedures be adopted to implement this coverage,

NOW THEREFORE, it is resolved by the Board of County Commissioners that the following policy and procedure be implemented:

Policy:

Any person's tools, hereinafter denoted as items necessary in the performance of the duties of any county employee and which are supplied by the employee and remain that employee's personal property, shall be covered by the county's insurance carrier against fire, theft, water damage, loss in vehicular accident, building collapse, or other reasonable damage while used and/or stored in or on county property, including county vehicles. The County shall pay any deductible portion of the insurance coverage, so long as the employee has met all other requirements of this policy.

The employee is required to exercise normal security in the use and storage of those items. The items must be stored in a locked box or locked storage area, and not left unsecured when not being used and/or when the shop or storage area, office, etc., is closed for business. When stored on or in a county vehicle, such items shall be kept in a locked container (such as a toolbox, briefcase, etc.) and kept out of sight as much as reasonably possible.

Procedure:

The employee must supply a detailed written inventory of such items, including replacement values, to his/her direct supervisor. The supervisor shall determine whether the estimated values are appropriate. The inventory must be accepted by signature of an authorized supervisor before the county will cover any such items. Copies of the approved inventory shall be retained by the employee, their supervisor and another copy sent to the Finance Office. Any items to be added to or deleted from this inventory must be noted on a revised written inventory, which must be accepted by signature of an authorized supervisor, before the county will cover any additional items. *Items not on the inventory list will not be covered by insurance.*

It is a prerequisite to any benefit under this policy for the employee to report to the Finance Office and County Sheriff of any damage, theft or other loss of a covered item within three (3) working days of discovery of such damage, theft or loss.

It shall remain the owner/employee's right to limit the usage of personal items to any other employees of his/her choice. If an employee loans an item to another employee who loses or otherwise caused the item to be lost, the responsibility for replacement shall not be borne by the county.

Sample Inventory Form

Description	Manufacturer	Model	Model Number	Serial Number	Date Acquired	Purchase Price	Replacement Price

By signing below, employee and supervisor both agree that all details on this inventory form are accurate.

Employee Signature

Direct Supervisor's Signature

Date

Date

INTRODUCED by Commissioner Swenson, seconded by Commissioner Channell and adopted this 6th day of March, 2007.

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO
Channell – yes; Swenson – yes; Starr – yes

**BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. 14 SERIES 2007**

**A RESOLUTION APPROVING LAND USE CHANGE PERMIT NO. 2006-51
A LAND USE CHANGE PERMIT FOR ILA MILISAVLJEVICH
ROSE HIP SUBDIVISION**

WHEREAS, Ila Milisavljevich has applied for a Land Use Change permit to subdivide 0.6217 acres into two parcels—Lot 1 is to be 0.19 acres and Lot 2 is to be 0.4257 acres. The parcel is legally described as Lots 4A and 4B, Zupan Acres and 0.6217 acres in the Southeast quarter of the Southeast quarter, Section 3, Township 49 North, Range 1 West, N.M.P.M.; and

WHEREAS, after a review of the Minor Impact application and final submittal and all information, documentation and testimony related to it, the Gunnison County Planning Commission did, on February 16, 2007 forward a Recommendation of approval of that application to the BOCC with certain Findings and Conditions:

FINDINGS:

1. This application, by definition, is classified as a Minor Impact.
2. The proposed lot sizes and lot density are similar and compatible to other lots within the area.
3. There are three existing mobile homes on Lot 1 and one existing single-family residence on Lot 2.
4. The applicant has proposed to allow either a single-family residence or duplex or triplex on Lot 1 thereby replacing the existing mobile homes.
5. A landscaping plan, dated January 5, 2007, has been submitted for each different residential scenario—single-family, duplex and triplex.
6. A parking plan has been submitted dated, January 5, 2007, identifying the required amount of parking for each different residential scenario—single-family, duplex or triplex; the parking plan complies with the requirements of *Section 13-110*.
7. This application is generally consistent with the standards and requirements of this *Resolution*.
8. No phases are proposed for this development.
9. Access will be from the existing Highway 50 frontage road; the existing driveway shall remain the same and will be part of Lot 2.
10. Approval is limited to the plan described within the "Project Description" of this application, and as depicted on the site plan as submitted. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Land Use Resolution*.
11. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application; including all exhibits, references and documents as included therein.

CONDITIONS:

1. All existing mobile homes shall be removed prior to any new construction on Lot 1.
2. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the Plan submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution*.
3. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.

4. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.
5. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.
6. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that Land Use Change Permit No. 2006-51, for Rose Hip Subdivision is approved as a Minor Impact, subject to each and all conditions of the decision document, as identified above, and;

THIS APPROVAL is affected noting that decision documentation includes, but is not limited to, the application and the entire Planning Department Land Use Change Permit application file relative to this application. This approval is founded on each individual finding and requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.

THIS RESOLUTION AND THE APPROVAL GRANTED HEREBY shall not be effective unless and until a copy is recorded in the Office of the Clerk and Recorder of Gunnison County.

INTRODUCED by Commissioner Starr, seconded by Commissioner Swenson, and passed on this 6th day of March, 2007.

BOARD OF COUNTY COMMISSIONERS
Channell – yes; Swenson – yes; Starr - yes