

**GUNNISON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
March 20, 2007**

The March 20, 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
Kelly Balch, Clerk to the Board
Others Present as Listed in Text

CALL TO ORDER: Chairperson Channell called the meeting to order at 8:04 a.m.

MINUTES APPROVAL: Moved by Commissioner Swenson, seconded by Chairperson Channell to approve the March 6, 2007 Regular Meeting Minutes as submitted. Motion passed. Commissioner Starr was not present.

Moved by Commissioner Swenson, seconded by Chairperson Channell to approve the February 27, 2007 Special 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 execution of those documents. Motion passed unanimously. The approved items are as follows:

1. IGA between Gunnison, Montrose and Hinsdale County Re: Coroner assistance
2. Agreement Regarding 2007 Funding:
 - a. Gunnison High School Mini Food Court - \$620
3. Ratify BOCC Signature on Letter Supporting Town of Pitkin grant

OUT OF STATE TRAVEL: County Manager Birnie presented a request for out of state travel for a nurse in the Public Health Department. His only question was whether the County allows the entire per diem amount to be used for dinner when breakfast and lunch are included with the hotel and conference, and whether receipts are required. The per diem per meal was not defined but it was agreed that receipts should always be provided by the employee.

Moved by Commissioner Swenson, seconded by Commissioner Starr to approve the out of state travel for Laura McLoughlin to attend a reproductive health conference in Missoula, Montana from May 1 – 3 for an amount not to exceed \$900 and request that all receipts are turned in. Motion passed unanimously.

IT AUDIT: County Manager Birnie requested formal authorization to proceed with the direction discussed by the Board last week regarding the Information Technology Audit.

Moved by Commissioner Starr, seconded by Commissioner Swenson to authorize the County Manager to implement the IT plan presented last week by the consultants, as set forth in that plan and to include any personnel changes recommended. Motion passed unanimously.

YOUTH CONSERVATION CORPS: County Manager Birnie reported that he has been approached by a representative of the Western Colorado Youth Conservation Corps to gain the Commissioners' support for the possibility that this youth work program could be utilized in Gunnison County. No funding would be required. One option which has been mentioned is for the youth to work on sage grouse habitat projects. Birnie said he will discuss this further with the representative and report back to the Board as necessary.

DETENTION CENTER CONSTRUCTION FUND: County Manager Birnie suggested that the \$200,000 in sales tax funds committed in the 2007 Budget toward a detention center project, which failed on the November ballot, should be retained in a separate fund to grow a fund balance toward a future project. The Board noted that they had committed \$900,000 in sales tax over four years for the project proposed last fall. The Board agreed to set up the fund to continue to put in revenues in upcoming years. County Manager Birnie will work with staff on developing the necessary resolution to set up the fund. Two citizens were present who had served on the citizen committee to develop a detention center proposal last year and both spoke of the need to set aside funds and continue moving toward a successful project. Commissioner Starr said he would like for the Board to continue to remind the City of Gunnison to consider a site for a future justice center as they are considering the current annexation proposal.

COMMUNITY CORRECTIONS BOARD: County Manager Birnie stated his interest in being the County's designee to the Community Corrections Board.

SCHEDULING: Upcoming meetings were reviewed and scheduled.

NORTH VALLEY CITIZEN LETTER: Assistant County Manager Crosby presented a draft letter for Board review in response to a citizen's concern regarding the building moratorium and sewer issues in the North Valley subdivision.

DEPARTMENT OF LOCAL AFFAIRS GRANTS: Assistant County Manager Crosby is finalizing grant applications to the Department of Local Affairs Energy and Mineral Impact Assistance Fund and since County Manager Birnie is out of town next week when the applications will be submitted prior to the April 1 deadline, Crosby is requesting authorization to sign on behalf of the county.

One grant application will be submitted for \$500,000 in funding toward road projects. Staff will continue to evaluate the cost of asphalt versus chip seal before finalizing project plans, but the funding should allow for hard surfacing up to five miles of roads.

Crosby proposed that a second grant be submitted to cover the \$30,000 cost to upgrade the 15 residence doors at the Willows Assisted Living to include automatic openers. The Board discussed applying for a larger grant amount to pay toward the debt at the facility. Of particular concern are certain funding requirements regarding resident eligibility which is currently causing there to be two vacant rooms at a lost income cost to the facility of approximately \$67,000 per year. Crosby will talk with DOLA staff regarding the likely success of several grant funding options and will proceed to finalize the application accordingly.

