

**GUNNISON COUNTY BOARD OF COMMISSIONERS  
REGULAR MEETING MINUTES  
April 3, 2007**

The April 3, 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 (arrived at 8:20 a.m.)

Matthew Birnie, County Manager  
Marlene Crosby, Assistant County Manager  
Katherine Haase, Clerk to the Board  
Others Present as Listed in Text

**CALL TO ORDER:** Chairperson Channell called the meeting to order at 8:15 a.m.

**MINUTES APPROVAL:** **Moved** by Commissioner Swenson, seconded by Chairperson Channell to approve the March 20, 2007 Regular Meeting Minutes as submitted. Motion passed. Commissioner Starr was not present.

**CONSENT AGENDA:** **Moved** by Commissioner Swenson, seconded by Chairperson Channell to approve the following consent agenda items and authorize execution of those documents. Motion passed. The approved items are as follows:

1. 2007 Memo of Agreement – Gunnison County Sno Trackers
2. Proclamation Designating April as Child Abuse Protection Month for Gunnison County.

**Moved** by Commissioner Swenson, seconded by Chairperson Channell to approve the following consent agenda item and authorize execution of the document upon completion of the narrative. Motion passed unanimously. The approved item is as follows:

1. 2008 VOCA Grant Application – Connie Carter-Smith was present from the Sheriff's Office to discuss. Original dollar amount of this grant was changed from \$19,000 to \$25,000 due to a salary increase and the establishment of a part-time assistant position. Narrative was incomplete and will be submitted by Ms. Carter-Smith no later than April 10, 2007 for Chairperson Channell's signature.

**BOARDS AND COMMISSIONS DECISIONS FROM 3/27/07 INTERVIEWS:** Assistant County Manager Crosby and Keri Hodgins, Administrative Assistant III, were present for discussion. Vacancies and appointments were discussed with the following position decisions:

1. **Board of Appeals / Board of Adjustments** – Statutorily, these two boards must remain separate, however members serving on either of these boards have historically been appointed to serve on both boards. There was discussion about the term length and term expiration for members of each board. Currently, these definitions are such that the Board of Appeals carries a two-year term and the Board of Adjustments carries a three-year term. Follow-up is needed by the County Attorney's office to re-determine these values so that the members of these boards would begin and end their terms on both boards simultaneously.

**Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the following appointments. Motion passed. Commissioner Starr wished to express that his nay vote was not due to his lack of faith in Don Sammons. Rather, Commissioner Starr found it important to follow the current policy regarding application deadlines.

- a. Robert Williams, currently serving on the Board of Adjustments, was reappointed and thus was jointly appointed to the Board of Appeals to replace the vacancy left by Jerry Kowal in February of 2007.
  - b. Don Sammons, currently serving on the Board of Appeals, reapplied for his position, however his request was not received until after the application deadline. Since there were no other applicants for this position and Mr. Sammons is currently serving on this board, he was reappointed. Mr. Sammons was jointly appointed to serve as an alternate on the Board of Adjustments as there are currently no vacancies.
2. **Beautification/Scenic Corridors Committee** – **Moved** by Commissioner Swenson, seconded by Commissioner Starr to appoint Dario Elliott to the three-year regular position on the Beautification/Scenic Corridors Committee. Motion passed unanimously.
  3. **Hospital Board of Trustees** – **Moved** by Commissioner Swenson, seconded by Chairperson Channell to appoint Cathie Elliot to the Hospital Board vacancy for a term of five years. The Board of Commissioners would encourage William Matthews to resubmit an application upon another vacancy opening. Motion passed unanimously.
  4. **Housing Administrative Board** – **Moved** by Commissioner Starr, seconded by Commissioner Swenson to appoint Michael Potoker to the alternate position on the Housing Administrative Board. Motion passed unanimously.
  5. **Community Corrections Board** – **Moved** by Commissioner Swenson, seconded by Commissioner Starr, to appoint County Manager Birnie to the vacancy on the Community Corrections Board. Motion passed unanimously.

There was discussion regarding whether or not the current individual board and commission bylaws dictate the number of regular and alternate positions for each and whether the potential exists for the alternate positions to either be converted to regular positions or eliminated. Previously, the Historic Preservation Board and the Trails Commission elected to convert all alternate positions to regular positions. Assistant County Manager Crosby accepted responsibility for contacting the Beautification/Scenic Corridors Committee members regarding their alternate position. A request will also be made to the County Attorney's office to align the Board of Adjustments and Appeals terms. Positions that were not filled will be readvertised by Keri Hodgkin.

**COUNTY MANAGER REPORTS:**

County Manager Birnie asked for guidance related to conversations between Assistant County Manager Crosby and Jack Kirtland with DOLA regarding grant options. During that conversation, it was suggested to Assistant County Manager Crosby that the \$500,000 grant received for construction of the new Gunnison County jail facility be returned since construction of the new facility will not be started at this time. If the monies were returned to DOLA, Assistant County Manager Crosby was informed that Gunnison County would receive the opportunity to apply for other project grants.

Commissioner Channell asked that Assistant County Manager Crosby inquire with DOLA about the possibility of retaining the \$500,000 in a dedicated fund, along with the \$200,000 raised from sales tax thus far.

Assistant County Manager Crosby stated that she would like to apply for another grant that would be used on the construction of a heated garage for the sewer jet-vac truck. Currently, the sewer jet-vac truck for Gunnison County is out of commission for the winter months due to the lack of a heated storage facility.

**SCHEDULING:** Upcoming meetings were reviewed and scheduled.

**COUNTY ATTORNEY UPDATES:** County Attorney, David Baumgarten was present for discussion.

**Development Improvements Agreement – Scenic River Tours:** County Paralegal, Rachel Magruder presented a Release of Development Improvements Agreement for Scenic River Tours that has been approved for the purpose of parking lot construction in the Taylor Canyon area. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to authorize Release of the Development Improvements Agreement for Scenic River Tours in regards to the parking lot construction with Chairperson Channell's signature. Motion passed unanimously.

**McFaul Residence:** Attorney for the Defendant, Arthur Trezise, and Gunnison County Building Inspector, Rich Wojdakowski, were present for discussion. Attorney Trezise stated that Bill Unger, an engineer in Montrose, was selected to perform the square footage calculations and that his calculations should be completed within the next three weeks, or possibly sooner if an engineer from Crested Butte becomes available.

County Attorney Baumgarten and Attorney Trezise stated that a formal agreement between Gunnison County and the property owner now exists outlining that the property will not be listed for sale and will not be occupied until further notice. Attorney Trezise stated that there will be various individuals working on finalizing construction of the residence, but that his client does not consider these individuals to be residents.

County Attorney Baumgarten and Attorney Trezise acknowledged that the applicable Home Owner's Association must first decide on their course of action prior to Gunnison County issuing any possible building permits and/or penalties.

Building Inspector Wojdakowski expressed concerns stemming from his office's inability to access the property for inspection. He reminded all parties that Cathie Pagano with Gunnison County Planning last reported on April 27, 2005 that the as-built drawings from this residence revealed an additional 6,379 square feet of living space being constructed to the original calculation of 7,118 square feet of living space with an additional 970 square feet allocated for the garage. Cathie Pagano performed these calculations directly from plans only.

After an engineer has been able to calculate square footage, all parties agreed that Building Inspector Wojdakowski will be permitted access to the property with the purpose of comparison between the square foot calculations and the as-built plans.

