

**GUNNISON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
June 19, 2007**

The June 19, 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

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 9:31 a.m.

MINUTES APPROVAL: **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the June 5, 2007 Regular Meeting minutes as presented. Motion carried unanimously.

SCHEDULING: The Upcoming Meetings Schedule was discussed and updated.

CONSENT AGENDA: **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the Consent Agenda and authorize signatures. Motion carried unanimously.

ASSISTANT COUNTY MANAGER'S REPORTS AND PROJECT UPDATES: Assistant County Manager Crosby was present for discussion.

1. Request by Montrose Snow Mobile Club to Groom a Portion of CR 864 (Little Cimarron Road). Assistant County Manager Crosby presented a permission request from Uncompahgre Valley Trail Riders (UVTR) Grooming Chairman Dan Turner to groom a part of CR 864. Assistant Manager Crosby noted that the UVTR has historically been grooming this area, which runs from Augie's Corral to the forest boundary. To cover the costs associated with grooming this area, the UVTR intends to apply for a grant which, in turn, requires permission to groom from the property owner. Assistant County Manager Crosby recommended board support of this request and noted that the owner of Augie's Corral has also approved the UVTR's request. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the request by the Uncompahgre Valley Trail Riders, as presented in the email dated June 12, 2007 for the 2007/2008 winter season, to groom a portion of CR 864, also known as Little Cimarron Road and authorize chair signature. Motion carried unanimously.
2. Approve Trails Commission Bylaws Amendment. Assistant County Manager Crosby reminded the board that, during a recent work session with members of the Trails Commission, a request was made to add language to the Trails Commission bylaws stating, "In addition, ex-officio membership will be granted to organized trail-user groups that want to assist and advise the Board of County Commissioners of Gunnison County and it's subsidiaries concerning alternative modes of transportation." Assistant County Manager Crosby noted that this request received board support during the work session and she requested board signature to formally amend the bylaws. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to approve the requested amendment to the Trails Commission bylaws as presented, dated June 14, 2007, and authorize signatures. Motion carried unanimously.
3. Project Updates.
 - a. Kebler & Cottonwood Passes. The chloride project for Kebler Pass should be completed before the 4th of July weekend. Hot temperatures, dry roads and excessive winds on Cottonwood Pass have created issues for the Public Works Department, however the project should still be completed by the coming weekend. Assistant County Manager Crosby noted that, once these passes are completed, financial assessments will be accomplished to determine the balance of remaining funds available for chloride treatments this calendar year. Per Assistant County Manager Crosby, chloride budgets were approximately \$250,000 in 2006 and \$145,000 in 2007 while the price of chloride has risen 70%. She also relayed that Gunnison Energy paid \$7,000 for the chloride on Buzzard Divide Road, also known as CR 265.
 - b. Town of Marble Paving. Assistant County Manager Crosby reminded the board that, in 2006 when Gunnison County paved CR 3 into the Marble area, there was insufficient oil available to pave the Town of Marble. Paving of an 18'-0" strip through the Town of Marble is beginning today and should be done in 1-2 days time. The full-time employee stationed in Marble has retired from his duties, due to health reasons, however Assistant County Manager Crosby has interviewed a possible replacement that may be available part-time. This position was not advertised and Assistant County Manager Crosby noted that she would optimally prefer to have two employees, each at three-quarters time, which she will explore in-depth when preparing the her 2008 budget requests.
 - c. Observatory. The dirt work should be finished by the end of the current week and gravel should be placed the following week. Assistant County Manager Crosby noted that, while

it had previously expressed a willingness to assist, the City of Gunnison has not been capable of offering assistance with this project.

AIRPORT BUDGET AMENDMENT – REQUEST TO PURCHASE A TRACKLESS AND A SNOW PLOW FOR THE WHITE PICKUP: Airport Manager John DeVore was present for discussion.

Airport Manager DeVore explained that there are currently two trackless machines in operation at the airport. One of these is a 1980's model that requires excessive shoulder extension in order to start the motor and is also very difficult to start in cold temperatures. The other trackless is an early 1990's model and has electrical problems that are causing batteries to expire early and a complete loss of power when the broom is deployed. Because of these issues, Airport Manager DeVore requested permission to purchase a new trackless at an approximate cost of \$90,000, which would include all appropriate attachments currently utilized by his staff.