Moved by Commissioner Swenson, seconded by Commissioner Starr to authorize the Assistant County Manager to sign the Department of Local Affairs grant applications for the road projects and the Willows door openers and repayment grant as determined. If an application for funds to eliminate the Community Development Block Grant is not appropriate, funds should be requested to repay the loan. Motion passed unanimously.

OUT OF STATE TRAVEL: Assistant County Manager Crosby presented her request for staff members to attend national public works conferences. The original request was for the primary utility operator to attend a conference in Toronto and two staff members to attend a conference in San Antonio. The cost of the conference in Toronto was much higher so Crosby would like to send the utility operator to attend the San Antonio conference along with herself and another staff member.

Moved by Commissioner Starr, seconded by Commissioner Swenson to authorize expenditure of up to \$1525 for Lee Partch, up to \$1100 for Marlene Crosby, and up to \$1525 for Mark Templeton to attend the American Public Works Association conference in San Antonio. Motion passed unanimously.

GLASS CRUSHER: Assistant County Manager Crosby presented her request to purchase new glass crushing equipment which will be necessary if the County begins accepting green and clear glass once again. The Solid Waste Fund has a strong fund balance to cover the requested \$7000 expenditure but the piece of equipment was not included in the budget. This crusher will produce a material which can either be hauled to Coors or used as cover at the landfill. There was brief discussion regarding a type of equipment now available which produces a material suitable for landscaping. Storage and use of those materials are questionable at this time.

Moved by Commissioner Starr, seconded by Commissioner Swenson to authorize expenditure of up to \$7000 to purchase a new glass crusher from the Solid Waste reserves and that the budget shall be amended at the appropriate time to reflect this expenditure. Motion passed unanimously.

RECYCLING UPDATE: Assistant County Manager Crosby presented the plan for recycling green and clear glass, in addition to brown, and for collection of glass and cardboard in the Crested Butte area. Coors is allowing the County to haul a certain amount of glass in all colors to them for recycling in 2007, and the remaining materials will be used as cover materials at the landfill. Now that the questions of how to recycle or re-use the glass have been resolved, another issue is storage of glass until it can be hauled or used. Green and clear glass will not be picked up curbside in Gunnison or Crested Butte. Those colors will need to be taken to the recycling center or a possible drop off location being considered in Crested Butte. The City of Gunnison has made a significant offer to provide a truck for glass storage when the dumpsters at the recycling center are full and crushing or hauling is not yet feasible. The City would also allow County staff to drive the truck to Crested Butte to pick up materials there. The County will be required to pay for the costs of diesel for operating the truck. A similar plan is being

proposed for the collection of cardboard in the north end of the valley but that has not yet been finalized.

PUBLIC HEARING
Community Development Block Grant
Tenderfoot Construction Project

Chairperson Channell called a public hearing to order at 9:20 a.m. This hearing is a requirement of the Community Development Block Grant which was awarded by the State of Colorado for the Tenderfoot child care center construction project and allows citizens the opportunity to comment on the County's performance regarding the project. Senior Accountant Ben Cowan confirmed proper publication of the hearing. He also reported that no comments were received in the Finance Office. No citizens were present for the hearing.

The public hearing was closed at 9:22 a.m.

AIRPORT BUDGET: Airport Manager John DeVore reported that the Airport Operations Fund closed out 2006 well ahead of budget and he would like to transfer a portion of the excess to the Airport Construction Fund. He also proposes replacing an old truck with a new one ton truck, but this purchase would be contingent upon the results of the Energy and Mineral Impact Assistance Grant award for the taxiway project. The tentative decision on that grant will be known at the end of this week. The Board agreed with the use of funds as outlined.

PUBLIC HEARING
Airport Minimum Standards

Chairperson Channell called a public hearing to order at 9:34 a.m. Airport Manager DeVore confirmed proper publication of the hearing. One citizen was present for the hearing, Pat Lazerus of Gunnison Valley Aviation. Airport Operations Director Matt Whitelock was also present.

Airport Manager DeVore stated that the current standards were adopted in 1994. The proposed standards presented today were developed by staff and special airport counsel. The airport tenants were provided the opportunity to review the document and the only concern has been regarding insurance limits. DeVore suggests that the Minimum Standards could be adopted without the changed insurance limits at least until he receives more input from the commercial carriers. County Manager Birnie agreed with that suggestion rather than holding up having any of the updated standards put into place.