**GCEA/THREE VALLEYS APPEAL:** (continued from 10/3/06) County Attorney Baumgarten suggested continuing this item for six months in order to allow time for all involved attorneys to be present. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to extend the appeal for the Three Valleys, LLC/Gunnison County Electric Association Land Use Change decision to October 2, 2007. Motion passed unanimously.

**BREAK:** The meeting recessed from 9:30 to 9:43 a.m.

**RESOLUTION ADOPTING AMENDMENTS TO LUR REGARDING SAGE GROUSE HABITAT:** Planning Director, Joanne Williams, Sage Grouse Coordinator, Jim Cochran, Eagle Ridge representative, Craig Haase, and Attorney, Jessica Stone (Wilderson O'Hayre Dawson & Norris, PC) were present for discussion.

Modifications suggested during the previous meeting were incorporated and discussed. Additional modifications were also discussed and agreed upon by all parties. Planning Director Williams will finalize the resolution and verify possible retroactivity of this resolution with County Attorney Baumgarten, as well as review the entire resolution with him. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to adopt Resolution #07-17, pending review by the County Attorney, a Resolution amending Section 11-106: *Protection of Wildlife Habitat Areas, and Related Sections of the Gunnison County Land Use Resolution*, and replacing the *Temporary Regulations for Gunnison County Land Use Change, Access, Reclamation, Individual Sewage Disposal System 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 Occupied Habitat*. Motion passed unanimously.

**DISCUSSION ON PAINTED SKY RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM:** Butch Clark was present for discussion.

Painted Sky Resource Conservation and Development Council was discussed as a low-cost grant application resource. Butch Clark recommended that Gunnison County consult with an entity that handles business analysis. He also recommended that Gunnison County be involved diligently and have complete awareness of the benefits of joining Painted Sky, should Gunnison County pay the \$250.00 enrollment fee to join. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to allocate \$250.00 out of the Commissioner's budget for joining Painted Sky. Motion passed unanimously.

**BUILDING ENVELOPE ADJUSTMENT – COBURN, LOT 13, GUNNISON RIVERBANKS RANCH:** Cathie Pagano was present for discussion.

Mr. Coburn, the landowner, previously requested an adjustment and then built his staircase outside of the envelope, thus violating the approved adjustment. Cathie Pagano had spoken with Mr. Coburn's representative, but had been unable to speak directly with Mr. Coburn. The relative Home Owner's Association has already approved this request. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the Building Envelope Adjustment incorporating Lot 13, Gunnison Riverbanks Ranch and authorize Chair signature. Motion passed unanimously.

**APPROVE TRANSFER OF FUNDS FROM AIRPORT OPERATIONS FUND TO AIRPORT CONSTRUCTION FUND AND APPROVE PURCHASE OF TRUCK:** Assistant County Manager Crosby, Ben Cowan, and Kathy Lucas were present for discussion.

Assistant County Manager Crosby stated that the Airport was not able to locate an old-style truck, which would have been \$4,000 cheaper and asked for approval of a \$30,000 transfer to cover the cost of obtaining a new-style truck. She also reported that it is undecided at this time as to whether the current truck will be used as a trade-in or retained in the fleet.

This item was previously approved by the County Commissioners. Assistant County Manager Crosby is requesting a ratification of that approval and authorization of the transfer of \$100,000 to the Airport Construction Fund. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve transfer of funds from Airport Operations to purchase a new or used truck in the amount up to \$30,000 with the balance of \$100,000 plus going into the Airport Construction Fund. Motion passed unanimously.

**REQUEST FOR FUNDING – LIBRARY ARCHITECTURAL SERVICE:** Library Board President, Marsha Rose, Crested Butte Branch Manager, Carol Primus, and Ben Cowan were present for discussion.

County Manager Birnie and Ben Cowan presented that there is currently \$109,860 in the Sales Tax Fund and approximately \$78,000 in the General Fund, for a total of \$187,860.53. Design services were estimated at \$58,000 in 2006, so it is assumed that these services will now cost more. The land purchase is currently priced at \$27,000 more than what had been budgeted.

Ms. Rose stated the intentions of the Library Board of Trustees to dedicate approximately \$27,000, the current balance of their Capital Fund, for preliminary design work; and requests that the county then reimburse their Capital Fund with 2008 sales tax monies. The Library Board of Trustees has requested \$24,000 from the Metropolitan Recreation District to be used for architectural design and that request has reached the second round of reviews, however the Metropolitan Recreation District has stated that they will suspend their decision until receiving notice of Gunnison County's financial intentions.

There exists an IT expense of approximately \$79,000 as a result of work that has been performed and/or ordered, not including wiring or unbudgeted software needs, per County Manager Birnie. After considering wiring, software and personnel, County Manager Birnie believes the IT portion of the project will cost \$500,000, however he does not believe that entire amount can be paid out of the budget for this fiscal year. The latest DOLA grant deadline was April 2<sup>nd</sup>, however Assistant County Manager Crosby will determine the possibility of turning in a late application as soon as possible.

There was discussion about the possibility of Gunnison County transferring the current mill levy to the library district by resolution, which would establish baseline operation funding. In doing so, the Board of County Commissioners would handle appointment of the Board of Trustees for the library, essentially creating the library as a separate taxing entity that could then make autonomous decisions

about issues such as when to put this issue on the ballot. Concerns were that the library would lose General Fund support and that operating expenses would increase.

The Board of Trustees is scheduled to meet again on April 25<sup>th</sup> to discuss their intentions of placing this issue on the ballot in 2008 as a bond issue. Potential architects will give their presentations to the library board on May 2<sup>nd</sup> and the selected architect will present cost calculations to the library board no later than May 30<sup>th</sup>. The Board of Commissioners is scheduled to meet with Paul Paladino of the Montrose Library during their May 8<sup>th</sup> work session to share ideas and information. Gunnison County will submit a DOLA grant application no later than the August 1<sup>st</sup> deadline. Preliminary designs should be available from the selected architect by early 2008.

The Board of Commissioners instructed Ms. Rose and Ms. Primus to inform the Metropolitan Recreation District that the \$24,000 requested from them will be used for preliminary design. At that point, Gunnison County will allocate \$27,000 from the Sales Tax Fund to be used toward architectural plans and the library's Board of Trustees will spend the \$27,000 in their Capital Fund on the land purchase. The balance of design funds will be expected to be received from a DOLA grant. The facility issue may be on the ballot for 2008.

Ms. Rose and Ms. Primus were appreciative of Gunnison County's commitment to this project and for establishing a timeline of future events that will lead up to the completion of this project.

**ASSISTANT COUNTY MANAGER REPORTS:** County Attorney, David Baumgarten, Assistant County Manager, Marlene Crosby, and property owner, Tim Holbrook were present for discussion.

Mr. Holbrook owns a 1.51 acre parcel (Marble Filing #2) and is requesting permission, at his own expense, to construct a driveway on a county drainage easement in order to access his property. Mr. Holbrook is not requesting that Gunnison County provide any maintenance of this driveway.

County Attorney Baumgarten stated that a geologist would need to be hired to assess the drainage easement to determine whether or not it can safely be used as a driveway. Mr. Holbrook would like to establish legal possibility of this driveway construction prior to spending his money to hire a geologist.

There was discussion about the ownership of the drainage easement. Assistant County Manager Crosby will pull the land title to determine, with the assistance of County Attorney Baumgarten, if the land is owned privately or by Gunnison County. Should this property be owned by Gunnison County, and if the driveway is permitted, Mr. Holbrook will ensure that his deed restrictions indicate property owner responsibility for driveway maintenance.

Once the geologist report is provided to Gunnison County and the ownership of drainage easement has been established, the Board of Commissioners will reconvene on this issue.