Airport Manager DeVore outlined that there will be sufficient funds within the airport budget to purchase a new trackless this calendar year and that, once ordered, the trackless can take up to six months for delivery since the machines are not built until an order is placed. He also explained that two separate companies will be coming to Gunnison to give demonstrations of their models and available features, of which a mower and a broom will be important on any model purchased by the airport.

A second purchase request was made for a \$5,000 snow plow that would be attached to the recently purchased ¾-ton truck. Originally, \$30,000 was authorized by the board for purchasing this truck and all related equipment, however Airport Manager DeVore noted that this \$30,000 was insufficient funding to allow for the additional purchase of the snow plow. All remaining funds, up to the \$30,000 limit, were used to purchase additional radios for airport equipment. Assistant County Manager Crosby relayed her belief that the lack of available funds was due to uncontrollable rising costs.

Commissioner Swenson questioned the existence of an equipment replacement fund for the airport. Airport Manager DeVore explained that costs associated with all of the larger equipment used at the airport are managed by grants and that the costs associated with the smaller equipment remain a burden of the airport. All parties agreed that a fund should be established, beginning with the next budget cycle, so that future expenditures can be planned for. Airport Manager DeVore noted that the new trackless and white truck will have a life expectancy of at least 10 years.

Moved by Commissioner Swenson, seconded by Commissioner Starr to approve the capital outlay request as outlined in the memo from Airport Manager John DeVore dated May 23, 2007 and, if needed, a budget amendment at the end of the year. Motion carried unanimously.

BOARDS & COMMISSIONS – APPOINTMENT TO GUNNISON SAGE-GROUSE MITIGATION COMMITTEE: Gunnison Sage-grouse Conservation Coordinator Jim Cochran was present for discussion.

Assistant County Manager Crosby reminded the board that when the Gunnison Sage-grouse Mitigation Committee was first assembled, a board position for public appointment was advertised without response. It was determined at that time that engineering representative for the Public Works Department Allen Moores would be appointed to the committee after he displayed interest in the position. Assistant County Manager Crosby also noted that this committee has been a very consistent group with little turnover and that Mr. Moores' involvement on the committee has been advantageous since he also serves as part of the working group.

Assistant County Manager Crosby stated that, while the position can be readvertised, her recommendation would be to reappoint Mr. Moores. She also stated that applicable bylaws dictate overlapping 4-year terms with alternates serving 2-year terms but that, since recordkeeping for this committee's terms has been poor, there is no definitive way to determine when Mr. Moores was appointed, if he was ever reappointed and when any current term for Mr. Moores might be expiring. There was general consensus that Mr. Moores' term should be considered as expiring at the end of 2007 and that the position will be readvertised, along with all of the other board positions, to be filled in 2008.

VALCO ASPHALT PLANT UPDATE & SITE VISIT: KOA Campground representative Dave Taylor, Valco Plant Manager Ed Stewart and Assistant Planning Director Neal Starkebaum were present for discussion.

Mr. Taylor stated that residential neighbors of the Valco asphalt plant were awaiting the board's arrival at the plant.

Assistant Planning Director Starkebaum provided both a Certificate of Administrative Review and a letter dated September 17, 2004 that was addressed to Valco owner Thomas Brubaker and signed by Planning Director Joanne Williams. In this Certificate of Administrative Review, the use of two seasonal asphalt concrete batch plants at Valco, Inc. Gunnison Concrete Division were determined to be legal non-conforming uses. The letter stated that the plants should be located no closer than 250 feet from residential structures. With the assistance of Map Maker, Ltd.® programming, Assistant Planning

Director Starkebaum was able to determine that the Coleman property, which is the closest residential structure to the Valco plant, is exactly 250 feet in distance as shown on the aerial map provided.

Commissioner Swenson asked if this plant had always used the current layout. Mr. Stewart explained that there have been recent changes, but that a generator was then relocated after both he and Mr. Taylor agreed that it produced excessive noise. Mr. Taylor expressed gratitude to Mr. Stewart for his responsiveness in building a berm and reorienting the generator, yet Mr. Taylor insisted that excessive noise remains an issue, as do vibration and noxious fumes.