Pat Lazerus stated support of the standards.

The public hearing was closed at 9:38 a.m.

AIRPORT MINIMUM STANDARDS: Moved by Commissioner Starr, seconded by Commissioner Swenson to adopt the Gunnison/Crested Butte Regional Airport Minimum Standards draft revision date of 12-13-06 with the exception of Attachment #2 which will be considered in the near future and with the clarification that the minimum insurance requirements which are currently in Attachment #2 will remain as they are in the existing Minimum Standards. Motion passed unanimously.

BREAK: The meeting recessed from 9:45 to 9:50 a.m.

STATE FOREST ANNUAL OPERATING PLAN: Brian Ayers of the Colorado State Forest Service presented the annual operating plan regarding local cooperation for wildfire fighting. Sheriff Rick Murdie was also present. The only changes from last year's document are to update the personnel and equipment amounts. Sheriff Murdie added that the aircraft agreement remains the same which allows for the first load of fire suppression materials to be dropped at no cost. Discussion ensued regarding the State's Emergency Firefighting Fund, mutual aid agreements, and the payment of firefighting on public and private lands in recent history.

Moved by Commissioner Swenson, seconded by Commissioner Starr to approve the 2007 Annual Operating Plan Fire Control Agreement and authorize the chairperson's signature. Motion passed unanimously.

HOMELAND SECURITY GRANT UPDATE: JoAnn Stone, Regional Coordinator for Homeland Security, provided a financial summary of regional grant funding from 2002-2006. The grant application for the upcoming year is \$1.9 million dollars, with the award decision to be known in September. Stone feels the entire amount will not be awarded because some of the counties in the region requested funding for items which are not allowable in the grant. She also

reported on a disagreement between the County and the State for the closeout of the previous grant and this matter should be resolved shortly. It was noted that the Gunnison County portion of the grant award is higher than other counties in the region due to the inclusion in the award of Stone's salary and allocation of revenue toward the County's administrative costs.

SPECIAL DISTRICT REPORTING: County Attorney David Baumgarten and Paralegal Rachel Magruder presented the Board with information regarding the statutory opportunity for the Board to require certain types of special districts to provide an annual report to the County. The Board had raised the issue in February when considering the service plan request from the Arrowhead Fire Protection District and when the question came up regarding the continued operation of the Ragged Mountain Fire District. Magruder's research found that in 1993 the County Commissioners had adopted a motion requiring submittal of the annual reports but that has not been followed through on over the years. Baumgarten recommends that a resolution would formalize the intent and process. He reported that statutes allow the County to require the annual reports to the Board or to the Board with copies to the State Department of Local Affairs and if the report is not provided the Board can request that the County Treasurer not distribute further tax monies to the special district until that district is in compliance with the reporting requirements.

Chairperson Channell stated concern with adopting this requirement without first advising the special districts that this is forthcoming. County Attorney Baumgarten reminded the Board that when a special district becomes defunct the County has to deal with the consequences, such as when the Marble Metro District was dissolved several years ago. Requiring the reports results in better notification to the County of the structure of the district and provides better public accountability. As well, the County did adopt this requirement in 1993 but it has not been enforced.

Following discussion it was agreed that a letter should be sent to all of the special districts listed on the resolution to advise them of this requirement and to offer them the opportunity to speak with the Board at a meeting. Chairperson Channell preferred that the requirement not be adopted until after the districts were offered the opportunity, but Commissioners Starr and Swenson preferred that the letter go out with the adopted resolution stating the requirements to be enacted in 2008.

County Attorney Baumgarten will draft a cover letter to be sent to the districts this spring with a copy of the adopted resolution. The County Administration office will administer these requirements and a template of the information being requested will be developed to be sent out to these districts in the fall.

Moved by Commissioner Starr, seconded by Commissioner Swenson to adopt Resolution #2007-15, A RESOLUTION REQUIRING SPECIAL DISTRICTS WITHIN GUNNISON COUNTY, COLORADO TO SUBMIT AN ANNUAL REPORT. Motion passed 2 – 1. Swenson and Starr – yes. Channell – no. (*See Attachment to Minutes*).

WARRANTS AND TRANSFERS: Senior Accountant Ben Cowan presented monthly warrants, transfers, and sales tax reports.