**BREAK:** The meeting recessed from 12:20 PM until 1:50 for lunch and for the Gunnison/Hinsdale Board of Human Services meeting (see separate minutes).

**CALL TO ORDER:** Chairperson Channell called the meeting back to order at 1:50 p.m.

**COMMISSIONER MEETING REPORTS:**

**Commissioner Starr:**

1. Upper Gunnison River Water Conservation District (UGRWCD). The UGRWCD met on March 26, 2007. Dissension is apparent between the UGRWCD and the State of Colorado due to the state nullifying, for a period of time, 106 stipulations involving 23 different ranchers and all pre-1941 water rights. The state's current stand is that they may not recognize those stipulations because the federal agreement with the State of Colorado was thrown out by the courts. The UGRWD board is concerned because the stipulations were negotiated in good faith. Ken Spann referred to this bill as a "breach of faith by the state".

Senate Bill 122 was amended to open up an availability study to all basins, which the River District sees as an availability study as opposed to a needs study that will be general in nature with none of the money being used to look at specific projects.

Eric Kuhn, the Director of the Colorado River Water Conservation District, touched on the following topics:

- The Upper Gunnison board is viewed by the other boards in Colorado as being strong advocates for protecting the Gunnison basin and willing to take hard positions to protect our water.
- He urged consideration of the likelihood that global warming will reduce the flow of the Colorado River by 6% for each degree increase in temperature and that experts will need to consider this fact when calculating future water availability projections.
- Because of early spring rains, there may be a need for storage in order to meet demands later in the year.
- East-slope cities will be forced to buy pre-1922 water rights from the west-slope if there is a call on the river, so we all need to continue to be proactive.

2. Land Trust. The last easement for placing the electrical line underground is with the Land Trust and it should be approved at the next meeting scheduled for April 5, 2007. The GCEA is anxious to begin staking the line and should start this week on the south end. Commissioner

Starr spoke with Tim Mueller last week, at which time Mr. Mueller doubled his commitment on this project to \$20,000. Commissioner Starr also believes that discussions need to continue with the Saddle Ridge HOA in order to receive monetary assistance from them for this project.

3. Gothic Road Subgroup. The last meeting was held on April 2, 2007. New signage will exist at these locations to say, "Gothic/Judd Falls Information and Parking" and will provide information at each location encouraging carpooling and educating users about the environmental impacts on the lab:
  - 4-way stop
  - Center of Mt. Crested Butte
  - Gothic winter trailhead stables

Commissioner Starr met with Christy, a representative of the Crested Butte Chamber of Commerce, who agreed to the presence of a small display in the chamber office regarding the impact of excessive vehicles on the lab. Commissioner Starr will inquire with Tammy Scott of the Gunnison Chamber of Commerce about the possibility of having a similar display in the Gunnison chamber.

The next meeting is scheduled for Friday, April 13, 2007 at 11:00 a.m. There will not be a meeting in May due to several members being out of town, however the June meeting is intended to invite the public and disseminate information about the issues and proposed actions.

4. DOLA Funding Requests. Commissioner Starr submitted the following list of possible inclusions for DOLA funding requests by the August 1, 2007 cycle deadline:
  - Library
  - IT
  - Powerline Burial
  - Sewer
  - Truck Building
  - Willows Loan

Commissioner Starr believes that we should present as many projects as possible to DOLA and also that the attendees of the next Mayor Manager's meeting be informed.

5. TDR Report. Commissioner Starr has reviewed the document and is concerned that the consultant is stating 10% as the fee level offered to cover the difference in value between agricultural land and developed land. Commissioner Starr reviewed a prior article by the consultant and found that he then recommended a percentage between 50% and 100%. It was agreed by all parties that 10% is not a realistic fee to present to the public.

**Commissioner Swenson:**

1. Gunnison Valley Animal Welfare League (GVAWL). Commissioner Swenson is working with the City Manager, Ken Coleman, who has taken this issue to the City Council. The City of Gunnison is willing to enter into an IGA with Gunnison County. This IGA would outline Neighborhood Services officers responding on an as-needed basis for severe neglect and abuse of animals. County Attorney Baumgarten is working on finalizing the IGA and he will present it to the Board of Commissioners for consideration in May. Work on the proposed ordinance continues.

The GVAWL has committed to raise the funds for the proposed animal shelter with the stipulation that Gunnison County provide the land and infrastructure. The GVAWL is requesting that Gunnison County be responsible for operations, however the City of Gunnison is interested in this being a joint effort between city and county.

2. Region 10. Money has been collected from all parties for the second-home study, which should be completed in June.

The sale of the Region 10 building fell through. There are financial issues to be worked out so that the building can be placed back on the market for a hopeful sale by the end of the summer. At that time, the Region 10 office will relocate into a smaller location.

Commissioner Swenson's term as Vice-President of Region 10 expires in May 2007.

3. SGA. Commissioner Swenson is beginning another round of meetings between herself, County Attorney Baumgarten and the land owners at the north end of the valley. Discussions with citizens are progressing and Commissioner Swenson believes that this issue will come before the Board of Commissioners in May 2007.
4. Buckhorn Ranch Stallion Park. This meeting was held on Friday, March 30, 2007 and included Commissioner Swenson, County Attorney Baumgarten and Assistant County Manager Crosby. They now suggest holding a public meeting with these parameters:
  - Joanne Williams would make a presentation outlining the permitting process, where money was released, how infrastructure is taken care of and the involvement of engineers to ensure proper design.
  - Citizen comments for a maximum of five minutes each.

All Commissioners agreed that it would be a good idea to present a complete history of the project and have tasked Joanne Williams and David Baumgarten to outline the chronology.

This meeting will be publicized immediately and will be held in June at the Crested Butte Town Hall.

5. Hospital / Willows Nursing Home. This meeting was held on Friday, March 23, 2007. Commissioner Swenson has been working with these entities to obtain financial information, which needs to be supplied prior to placing this item on a work session agenda. Discussion ensued during this meeting regarding the option of the Housing Authority taking over the Willows and that these discussions between the hospital and the county might need to be terminated if this option is not feasible. County Manager Birnie will assume the lead on this project.

**Chairperson Channell:**

1. Health & Human Services Commission. This is a monthly meeting and was held last week. The following items were discussed:
  - a. Presentation by the Pandemic Response Committee.
  - b. Tobacco Education and Prevention update.
  - c. Gunnison County Substance Abuse Prevention Group update. They will soon be submitting their information to the State of Colorado regarding strategic planning.
  - d. Future report on the Access to Healthcare, which is the proposal for a voucher system to be used with local primary care physicians.
2. CCP. Chairperson Channell has received \$1000 commitments from the City of Gunnison and the Town of Crested Butte; and will be meeting this evening with Mt. Crested Butte. Steve Lawler has been contracted to perform the CCP data collection, which he will do on Mondays, Wednesdays and Fridays from the auto licensing office located in the Crested Butte Town Hall. The estimated time for completion is four to five months of part-time work in order for Mr. Lawler to collect all of the necessary emissions data.
3. Pandemic Response Team. This team continues to meet and is currently in an education phase involving visiting locations to increase public awareness on an individual basis. They also intend to begin gathering businesses to discuss the need for a Continuity of Services Plan because it has been estimated that as much as 40-50% of our community could be incapacitated at any time due to illness or caring for the ill. Representatives on this team include members from:
  - a. Local law enforcement;
  - b. Health department;
  - c. Schools (including Western State College); and
  - d. An elected official, which is currently Chairperson Channell.
4. Growth Meeting. This is scheduled for 7:30 a.m. on April 10, 2007 at the Western Heritage Center. This will be a Gunnison Chamber of Commerce event with presentations by Erich Ferchau, a representative from Van Tuyl Village, and Richard Bratton, a representative from Gunnison Rising. The purpose of the meeting is to discuss the potential impacts of these two subdivisions/annexations on local business.
5. Planning Commission. A work session was held Friday, March 30, 2007 in Crested Butte that Chairperson Channell and Commissioner Starr inadvertently both attended. One of the major issues continues to be the density of the residential portion of Whetstone. A Joint Public Hearing is set for April 27, 2007 to discuss the preliminary plan.
6. Jail/Judicial System. Chairperson Channell, County Manager Birnie, Sheriff Rick Murdie and Commissioner Starr met in an unofficial capacity on April 2, 2007, immediately following the 7<sup>th</sup> Judicial District meeting, regarding the need for a work session to discuss jail/judicial system issues. This issue is scheduled for the work session on Tuesday, June 12.