Assistant Planning Director Starkebaum stated that the asphalt plants predate any regulations in the Gunnison County Land Use Resolution (LUR), yet the possibility remains that the asphalt plants may be in violation of Colorado State statutes. Chairperson Channell noted that the Certificate of Administrative Review, page 4, states, "This operation is required to comply with all applicable Colorado and federal regulations and standards, and to maintain currency with all applicable permits, including those to control dust, protect water quality, and attenuate sound." Assistant Planning Director Starkebaum relayed that Gunnison County does not own a decibel meter necessary to measure sound levels.

Chairperson Channell explained that this issue must be processed as a formal complaint to the State of Colorado, Division of Mining, Safety and Reclamation, since plant operations date back to 1969, predating adoption of the LUR, and are meeting the minimal requirements set forth by Gunnison County.

BREAK: This meeting recessed from 10:38 until 11:25 so that all parties could visit the Valco plant.

Upon return, Chairperson Channell summarized that the site visit had occurred and that it was attended by local residents and Mr. Stewart. He also noted that the batch operation should not be considered to be a Valco operation.

Mr. Stewart stated that he will be speaking with Mr. Brubaker, as well as plant operators, to discuss possible mitigation options.

The County Attorney's office will investigate jurisdictional issues related to noise, smell and applicable Colorado regulations. This item was continued to the July 24, 2007 Regular Meeting.

CORRESPONDENCE TO FEDERAL LEGISLATORS REGARDING OIL AND GAS STORMWATER CONTROLS: County Attorney David Baumgarten was available for discussion.

County Attorney Baumgarten explained that the Energy Policy Act of 2005 exempted oil and gas companies from stormwater controls. He further explained that another version of that energy bill is now pending before Congress that would eliminate this exemption. County Attorney Baumgarten presented draft correspondence addressed to Congressman John T. Salazar, Congressman Mark Udall and Senator Ken Salazar urging those gentlemen to agree with the exemption elimination. The language was discussed and amendments were agreed upon by all parties.

Moved by Commissioner Swenson, seconded by Commissioner Starr to approve the letters addressed to Congressman Salazar, Congressman Udall and Senator Salazar and authorize signatures as amended. Motion carried unanimously.

BREAK: The meeting recessed from 11:37 until 12:01 in order to convene the Public Hearing on the Waiver of Standards for Taylor River Holdings, LLC.

PUBLIC HEARING WAIVER OF STANDARDS FOR TAYLOR RIVER HOLDINGS, LLC

Assistant Planning Director Starkebaum, Attorney John Belkin and Taylor River Holdings representative Jerry Greene were present for discussion. Assistant County Manager Crosby confirmed that the Certified Mail requirement had been met. Mr. Belkin, representing Taylor River Holdings, LLC and the Crystal Creek HOA, further confirmed that notification to all applicable residents has been carried out via either affidavit or postal return receipt. No residents were present for this Public Hearing.

Mr. Belkin provided an amended plat of the Taylor River Subdivision, dated June 14, 2007, along with ten photographic prints of himself standing in various locations of the subdivision and represented that these photographs were taken on June 18, 2007. Mr. Belkin stated that the amended plat was presented to the Planning Commission on June 15, 2007. Assistant County Manager Crosby noted that slight modifications have been made to this plat from the original submission but that those modifications were relative to lot configuration only and that none of those changes encompassed the road in any way.

Mr. Belkin began by defining his clients' specific request as a request for a Waiver of Standards applicable to the driveway north of the bridge over the Taylor River and extending to the proposed circular turnaround and for that section of the driveway running from the easterly boundary of proposed Lot 1 extending to proposed Lot 3. Standards Section 4.5, Access Control Standards, requires that driveways classified as "Local Intermittent" and constructed of native/gravel be a minimum of 16'-0" wide to the

end of the driveway. This waiver, if approved, would allow for these portions of the driveway, which currently range between 12'-0" and 15'-0" wide, to be required at no more than 14'-0" wide so that numerous aspen trees along the easterly section of the driveway can be preserved. He further explained that his clients will agree to trim and limb the existing trees since sight lines to the proposed circular turnaround appear to be clear.

Mr. Belkin stated that he and Mr. Greene have met on several occasions with engineering representative for the Public Works Department Allen Moores to discuss this issue and relayed Mr. Moores' suggestion of limbing trees in such a way that emergency vehicles, including fire trucks, would not experience any access limitations. All parties then agreed that the suggested limbing would be a condition of the approval of any agreements made on this date.