Moved by Commissioner Swenson, seconded by Commissioner Starr to approve the warrants on the report dated 3-20-07 in the total amount of \$806,934.80. Motion passed unanimously.

Moved by Commissioner Swenson, seconded by Commissioner Starr to approve the cash transfer authorization for the month of February, 2007 in the total amount of \$1,892,796.20. Motion passed unanimously.

TREASURER'S REPORT: County Treasurer Melody Marks presented the reports for January and February. She also provided a report on the sales tax collections through February.

Moved by Commissioner Swenson, seconded by Commissioner Starr to accept the Treasurer's Reports for January and February 2007 and authorize the chairperson's signature. Motion passed unanimously.

BREAK: The meeting recessed from 11:45 a.m. to 1:00 p.m.

HIX PROPERTIES CONDO PLAT: Planner Cathie Pagano presented a request to condominiumize five units in an existing building within Riverland Industrial Park. Commissioner Starr asked about screening requirements and it was noted that Riverland has different requirements for different filings and lots.

Moved by Commissioner Swenson, seconded by Commissioner Starr to approve the condominium plat for Hix Properties Lot 23 Riverland Filing #2 and authorize the chairperson's signature. Motion passed unanimously.

ST. JAMES TOWNHOMES PLAT: Planner Cathie Pagano presented a request for signature of the plat for the St. James Townhomes in Crested Butte South.

Moved by Commissioner Starr, seconded by Commissioner Swenson to approve the plat for the St. James Townhomes on Lot 25 Block 21 Crested Butte South Filing #3 and authorize the chairperson's signature. Motion passed unanimously.

THORNTON ESTATES SUBDIVISION: Assistant Planning Director Neal Starkebaum was present along with applicant Mark Schumacher and his attorney David Leinsdorf for Board consideration of the Planning Commission's recommendation to approve the preliminary plan for 19 residential lots on Lot M-1 in Spring Meadows Subdivision north of Gunnison.

David Leinsdorf reported that one condition of final approval is to resolve all water issues. There is currently a dispute regarding the permitting of a well used by the Spring Meadows property owners which Thornton Meadows also has an interest in. Neal Starkebaum said the well was originally permitted and drilled for gas exploration approximately 25 years ago but a strong artesian water source was the result of that drilling and has been used by the property owners since then. It appears that the well was never permitted for domestic water use. Schumacher explained the use of that well for the existing properties.

David Leinsdorf read covenant language regarding the enforcement of animal control. Gunnison County does have the authority to enforce the covenants. Commissioner Starr said he would like the County to have the authority to require the homeowner's association to enforce or repay the County for its expenses to do so. He feels this would result in better enforcement. Starkebaum read a portion of the Land Use Resolution regarding enforcement being at the expense of the homeowners association in subdivisions affecting agriculture but that is not the case with this proposed subdivision. Commissioner Swenson commented that it would be inappropriate to require this homeowners association to provide the level of enforcement and repayment suggested by Commissioner Starr when the development around it doesn't have the same requirements nor does the Land Use Resolution include it. Chairperson Channell added that if the Board wishes to change the enforcement provisions the regulations should be changed for all.

Moved by Commissioner Swenson, seconded by Commissioner Starr to approve the Preliminary Plan, including the Planning Commission's recommendations, for Thornton Estates subdivision 19 lots on 13.57 acres on Lot M-1 within the Spring Meadows Subdivision north of Gunnison. Motion passed unanimously.

MCFAUL BUILDING PERMIT ISSUES: County Attorney Baumgarten provided an update on a March 6 agenda item regarding the McFaul residence in Red Mountain Ranch which was constructed significantly larger than it was permitted for.

The property owner's attorney Art Trezise was also present and reported that the property owner acknowledges his responsibility to resolve the permit and land use change issues, including additional fees and fines which may be required. He also needs to obtain approval from the Red Mountain home owners association since the residence is larger than their covenants allow for. Trezise said Buckhorn Geotech is preparing as-built plans which will include elevations and square footage calculations.

County Attorney Baumgarten reported that the following steps need to be taken to work towards a solution of this matter.

1. Obtain the as-built plans
2. Find out if the home owners association will approve the larger structure
3. Begin the County process for a house the size of the one constructed
4. Determine the cost for additional fees and permits

He has also requested that the property be taken off the market and not sold until all of these matters are resolved.