**ASSISTANT COUNTY MANAGER:** Assistant County Manager Crosby submitted a request to the Board of Commissioners for \$400.00, which would assist with memorial service expenses recently incurred as a result of Finance Director Linda Nienhueser's loss of her daughter and grandson. Specifically, this money would pay for the meat at the service and would be taken out of the County Commissioner's budget. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to authorize up to \$400.00 for the articulated purpose authorized by Assistant County Manager Crosby. Motion passed unanimously.

**ADJOURN:** **Moved** by Commissioner Starr, seconded by Commissioner Swenson to adjourn this regular meeting. Motion passed unanimously. Meeting adjourned at 2:50 p.m. Chairperson Channell remained in the boardroom until 3:15 p.m. in order to allow any unscheduled citizens to arrive and be heard.

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Hap Channell, Chairperson

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Paula Swenson, Vice-Chairperson

\_\_\_\_\_  
Jim Starr, Commissioner

Minutes Prepared By:

\_\_\_\_\_  
Katherine Haase, Deputy County Clerk

Attest:

\_\_\_\_\_  
Stella Dominguez, County Clerk

# BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY

## PROCLAMATION

**WHEREAS, child abuse and neglect is a community problem and finding solutions depends on involvement among people throughout the community; and**

**WHEREAS, approximately three million children are reported abused and neglected in this country each year; and**

**WHEREAS, in 2002, 7,531 children in Colorado were confirmed victims of child abuse and/or neglect and 25 children died; and**

**WHEREAS, effective child abuse prevention programs succeed because of partnerships created among human service agencies, schools, religious and civic organizations, law enforcement and the business community; and**

**WHEREAS, all citizens should become more aware of the negative effects of child abuse and its prevention within the community and become involved in supporting parents to raise their children in a safe, nurturing environment;**

**NOW THEREFORE, BE IT proclaimed by the Board of County Commissioners of Gunnison County, Colorado that we hereby declare April 2007 as Child Abuse Protection Month in Gunnison County, Colorado and call upon all citizens, community agencies, religious organizations, medical facilities and businesses to increase their participation in our efforts to prevent child abuse and neglect, thereby strengthening the communities in which we live.**

**INTRODUCED and approved this 3rd day of April, 2007 by the Board of County Commissioners of Gunnison County.**

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

Channell – yes; Swenson – yes; Starr – yes; Allen – yes

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY  
RESOLUTION NO. 07-17

A RESOLUTION AMENDING

SECTION 11-106: *PROTECTION OF WILDLIFE HABITAT AREAS*, and RELATED SECTIONS OF THE *GUNNISON COUNTY LAND USE RESOLUTION*, AND REPLACING THE **TEMPORARY REGULATIONS FOR GUNNISON COUNTY LAND USE CHANGE, ACCESS, RECLAMATION, INDIVIDUAL SEWAGE DISPOSAL SYSTEM 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 OCCUPIED HABITAT**

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**WHEREAS**, the Board of County Commissioners of Gunnison County in June 8, 2006 adopted *Temporary Regulations for Gunnison County Land Use Change, Access, Reclamation, Individual Sewage Disposal System 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 Occupied Habitat*, with an effective termination date of March 1, 2007; and

**WHEREAS**, the Board directed the Gunnison County staff to initiate amendments to the Gunnison County Land Use Resolution to address protection of the Gunnison Sage-grouse; and

**WHEREAS**, pursuant to the *Gunnison County Land Use Resolution* ("the *Resolution*"), Section 1-113, details a process for initiation, review and Board of County Commissioner action on proposed amendments to the *Resolution*, and

**WHEREAS**, the amendment process has been initiated by the Board of County Commissioners regarding Section 11-106: *Protection of Wildlife Habitat Areas* and related areas of the *Resolution*; and,

**WHEREAS**, pursuant to Section 1-113, the Planning Department and Planning Commission have completed the review of the proposed amendments as required by the *Resolution*; and

**WHEREAS**, the Planning Commission on December 15, 2006 forwarded its written recommendation to the Board regarding the proposed amendments; and

**WHEREAS**, the Board of County Commissioners has conducted a duly noticed public hearing on these proposed amendments March 6, 2007, continued to March 20, 2007; and pursuant to Section 1-113 of the *Resolution* evaluated the proposed amendments using the following criteria:

- Consistency of the proposed amendments with any comprehensive plan that may be adopted by Gunnison County;
- Changed conditions, including the economy of Gunnison County;
- Effect of the proposed amendments on the natural environment;
- Community needs;
- Development pattern;
- Changes in applicable law;
- Public health, safety and welfare; and
- Compliance with any applicable intergovernmental agreements adopted by Gunnison County.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of County Commissioners of Gunnison County, Colorado that the Board hereby adopts the following amendments of the *Gunnison County Land Use Resolution* as included on the attached "Exhibit A."

**INTRODUCED** by Commissioner Jim Starr, seconded by Commissioner Paula Swenson and passed on this 3rd day of April, 2007.

Channell – yes; Swenson – yes; Starr – yes; Allen – yes

“EXHIBIT A”

The underlined (new) and struck (~~deleted~~) language represents amendments to the February 16, 2006 *Gunnison County Land Use Resolution*.

Reformatting of existing language, and changes that alter numbering or cross-references in other locations throughout the *Land Use Resolution* are not delineated here but are also changed as applicable.

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Change Section 1-112: A.: (Adding a new subparagraph 3, in section that describes what maps the County uses in Land Use Change Permit application review.)

MAPS ADOPTED. Gunnison County hereby adopts the following maps in this *Resolution*, as if they were actually included as illustrations in the *Resolution*. These maps may be updated from time to time, pursuant to Section 1-112: B: *Adoption of New or Updated Maps*.

1. FLOODPLAIN MAPS. National Flood Insurance Rate Maps (FIRM) prepared by the Federal Emergency Management Agency (September 29, 1989, as amended), and as more specifically adopted in Section 11-103: E: *Official Maps*.
2. GUNNISON COUNTY ROAD MAINTENANCE MAPS. Maps of roads within Gunnison County, designating roads maintained and/or plowed by Gunnison County (dated April 1997, as amended).
3. GUNNISON SAGE-GROUSE LEK AND OCCUPIED HABITAT MAPS. Gunnison County *Gunnison Sage-grouse Lek Map*, that depicts private lands located within 0.6 miles of known Gunnison Sage-grouse leks; and the Gunnison County *Gunnison Sage-grouse Occupied Habitat Map* that generally depicts Gunnison Sage-grouse occupied habitat.