Art Trezise confirmed that the house is not on the market and summarized the property owner and contractor issues which took place over the past 3-4 years to result in the much larger structure. He added that a Certificate of Occupancy has not been issued. Chairperson Channell requested that no one be allowed to occupy the house while these matters are being resolved.

Angela Reeves of the Red Mountain homeowners association reported that their Board is working on options to handle this issue.

Commissioner Starr requested that County Building Inspector Richard Wojdakowski review the square footage calculations on the as-built plans and utilize outside expertise if necessary to calculate those values. County Attorney Baumgarten responded that is a legitimate request and further reported that penalties can be levied not only against the property owner but also the contractor if necessary. Chairperson Channell requested that any costs incurred with obtaining outside expertise regarding the square footage calculations should be added to any penalties assessed. He would also like Building Inspector Wojdakowski's review of the as-built plans in writing, and reiterated that the house will not be listed on the real estate market or occupied while this matter is on-going.

OIL AND GAS REGULATIONS: County Attorney David Baumgarten reminded the Board of the coalition which Gunnison County worked with in the past regarding potential changes to oil and gas stormwater regulations proposed by the Colorado Water Quality Control Commission (CWQCC). That Commission is once again reconsidering the former decision in a public hearing process which could lead to rulemaking. The coalition would like to join together once again to request that the existing rules be retained. Baumgarten provided a draft resolution for the Board's consideration to make a formal statement regarding the possible revisions. The Board reviewed the resolution and requested some minor revisions.

Moved by Commissioner Swenson, seconded by Commissioner Starr to adopt Resolution #2007-16, A RESOLUTION TO PROTECT COLORADO'S NATURAL RESOURCES – CONTINUING SUPPORT FOR THE COLORADO WATER QUALITY CONTROL COMMISSION

And authorize signatures upon revision. Motion passed unanimously. (*See Attachment to Minutes*)

UNDERGROUND UTILITY LINE EASEMENT: County Attorney David Baumgarten and Paralegal Rachel Magruder were present to update the Board on the status of easements and funding for the proposed underground utility easement between Crested Butte and Mt. Crested Butte. Three representatives of Gunnison County Electric Association (GCEA) were also present to discuss the status of the project and the need for a firm funding commitment before they can proceed with the project this year. Although they had originally set a deadline of February 1, GCEA has extended the deadline out as far as they can to April 16. If a firm commitment is not provided by that date they cannot order the materials and schedule the work for 2007. Mike Wells of GCEA summarized the amount of work and cost put into this project to date and said they would like to see the project accomplished.

- Commissioner Swenson stated a conflict of interest with regard to this matter and left the room for the remainder of this agenda item

County Attorney Baumgarten summarized the project costs and the funding contributions which have been committed to date. The cost for the electric and Time Warner conduits is \$850,000 and the third conduit planned for use by the County for fiber optic cable is \$40,000 - \$150,000. Of the first \$850,000 needed for the project, there are funding commitments in place of about \$765,000. The last \$100,000 of the \$765,00 in funding is contingent upon execution of one final easement which is still being negotiated. Baumgarten continued that the County portion of the conduit is an additional cost but as technologies are developing the anticipated usage may be obsolete. One option would be to install the County portion of the conduit without the fiber optic cable inside at a cost of \$10,000 instead of \$40,000 – \$150,000.

Discussion ensued regarding portions of the project and funding for each.

County Attorney Baumgarten suggested an executive session at this time to discuss negotiation strategies regarding the final easement necessary for the project.

Moved by Commissioner Starr, seconded by Commissioner Channell for the Board to go into executive session with County Attorney Baumgarten, Paralegal Magruder, Planning Director Williams, Assistant County Manager Crosby, and County Manager Birnie for the purpose of discussing negotiation strategies regarding an easement needed for the underground utility easement project. Motion passed.

The Board went into executive session at 2:47 p.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)(e).*

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 3:04 p.m. Chairperson Channell reported that the session stayed on topic with the persons identified. No formal decisions were made.

Chairperson Channell suggested that the project proceed without the County fiber optic cable installed but with the County portion of the conduit. The additional step this will create is the County obtained easements from the other parties under the assumption that the fiber optic cable would be installed, therefore, permission will need to be obtained from those parties that the project can still proceed without the cable. Channell further suggested that, with the project deadline in mind, funding continue to be sought which would allow the project to proceed. He acknowledged the amount of time and money put into the project to date and would like to see it proceed if possible.

UNSCHEDULED CITIZENS: Rob Burnett provided the Board with a proposed law to register workers in the County in an effort to prevent undocumented and illegal workers from obtaining jobs, and employers from hiring them. Workers would be required to provide their documentation and obtain a permit from a local police department. Burnett suggested that construction workers be the first required worker group followed by other groups.

Chairperson Channell acknowledged that local governments everywhere are dealing with and trying to address the illegal workers issues on various levels and thanked Burnett for his proposal.

- 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 to order the Public Hearing continued from March 6th, 2007 at 3:20 p.m. He then asked for further public comments.

Sue Navy said the wording in the new sections area on page 2 is confusing in regard to whether or not something requires a land use change permit. Commissioner Starr said this would be

added to the list of administrative review projects which do not require land use change permits. Planning Director Joanne Williams said that's what was done under the temporary regulations, in which 'habitat' was differentiated from 'within 0.6 miles of a lek', the latter requiring administrative review. She explained that parcels within occupied habitat go through the review process, but no additional land use change permit is required. Navy asked if it could read more clearly. Commissioner Starr said it will read clearly when it's inserted in the final document.

Sue Navy asked if the County would hire a consultant when the Division of Wildlife (DOW) isn't available for comment (Referring to page 4, 2d). Sage-grouse Conservation Coordinator Jim Cochran said the process does depend on the County having a level of expertise if the DOW is not available, but so far the DOW has been available at all times during the temporary regulations. He said the county has committed to having the permit application process slowed down as little as possible and hiring consultants would slow it down considerably. Chairperson Channell said Navy was worried about the continuity of expertise. He said his own concern in that regard is satisfied because there is a level of wildlife biology expertise required by the Sage-grouse Coordinator's job description.

Sue Navy asked who would be submitting the report mentioned on page 5, section 4P. Joanne Williams said it goes to the umbrella language in paragraph 4- 'The analysis shall be prepared by a wildlife biologist, ecologist or similar qualified expert in consultation with the DOW'. Navy said she wasn't sure the 'report' was clearly tied to the 'analysis'. Commissioner Starr said the wording '...and shall contain the following...' found at the end of 4 refers back to the analysis, since it includes the map and report.

Sue Navy requested the addition of winter on page 8, H2, since there's so much more winter activity. Williams suggested '.... during sensitive time periods, including winter and when GUSG are mating'. Assistant Director of Planning Neal Starkebaum suggested adding '...including but not limited to winter and when GUSG are mating and raising chicks'. Navy had no further comments and said HCCA is very happy that these regulations are going forward.

Brett Redden asked what the appeal process would be for anyone who disagrees with the Sage-grouse Coordinator's call. Joanne Williams said it falls under the appeal process for any level of comments or can be appealed to the Board if it's an administrative review project.

Commissioner Starr asked if there was a reason the maps aren't called out on page 1 under definition of GUSG occupied habitat. Jim Cochran said that definition was verbatim from the Rangewide Plan. Commissioner Swenson said that the wording 'maps are general in nature and animal distributions are fluid...' on page 2 makes it difficult to call out a map. Commissioner Starr said the definition of occupied habitat could say 'as shown on the map', since there is a map of occupied habitat. He felt that would make it more user friendly, while not changing the definition at all. Commissioner Swenson and Chairperson Channell agreed. David Leinsdorf said the problem is akin to the way FEMA maps flood plain mapping, which often includes areas far above the flood plain. He said if you don't reference the map, you give the land owner a chance to say if there has not been sage-grouse on the land in the last ten years. He said that using the map and trying to make the map conclusive may fly in the face of what may be the reality. Commissioner Starr said the last line makes it clear that it's not conclusive. Jim Cochran agreed that habitat is determined by on-site analysis. John Scott, Conservationist with Natural Resources Conservation Service suggested referencing it to A3 above where other maps are referenced. Joanne Williams said they would just lift the same language that makes specific reference to the occupied habitat map and put it into the definition itself rather than reference it back and forth.