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Add to Article 2: *Definitions*:

GUNNISON SAGE-GROUSE RANGEWIDE CONSERVATION PLAN means the document titled the *Gunnison Sage-grouse Rangewide Conservation Plan, Gunnison Sage-grouse Rangewide Steering Committee, Colorado Division of Wildlife, Denver, Colorado, 2005*, as may be amended and accepted by resolution of the Board. If not listed specifically within this *Resolution*, definitions related to the Gunnison Sage-Grouse shall be as specified in the *Gunnison Sage-grouse Rangewide Conservation Plan*.

GUNNISON SAGE-GROUSE OCCUPIED HABITAT means areas of suitable habitat as delineated within the *Gunnison Sage-grouse Rangewide Conservation Plan* and known to be used by Gunnison Sage-grouse within the last 10 years from the date of mapping as delineated on the Gunnison County *Gunnison Sage-grouse Occupied Habitat Map*. Areas of suitable habitat contiguous with areas of known use, which do not have effective barriers to Sage-grouse movement from known use areas, are mapped as occupied habitat unless specific information exists that documents the lack of Sage-grouse use. This category can be delineated from any combination of telemetry locations, sightings of the Gunnison Sage-grouse or sign, local biological expertise, GIS analysis, or other data sources.

LEK means an arena where male Sage-grouse display for the purpose of gaining breeding territories and attracting females. These arenas are usually open areas with short vegetation within sagebrush habitats, usually on broad ridges, benches, or valley floors where visibility and hearing acuity are excellent. Leks are delineated on the Gunnison County *Gunnison-Sage-grouse Lek Map*.

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New sections:

Section 4-102: L.: (The list of Administrative Review projects that do NOT require a Land Use Change Permit) is amended to include:

- L. PARCELS WITHIN GUNNISON SAGE-GROUSE OCCUPIED HABITAT. A land use change proposed on a parcel located wholly or partially within Gunnison Sage-grouse occupied habitat.

Section 5-102: P.: (The list of Administrative Review projects that require a Land Use Change Permit) is amended to include:

- P. PARCELS WITHIN A 0.60 MILE RADIUS OF A GUNNISON SAGE-GROUSE LEK. A land use change proposed on a parcel located wholly or partially within a 0.60-mile radius of a Gunnison Sage-grouse lek.

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Section 7-201: I. 2.f.: (Major Impact project Sketch Plan submittal requirements concerning "natural features.") is revised to read:

**WILDLIFE HABITAT MAPS.** *Wildlife Habitat Maps, prepared by the Colorado Division of Wildlife including the Wildlife Resource Information System (WRIS) and/or the National Natural Diversity Information Source (NDIS) maps available from the Colorado Division of Wildlife; and the Gunnison County Gunnison Sage-grouse Lek Map that depicts private lands located within 0.6 miles of known Gunnison Sage-grouse leks; and the Gunnison County Gunnison Sage-grouse Occupied Habitat Map that generally depicts Gunnison Sage-grouse occupied habitat. Maps may also be submitted that are prepared by the applicant's wildlife consultant to provide site-specific detail using the Colorado Division of Wildlife and Gunnison County habitat maps as baseline data.*

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SECTION 11-106: PROTECTION OF WILDLIFE HABITAT AREAS

- i. **PURPOSE.** The natural and scenic resources in Gunnison County, including wildlife, are essential components of the County's economic base and help to establish the rural character of the County. Tourists visit and recreate in Gunnison County because of the quality of these natural resources, including the abundance of wildlife species found in the area. These resources are also a basic element of the quality of life for residents of Gunnison County. The standards in this Section are intended to protect sensitive wildlife habitat areas, to protect biological field research, and to ensure that wildlife remains a part of Gunnison County's natural environment for generations to come. In addition, this Section is designed to:

**SUSTAIN AND ENHANCE EXISTING POPULATIONS OF GUNNISON SAGE-GROUSE.** *Sustain and enhance survival of the Gunnison Sage-grouse.*

**PRECLUDE THE NEED TO LIST, OR MINIMIZE THE IMPACT OF LISTING OF GUNNISON SAGE-GROUSE AS CANDIDATE SPECIES.** *Help implement an effective strategy and programs that will preclude the need to list, or minimize the impact of listing of the Gunnison Sage-grouse as a candidate for threatened or endangered status pursuant to the Endangered Species Act of 1973, or at a minimum, demonstrate the intent of Gunnison County to preserve and protect habitat that will lessen the impact if listing does occur.*

**APPLICABILITY.** *All applications for Land Use Change Permits, including Building Permits, Individual Sewage Disposal System Permits, Gunnison County Access Permits, Gunnison County Reclamation Permits, and Land Use Change Permits shall be processed subject to the individual requirements of this Section, and assessed to determine if the location of the proposed activity is within the sensitive wildlife habitat areas designated on the maps referenced in Section 11-106: C.: Maps Used to Identify Sensitive Wildlife Habitats. The requirements of this Section shall apply to all lands designated as sensitive wildlife habitat as generally depicted on the Wildlife Resource Information System (WRIS) and National Diversity Information Source (NDIS) maps available from the Colorado Division of Wildlife, and the Gunnison Basin Sage Grouse Habitat Maps (in the Gunnison Sage Grouse Conservation Plan) or their successors, and to lands designated pursuant to Section 11-106: C. 2: Designation of Lands Not Designated on Maps.*

**DEVELOPMENT ON INDIVIDUAL LOTS IN SUBDIVISIONS APPROVED BY GUNNISON COUNTY BEFORE APRIL 3, 2007.** *Activity on individual lots in subdivisions approved by Gunnison County before April 3, 2007, for which building envelopes were designated on an approved plat, recorded in the Office of the Gunnison County Clerk and Recorder inside a building envelope, shall be located to minimize adverse impacts to wildlife, to the maximum extent feasible, except as prohibited by a vested right pursuant to Section 1-109: Vested Property Rights.*

**ALTERATION OF BUILDING ENVELOPES TO BENEFIT GUNNISON SAGE-GROUSE.** *If the decision-making body, in consultation with the Colorado Division of Wildlife, determines that relocation of a designated building envelope in a subdivision approved by the County before April 3, 2007 will benefit the Gunnison Sage-grouse, such alteration may be permitted, pursuant to the requirements of Article 5: Administrative Review Projects That Require Land Use Change Permits.*

**MAPS USED TO IDENTIFY SENSITIVE AND CRITICAL WILDLIFE HABITATS. IDENTIFIED.** *The general reference maps used to identify locations of sensitive wildlife habitats. Because maps depicting wildlife habitat are general in nature maps, and because animal distribution is fluid and animal populations are dynamic, the maps shall be used as "guides" or "red-flags."*

**COLORADO DIVISION OF WILDLIFE MAPS.** The Wildlife Resource Information System (WRIS) and National Natural Diversity Information Source (NDIS) maps available from the Colorado Division of Wildlife.

**GUNNISON COUNTY MAPS.** ~~The Gunnison Basin Sage Grouse Habitat Maps (in the Gunnison Sage Grouse Conservation Plan) or their successors are the general reference maps that depict the locations of certain known sensitive wildlife habitat areas within Gunnison County. The Gunnison County Gunnison Sage-grouse Lek Map and the Gunnison County Gunnison Sage-grouse Occupied Habitat Map.~~ The purpose of these maps is to place a landowner on notice that a parcel ~~land~~ may contain sensitive wildlife habitat areas.