Commissioner Starr also noted several places that said '...Gunnison Sage-grouse lek map...' where the words 'generated by Gunnison County with information obtained from the Division of Wildlife' could be deleted. Cochran said that wording was used in the temporary regulations to pointedly show that the County was generating the maps, but not creating the information to generate those maps. Commissioner Starr said there are a number of places where the definition wording 'on land' fell out of the definition and should be inserted so it reads '...located on land wholly or partially...'. He then asked what happens if a land owner previously changed the conditions, such as mowing habitat, before applying for a permit. Cochran answered that under the Endangered Species act, you don't have an issue if you don't have the habitat. He said one of the reasons for the Candidate Conservation Agreement program was to avoid land owners destroying habitat in order to not have the habitat if the species is listed. He said the answer might be creating prohibitions against destroying habitat. John Scott noted that a line delineates occupied habitat, so the land can be changed but still have the soil site potential for habitat. Mowing just changes the character and the DOW would still see it as potential occupied habitat. Commissioner Starr asked about the habitat being plowed under and Neal Starkebaum said it's addressed in the LUR because you have to obtain a Reclamation Permit for disturbance

of any area larger than 2,000 square feet, but added that agricultural operations are exempt from the Reclamation Permit.

David Leinsdorf asked if the addition of Commissioner Starr’s wording ‘on land’ would broaden the area of regulation and drew an example. Commissioner Starr said that definition on page 2 is what has been in the temporary regulations. Leinsdorf commented that having every activity on every property near habitat subject to review can become a staffing issue, since the LUR is labor intensive. Gary Hausler said the review process is required in either case because it says parcels within occupied sage-grouse habitat and/or within 0.6 miles of a lek. Cochran confirmed that the example would require the review only if it was within the occupied habitat. John Scott said that if Leinsdorf’s example was not within 0.6 miles of a lek, it wouldn’t require a land use change.

Commissioner Starr said ‘on land’ also needed added to the Title (D1) to say ‘Initial Site-specific Analysis For Activity Proposed On Land’. John Scott suggested ‘On a Parcel’ instead and the Commissioners agreed.

Commissioner Starr suggested several other wording changes regarding administrative review projects, habitat, application time frames, management agreements, clarification of standards, easements and covenants being perpetual and acceptable to the county, using substantially or wholly mitigated instead of partially mitigated, and the addition of erosion to the noxious weeds section.

Chairperson Channell asked if there was any further public comment. Gary Hausler asked if the public could see the final draft with the amendments before adoption. The Commissioners directed Joanne Williams to make the changes, draft a resolution, post it on the web-site for the public to see and have it ready for adoption at the April 3rd meeting and having the enactment retroactive to March 1st. Gary Hausler asked why it needed to be retroactive and Williams answered that the temporary regulations had expired March 1st. Commissioner Swenson said it would keep continuity with the applications.

Chairperson Channell closed the public hearing.

ADJOURN: The meeting was adjourned at 4:20 p.m.

Hap Channell, Chairperson

Paula Swenson, Vice-Chairperson

Jim Starr, Commissioner

Minutes Prepared By:

Kelly Balch, Deputy County Clerk

Attest:

Stella Dominguez, County Clerk

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

**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO**

RESOLUTION NO. 07-15

**A RESOLUTION REQUIRING SPECIAL DISTRICTS
WITHIN GUNNISON COUNTY, COLORADO TO SUBMIT AN ANNUAL REPORT**

WHEREAS, pursuant to C.R.S. §32-1-207(3)(c), the Board of County Commissioners of the County of Gunnison, Colorado has the authority to require any special district located wholly or partially within the county's unincorporated area to provide an annual report. The annual report includes but is not limited to information on the progress of the special district in the implementation of the service plan and shall be filed with the Board of County Commissioners, any municipality in which the special district is wholly or partially located, the State of Colorado, Department of Local Affairs, Division of Local Government ("Division" herein), and the Colorado State Auditor, and such report shall be deposited with the County Clerk and Recorder for public inspection, and a copy of the report shall be made available by the special district to any interested party pursuant to C.R.S. §32-1-204(I); and

WHEREAS, pursuant to C.R.S. §32-1-207(3)(d), the Board has the authority to request any special district created on or after July 1, 1991, and located wholly or partially in Gunnison County, to provide an annual report for the first five years following the creation of the special district and for succeeding annual periods to the Board of County Commissioners, any municipality that has adopted a resolution of approval of the special district pursuant to C.R.S. §32-1-204.5 or §32-1-204.7, the Division, and the Colorado State Auditor. The Colorado State Auditor shall review the annual report and report any apparent decrease in the financial ability of the district to discharge its existing or proposed indebtedness in accordance with the service plan to the Division. In such event, the Division shall confer with the board of the special district and the Board of County Commissioners or the governing body of the municipality regarding such condition; and

WHEREAS, pursuant to C.R.S. §32-1-104(2), on or before January 15th of each year a special district shall notify the Board of County Commissioners, the County Assessor, the County Treasurer, and the County Clerk and Recorder of each county in which the special district is located, the governing body of any municipality in which the special district is located, and the Division of the name of the chairman of the board, the contact person, the telephone number, and the business address of the special district; and

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Gunnison, Colorado, that the following special districts and any and all future special districts created and located either partially or wholly within Gunnison County, Colorado shall file each year, before January 15th, the required information and annual report pursuant to C.R.S. § 32-1-104(2) and C.R.S. §32-1-207(3)(c)and (d):

Arrowhead Fire Protection District
Carbondale & Rural Fire Protection District
Crested Butte Fire Protection District
Crested Butte South Metropolitan District
Fruitland Mesa Water District
Gunnison County Metropolitan Recreation District
Mt. Crested Butte Water & Sanitation District
Skyland Metropolitan District
Ragged Mountain Fire Protection District
Reserve Metropolitan District #1
Reserve Metropolitan District #2

FURTHERMORE, failure of any special district to provide such information and annual report shall be subject to the terms and conditions as set forth in C.R.S. §32-1-209, including but not limited to a prohibition of release of monies from the County Treasurer.

INTRODUCED by Commissioner Starr, seconded by Commissioner Swenson, and adopted this 20th day of March, 2007.

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO

Channell – no; Swenson – yes; Starr - yes

**BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY
RESOLUTION NO. 2007-16**

**A RESOLUTION TO PROTECT COLORADO'S NATURAL RESOURCES –
CONTINUING SUPPORT FOR THE COLORADO WATER QUALITY CONTROL
COMMISSION**

WHEREAS, energy development is occurring at an unprecedented pace in Colorado and the Rocky Mountain West; and

WHEREAS, drilling permits were issued in Colorado for 4,373 new oil and gas wells in 2005 and 5904 drilling permits were issued in 2006; and

WHEREAS, the Energy industry predicts as many as 400,000 new oil and gas wells will be drilled in the United States over the next 15 years, many of which are expected to be located in this State; and

WHEREAS, drilling pad construction disturbs soil and plants, spills fuel, solvents and chemicals into the soil and produces sediments that can pollute streams and lakes; and

WHEREAS, storm water runoff in the form of rain and melting snow flowing across drilling pads and other construction areas associated with oil and gas operations can cause soil erosion, sending sediment into streams and rivers; and

WHEREAS, water quality in Colorado streams will decline due to increased storm water runoff, impacting aquatic life, irrigation and drinking water if storm water discharge from oil and gas development is not controlled; and

WHEREAS, in spite of EPA reports that “siltation is the largest cause of impaired water quality in rivers” and that that “(e)rosion rates from construction sites are much greater than from almost any other land use, the federal government, having in the past regulated storm water discharges from oil and gas construction sites, is now largely precluded from doing so by the Energy Bill of 2005; and

WHEREAS, in January 2006, the Colorado Water Quality Control Commission overwhelmingly voted to retain its regulations to control storm water discharges from oil and gas construction sites by applying best management practices in spite of the federal exemption and is not precluded by the Energy Bill of 2005 from continuing to implement those regulations; and

WHEREAS, all other industries and private citizens in Colorado must comply with Colorado Water Quality Control Commission regulations for stormwater discharges, which require the use of best management practices to control storm water runoff; and

WHEREAS, the Colorado Oil and Gas Association and some individual operators are requesting exemptions from the Commission’s regulation which are not based on sound science or policy, including exemptions for oil and gas construction sites that are more than 50 feet from waters of the state, and for sites where proof of impacts is not shown; and

WHEREAS, the Water Quality Control Commission will hold an informational hearing in May of 2007 to evaluate these requests.

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners of Gunnison County, Colorado supports the Colorado Water Quality Commission’s regulation of storm water discharges from oil and gas operations that affect one acre or more of land; and

BE IT FURTHER RESOLVED, that the Board of County Commissioners of Gunnison County, Colorado calls on the Colorado Water Quality Control Commission to retain its current regulation of storm water discharges from oil and gas construction sites and reject proposed exemptions that are not based on sound science or policy.

INTRODUCED by Commissioner Swenson, seconded by Commissioner Starr, and adopted this 20th day of March, 2007.

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