**SITE-SPECIFIC VERIFICATION INFORMATION PREVAILS.** ~~If a site-specific review~~ If the applicable decision-making body determines that a site-specific analysis review demonstrates ~~determines that the mapped areas do not provide sensitive wildlife habitat, that a proposed activity is not located on a parcel that is wholly or partially within or near sensitive wildlife habitat or critical wildlife habitat, including Gunnison Sage-grouse occupied habitat, or within 0.6 miles of a known Gunnison sage-grouse lek, or that legally-created or natural physical characteristics are consistent with sensitive wildlife habitat, are permanent and create barriers to Gunnison Sage-grouse activity within occupied habitat or within 0.6 miles of a lek, then the requirements of this Section shall not apply to the proposed activity~~ land use change.

**INITIAL SITE-SPECIFIC ANALYSIS REQUIRED FOR ACTIVITY PROPOSED ON A PARCEL THAT IS WHOLLY OR PARTIALLY WITHIN 0.60 MILES OF GUNNISON SAGE-GROUSE LEK OR OCCUPIED HABITAT.** As part of the applicable required permit application review process, Gunnison County, in consultation with the Colorado Division of Wildlife, shall conduct an initial site-specific analysis of development that is proposed on a parcel that is wholly or partially within 0.60 miles of a Gunnison Sage-grouse lek. If the applicable decision-making body determines it necessary, the County also shall conduct a site-specific analysis of a development that is proposed on a parcel that is wholly or partially within Gunnison Sage-grouse occupied habitat.

**APPLICATIONS FOR BUILDING PERMITS, ACCESS PERMITS, INDIVIDUAL SEWAGE DISPOSAL SYSTEM PERMITS AND GUNNISON COUNTY RECLAMATION PERMITS ON A PARCEL THAT IS WHOLLY OR PARTIALLY WITHIN 0.60 MILES OF GUNNISON SAGE-GROUSE LEK OR OCCUPIED HABITAT.** Development located on a parcel that is wholly or partially within 0.60 miles of a Gunnison Sage-grouse lek that requires a Building Permit, Access Permit, an Individual Sewage Disposal System Permit, or a Gunnison County Reclamation Permit, and any development classified as an Administrative Review Project pursuant to Article 4: Administrative Review Projects That Do Not Require Land Use Change Permits and Article 5: Administrative Review Projects That Require Land Use Change Permits shall be reviewed as follows. If the Planning Department determines during review of an application that the proposed use exceeds the classification criteria of an Administrative Review project, the criteria detailed in Section 3-111: B. 1: Additional Criteria shall be considered and the appropriate review process and submittals and an application for the applicable Land Use Change Permit shall be required to be submitted.

**LOCATION WITHIN A 0.60 MILE RADIUS OF A GUNNISON SAGE-GROUSE LEK.** All applications for Land Use Change Building Permits, Access Permits and Individual Sewage Disposal System Permits and Gunnison County Reclamation Permits shall be classified and initially reviewed as Administrative Review projects pursuant to Article 5: Administrative Review Projects That Require Land Use Change Permits when the property on which the activity or use is to occur is on a parcel that is located partially or wholly within a 0.60 mile radius of a Gunnison Sage-grouse lek.

**LOCATION WITHIN GUNNISON SAGE-GROUSE OCCUPIED HABITAT.** All applications for Land Use Change Permits, Building Permits, Access Permits, Individual Sewage Disposal System Permits and Gunnison County Reclamation Permits shall be classified and initially reviewed as Administrative Review projects pursuant to Article 4: Administrative Review Projects That Do Not Require Land Use Change Permits when the property on which the activity or use is to occur is located partially or wholly within Gunnison Sage-grouse occupied habitat.

**PRE-APPLICATION CONFERENCE.** Owner(s) of land may request a pre-application conference with Gunnison County staff to review Gunnison Sage-grouse issues that reasonably may arise from an application pursuant to this Section. Upon receipt of such request, Gunnison County staff, and as available a representative of the Colorado Division of Wildlife, will meet with the owner(s) to review such issues and to identify potential solutions. The Planning Department will coordinate the conference. Gunnison County shall consider the advice of applicant's wildlife biologist/ecologist or a similar qualified expert.

**REFERRAL TO COLORADO DIVISION OF WILDLIFE AND ON-SITE CONSULTATION.** The Planning Department shall forward a copy of the application(s) to the local office of the

Colorado Division of Wildlife and schedule an on-site consultation with the applicant and/or applicant's representative, the Planning Department, Public Works Department and the Gunnison County Sage-grouse Conservation Coordinator and a representative from the Division of Wildlife, as available. The purpose of the on-site consultation shall include location of any lek or occupied habitat, identification of site-specific data to inform the review process, and identification of potential mitigation of Sage-grouse related issues. The on-site consultation shall be coordinated by the Planning Department.

*TIMELINE FOR REVIEW. The County shall request that the Colorado Division of Wildlife submit comments about the application within 21 days after the on-site consultation; when comments are not provided within that time by the Division, the County shall proceed to complete the permit process without those comments.*

**REVIEW, REFERRAL TO COLORADO DIVISION OF WILDLIFE OF MINOR AND MAJOR IMPACT PROJECT APPLICATIONS.** The Planning Department shall refer Land Use Change Permit applications for Minor or Major Impact projects to the local office of the Colorado Division of Wildlife for that agency's review and comments to make use of the expertise and judgment of that agency in the protection of sensitive wildlife habitat, and its recommendations, if any, to reduce or eliminate adverse impacts to sensitive wildlife habitat and species that may result from proposed development. It is intended that the Division of Wildlife will review the application and participate in on-site consultations and provide timely comments to the Planning Department that identify actions and/or recommendations to reduce or eliminate adverse impacts to wildlife.

**MINOR IMPACT PROJECTS.** The Department shall submit a copy of the Minor Impact project application to the Division pursuant to Section 6-106: E: Request for Review by Other Agencies or Departments, with a written request that the Division review the application and identify in a written response whether or not the parcel on which the land use change is proposed is located within sensitive wildlife habitat, and issues that it believes appropriate to be addressed during the permitting process. Based upon the Division's knowledge of a specific site, the Division may also recommend that a wildlife habitat analysis be conducted, pursuant to Section 11-106: F.: Wildlife Habitat Analysis, which shall be required to be submitted by the applicant before a public hearing is ~~conducted~~ scheduled on the Minor Impact project application.

**MAJOR IMPACT PROJECTS.** The Department shall submit a copy of the ~~Sketch~~ Preliminary Plan for a Major Impact project application to the Division pursuant to Section 7-302: C: Review and Comment by Review Agencies, with a written request that the Division review the application and identify in a written response whether or not the parcel on which the land use change is proposed is located within sensitive wildlife habitat and issues that it believes appropriate to be addressed during the permitting process. If the parcel is located within sensitive wildlife habitat, a wildlife habitat analysis conducted pursuant to Section 11-106: E: Wildlife Habitat Analysis shall be submitted by the applicant before the public hearing on the Preliminary Plan is scheduled. ~~as part of the Preliminary Plan application. The Department shall also submit the Preliminary Plan to the Division with a written request for comment, pursuant to Section 7-302: C: Review and Comment by Review Agencies.~~

**PRE-APPLICATION CONFERENCE FOR MINOR OR MAJOR IMPACT PROJECTS LOCATED ON A PARCEL WHOLLY OR PARTIALLY WITHIN GUNNISON SAGE-GROUSE OCCUPIED HABITAT OR WITHIN 0.6 MILES OF A GUNNISON SAGE-GROUSE LEK. A Pre-Application Conference is required for any Minor or Major Impact project located wholly or partially on a parcel within Gunnison Sage-grouse occupied habitat or within 0.60 miles of a Gunnison Sage-grouse lek.**

**WILDLIFE HABITAT ANALYSIS OF MINOR IMPACT OR MAJOR IMPACT PROJECTS.** If Colorado Department Division of Wildlife comments indicate that the proposed land use change for a Minor Impact or Major Impact project is within sensitive wildlife habitat, the applicant shall be required to submit a site-specific wildlife habitat analysis. The analysis shall evaluate the relevant physical features of the property, shall make a site-specific determination of the locations of wildlife habitat on the property, and shall describe how the proposed development will comply with Section 11-106: F: Standards for Development in Wildlife Habitat Areas. The analysis shall be prepared by a wildlife biologist/ecologist or similar qualified expert in consultation with the Colorado Division of Wildlife. It shall be submitted with the Preliminary Plan application for a Major Impact project, or before the public hearing is ~~conducted~~ scheduled on a Minor Impact project, and shall contain the following:

***MAP. A map of the property shall be submitted, depicting the activity patterns of the wildlife using the sensitive wildlife habitat, identifying, where relevant, migration routes, travel corridors or patterns, nesting, feeding, watering and production areas, and any critical connections or relationships with habitat adjoining, but outside of, the project site. The map shall also identify whether the land immediately surrounding the proposed land use change is privately owned or is public land owned by the U.S.***

**Forest Service, U.S. Bureau of Land Management, Colorado Division of Wildlife, or other similar agency.**

**REPORT.** A report shall be submitted that describes the activity patterns of the wildlife using the habitat, using a scientifically valid time period. It will also identify any species that use the property that are listed by the U.S. Department of the Interior or the State of Colorado as endangered, threatened, or are species of special concern.

**EVALUATE IMPACTS.** The report shall evaluate the potential impacts of the proposed land use change on the sensitive wildlife habitat and the species using that habitat, including whether it could be a threat to the viability of the species, cause a reduction in the diversity of wildlife species in the county, or change the status of its federal or state listing. The report shall identify the types of potential impacts that are anticipated (including stress due to human presence, interference with reproduction, change of migration routes, etc.) and the time periods (spring, summer, fall, winter, year-round, etc.) during which wildlife are expected to be affected by the proposed land use change.

**CUMULATIVE IMPACTS.** The report addressing any Major Impact project (and any proposed land use change classified as a Minor Impact project that the Planning Commission determines requires such evaluation) shall also evaluate the cumulative impacts on wildlife habitat beyond the project site. The report shall also address whether the cumulative impacts of the proposed land use change when added to the past and present impacts of other land use changes, will eliminate, reduce, or fragment wildlife habitat in the county to the extent that the viability of an individual species is threatened or the diversity of species found in the county is reduced, or the population of a species in the impact area will be significantly reduced.

**MITIGATION PLAN.** The report shall include a wildlife habitat mitigation plan that describes how the proposed development will comply with Section 11-106: G.: *General Standards for Development in Wildlife Habitat Areas*, providing detail regarding the avoidance, mitigation, and enhancement techniques, monitoring and performance criteria that will be employed.

**GENERAL STANDARDS FOR DEVELOPMENT IN SENSITIVE WILDLIFE HABITAT AREAS.** All development shall comply with the following standards when it is located on lands designated as sensitive wildlife habitat, including but not limited to parcels located partially or wholly in habitat areas delineated on the Gunnison County Gunnison Sage-grouse Lek Map; and the Gunnison County Gunnison Sage-grouse Occupied Habitat Map, and all lands determined to be sensitive wildlife habitat pursuant to Section 11-106: B: Applicability.

**GENERAL MITIGATION OF ADVERSE IMPACTS TO SENSITIVE HABITAT.** A proposed land use change must mitigate adverse impacts it causes to lands determined to be sensitive wildlife habitat including but not limited to a Gunnison Sage-grouse lek or occupied habitat. Proposed land use changes that are found to have a significant net adverse impact that cannot be mitigated upon sensitive wildlife habitat, shall be denied.

**CONSIDERATION OF BENEFICIAL EFFORTS.** Gunnison County shall consider, and affirmatively recognize as mitigation in the permitting process, conservation easements/covenants (and similar mechanisms), and documented management agreements/programs accomplished, or to be accomplished, in coordination with the Colorado Division of Wildlife or other agencies (such as the Natural Resources Conservation Service or the U.S. Fish and Wildlife Service) that are beneficial to the Gunnison Sage-grouse. Each case will be reviewed on an individual basis to determine if the easement, covenant or deed restriction satisfies all of these standards.

**TERMS OF EASEMENT ARE PERPETUAL AND SATISFACTORY TO COUNTY.** The terms of the existing easement, covenant or deed restriction are perpetual and acceptable to the County.

**PRESERVED LANDS PROVIDE GUNNISON SAGE-GROUSE HABITAT.** That both the preserved land provides Gunnison Sage-grouse habitat, and the restrictions imposed by the pertinent easement, covenant or deed restriction are sufficient to justify the determination that adverse impacts have been substantially or wholly mitigated by such preservation.

**ADDITIONAL BENEFITS SUBSTANTIALLY OR WHOLLY MITIGATE ADVERSE IMPACTS.** Additional preservation efforts substantially or wholly mitigate adverse impacts to sensitive wildlife habitat.

**COMPENSATION.** ~~Upon receipt of an application for development within lands mapped as, or determined to be sensitive wildlife habitat, designated state and local agencies shall be requested to explore methods for mitigating the potential loss of all reasonable economic use of such areas. Methods may include conservation easements, purchase for wildlife sanctuary, tax relief, and similar approaches.~~

**IRRIGATION DITCHES.** Pursuant to Colorado law, owners of irrigation ditches have the right to maintain irrigation ditches, headgates and other diversion structures. Gunnison County shall not require mitigation that will interfere with the right of ditch owners to maintain ditches, headgates or other diversion structures.

**MITIGATION TECHNIQUES.** Mitigation techniques to protect wildlife species that the County determines may be impacted by a ~~for~~ proposed land use change on any-lands identified in Section 11-106: B: *Applicability*, including, but not limited to:

**LIMITATIONS.** Requirements to avoid sensitive wildlife habitat during seasons the wildlife species use the habitat. When appropriate, the proposal shall include techniques to minimize human intrusion, including, but not limited to:

**BUFFERS.** Visual and sound buffers to screen structures and activity areas from habitat areas through effective use of topography, vegetation, and similar measures. ~~;~~ ~~and~~

**LIMITATIONS OF HUMAN ACTIVITIES DURING SENSITIVE TIME PERIODS.** Seasonal avoidance limitations on, or stoppages of intrusive human activities during sensitive time periods, including limiting construction activities and recreational uses during sensitive time periods such as when elk migration, ~~or~~ elk calving or when sage grouse are mating, nesting or brood rearing is occurring on parcels located partially or wholly in habitat areas delineated on the Gunnison County Gunnison Sage-grouse Lek Map or the Gunnison County Gunnison Sage-grouse Occupied Habitat Map and raising chicks. ~~;~~ ~~and~~

~~**LIMITATIONS OF RECREATIONAL USE DURING WILDLIFE CONCENTRATION.**~~ Limitation on the recreational use of wildlife concentration areas during times of the year when wildlife concentration is occurring.

**LOCATIONAL CONTROLS.** Controls on the location of development, so it does not force wildlife to use new migration corridors, or expose wildlife to significantly increased predation, interaction with vehicles, intense human activity, or more severe topography or climate, or encircle wildlife habitat with development.

**WATERING AREAS.** Requirements Measures to avoid disturbance of waterholes, springs, seepages, marshes, stream beds, stream banks, wetlands, ~~and~~ streamside vegetation, ponds, and watering areas to the maximum extent feasible. Catchment basins may be required to prevent stream siltation.

**HABITAT COMPENSATION.** Requirements to develop additional habitat, or to acquire and permanently protect existing habitat to compensate for habitat that is lost to development, in the form of ongoing on-site or off-site wildlife habitat enhancement. Enhancement is the process of increasing wildlife carrying capacity on undisturbed undeveloped habitat to replace the lost wildlife carrying capacity on habitats impacted, disturbed and/or destroyed by development. Enhancement and may include prescribed burns, seeding, brush cutting, and fertilization, as determined to be appropriate by the County, based on the advice of the Colorado Division of Wildlife or other technical experts.

**DOMESTIC ANIMAL CONTROLS.** Controls on ~~dogs and cats~~ domestic animals within or near areas adjacent to of sensitive wildlife habitat. Dogs may be prohibited within one-half mile of elk, deer, and bighorn sheep critical winter ranges and winter concentration areas, ~~and sage grouse leks.~~ The number of cats and dogs allowed in a development may also be limited ~~to protect birds.~~

**DOGS AND CATS PROHIBITED OR CONTROLLED NEAR GUNNISON SAGE-GROUSE HABITAT.** Requirements in the form of conditions of a permit, and/or inclusion within declarations of a subdivision's protective covenants enforceable by Gunnison County, may be required prohibiting, or requiring control by kenneling or other physically-secure methods within or near a 0.60 mile radius of a Gunnison Sage-grouse lek or within or near sensitive Gunnison Sage-grouse habitat.

**PROTECTION FROM ANIMAL-BORNE DISEASES.** Gunnison County may impose limitations on the introduction or possession of non-native species to lessen the possibility of the introduction of disease to native wildlife populations.

**CONTROL OF NUISANCES.** Controls on lighting, noise, excess use of fertilizers or pesticides, and similar nuisances that could have a significant net adverse effect on Gunnison Sage-grouse occupied habitat leks and the continued use of the area by other wildlife.

**DENSITY RELOCATION.** Residential development may be clustered to avoid sensitive wildlife habitat.

**ROAD CONSTRUCTION.** *Requirements to avoid new road construction through sensitive wildlife habitat.*

**STREAM ALTERATIONS OR DIVERSIONS.** *Controls on alterations or diversions of streams to retain the character and productivity of the streams. Such alterations will be subject to all applicable local, state and federal codes and regulations. ~~constraints of regulations of the Colorado Division of Water Resources, with the agreement of the Colorado Division of Wildlife.~~*

**ALTERATIONS OF EXISTING WET MEADOW/SAGE HABITAT INTERFACE AREAS.** *Controls on alterations of existing wet meadow/sage habitat interface areas.*

**STRUCTURES TO MINIMIZE HAZARDS.** *Requirements to design, locate, construct and maintain game-proof fencing, one-way gates, game underpasses, or other structures to minimize hazards to wildlife, such as requiring a minimum distance between high-power electric wires to avoid electrocution of eagles.*

**AGENCY ACCESS.** *Where applicable, the provision of access to Colorado Division of Wildlife or other applicable agencies to facilitate maintenance of wildlife and wildlife habitat.*

~~**SAGE-GROUSE CONSERVATION PLAN.** *Land use changes shall be designed to be consistent with the terms of the Memorandum of Agreement for the Gunnison Basin Population of the Gunnison Sage Grouse, dated March 9, 1998.*~~

**STANDARDS SPECIFIC FOR DEVELOPMENT PROPOSED ON PARCELS THAT ARE WHOLLY OR PARTIALLY WITHIN 0.60 MILES OF A LEK, OR WITHIN OCCUPIED HABITAT OF GUNNISON SAGE-GROUSE.** *In addition to the standards and mitigation techniques included within this Section, the following standards shall apply specifically to development proposed on a parcel that is wholly or partially within a 0.60 mile radius of a lek, or within occupied habitat of the Gunnison Sage-grouse:*

**DISTURBANCE GUIDELINES.** *Development activity shall comply with the GUSG Disturbance Guidelines in the Gunnison Sage-grouse Rangewide Conservation Plan, Appendix 1, as may be adopted and amended from time to time by the Board.*

**LIMITATION ON HUMAN ACTIVITIES INCLUDING RECREATIONAL USES DURING GUNNISON SAGE-GROUSE SENSITIVE TIME PERIODS.** *Seasonal avoidance or limitations of intrusive human behavior during sensitive time periods, including but not limited to winter and when Gunnison Sage-grouse are mating or raising chicks.*

**UNDERGROUND UTILITIES REQUIRED NEAR GUNNISON SAGE-GROUSE LEKS.** *Requirements that Utility lines shall be placed underground within 0.60 miles of a Gunnison Sage-grouse in the vicinity of leks, to discourage avian predators.*

**FENCES.** *Design of fences other than those associated with agricultural operations ~~to~~ shall ensure they do not adversely impact ~~become a barrier to the movement of~~ wildlife. Design standards for fences are as follows:*

**MAXIMUM HEIGHT.** *Fences shall not be higher than 42 inches.*

**MATERIALS.** *Fences shall should be limited to a maximum of three strands or rails. Rail fences should only use rounded rails. Wire fences should not be made of woven wire, unless they are used to enclose sheep or goats. Wire and rail fences shall have a kick-space (distance between the top two wires or rails) of not less than 18 inches that uses wire or rail that has a smooth surface. The top rail should be made of a solid material in heavy use areas, to make it more visible to wildlife.*

**REMOVABLE SECTIONS.** *Fences in migration corridors should have removable sections or openings to allow for seasonal passage of wildlife. The applicant shall be responsible for removing fence sections when migration is occurring and replacing those sections when the season of migration has ceased.*

**UPGRADING EXISTING FENCES.** *As a condition of development approval, applicants proposing land use changes within sensitive wildlife habitat areas should agree to remove or to alter any existing fences on the property to comply with the above requirements.*

**FENCES AROUND RESIDENCES EXEMPT.** *Fences located in the immediate vicinity of a residence shall be exempt from these limitations.*

**DESIGN AND LOCATION.** *Fence location and design should minimize adverse impacts to sensitive wildlife habitat.*

**VEGETATION.** Proposed land use changes shall be designed to comply with the recommendations of the Colorado Division of Wildlife regarding vegetation, and to preserve large areas of vegetation utilized by wildlife for food and cover. Roads shall be located on the edge of wildlife habitat areas, to prevent fragmentation of wildlife habitat. When native vegetation must be removed within habitat areas, it shall be replaced with native and/or desirable non-native vegetation capable of supporting post-disturbance land use. Individuals planting vegetation away from the homesite should consider using vegetation suitable for wildlife cover and food. Vegetation removed to control noxious weeds shall not be required to be replaced, unless the site requires revegetation to prevent erosion or other-noxious weeds from becoming established.

**TIME ALLOTTED FOR REVEGETATION.** Vegetation required pursuant to Section 13-115: *Reclamation and Noxious Weed Control* shall be established and growing within two growing seasons (730 days) of the issue date of the applicable Gunnison County Reclamation Permit.

**CDOW ACCESS.** Where applicable, the applicant shall continue to provide historical access or agreed-upon new access other than the historical access, for the Colorado Division of Wildlife to manage wildlife and to monitor wildlife activities.