It was stated that the Planning Commission recently performed a site visit to this location and that Mr. Moores has also visited this location to verify width measurements in several locations.

Mr. Belkin further explained that this subdivision is divided into three lots, as outlined by both the plat map and the covenants. Per Mr. Belkin, while year-round access will be permitted, year-round use will not be permitted. He further explained that caretaker Chuck Vader has been responsible for snow removal on these roads.

Chairperson Channell stated that he would like to receive a copy of the covenants to ensure that year-round use will not be permitted. Mr. Belkin stated that the current covenants do not outline limitations, but also stated that the covenants for Crystal Creek specifically address this issue. Mr. Belkin stated that there exists a possibility that the covenants between Crystal Creek and Taylor River Holdings, LLC will be merged, which would then limit uses. Additionally, Mr. Belkin stated that Taylor River Holdings, LLC may be filed as a second filing at which time the covenants could be modified. Mr. Belkin stated that he will verify the occupancy restrictions.

Assistant Planning Director Starkebaum stated that there are property distinctions between Crystal Creek and Taylor River Holdings, LLC, which may indicate a necessity for different methods of snow removal. Mr. Belkin noted that the roads at Crystal Creek are not snow plowed and explained that they are snow blown with the use of a tractor. Commissioner Starr stated his preference that any covenants for Taylor River Holdings, LLC include snow blowing requirements.

Assistant County Manager Crosby confirmed that Mr. Moores has visited the site numerous times. She also added that part of the vegetation is relative to a neighboring ditch, which Mr. Belkin confirmed as currently in use. She further stated that both she and Mr. Moores are supportive of this waiver request, provided that limbing is completed and that the proposed turnouts are built as designed. Chairperson Channell noted his support of staff recommendations and also stated his appreciation of staff diligence in gathering information related to their support of this request.

Chairperson Channell stated that Mr. Belkin had not shown the 16'-0" width requirement to be unfeasible. However, Assistant County Manager Crosby and Assistant Planning Director Starkebaum both stated that technical feasibility should not be the determining factor in evaluating this request and Chairperson Channell stated his support of these staff recommendations. All parties also agreed that the Road Standards should address this issue as a possible future amendment.

Chairperson Channell closed this Public Hearing at 12:01 pm. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to request that staff prepare the appropriate resolution for the waiver with the additions as discussed during the Public Hearing. Motion carried unanimously.

BREAK: This meeting recessed from 12:01 until 12:10.

DISCUSSION – INDUSTRIAL PARK: County Attorney Baumgarten, Assistant Planning Director Starkebaum, Mapping and Planning Services Manager Mike Pelletier, Gunnison Hay Products representatives Gary Hausler and Mike Darnell and BAMP representatives Ron Bombard and Dan McKenna were present for discussion.

County Attorney Baumgarten stated that, as a first step, Mr. Hausler was to submit a formal business proposal to County Manager Birnie and that, since County Manager Birnie was not available, County Attorney Baumgarten reviewed the proposal.

County Attorney Baumgarten outlined the following methods with which to analyze the GHP proposed business plan:

1. Analyze the available space in the Gunnison/Crested Butte Regional Airport Light Industrial Park, prior to allocation of remaining space, according to priorities as follows:
 - a. Ensure that the Public Works Department will have sufficient room to conduct operations with an allowance to expand in the future.
 - b. Ensure that the western portion of land continues to operate as a buffer zone.
 - c. Ensure capability of essential infrastructure.

- d. Ensure that existing leases are honored. County Attorney Baumgarten noted his interpretation of this priority to be that space would only be available if and when GHP is successful in acquiring the Shahan property lease and then expanding that lease from the currently limited state.
2. Ensure that the GHP business proposal is consistent with area regulations once all applicable data is collected and analyzed as follows:
 - a. Assessment of impacts such as noise, light, odor, air quality, water quality and storm water.
 - b. Define the proposed operation as either "light-industrial" or "industrial".
 - c. Ensure that all applicable permits associated with impacts are completed.
 - d. Review basic financial plan for this operation. County Attorney Baumgarten will create a confidentiality agreement so that this information can be shared.
3. Create a basic flow chart outlining processes and timelines so that all involved parties can proceed according to a coordinated schedule.
4. Since the board has previously given county staff the authority to negotiate lease details with potential leasees, specific instruction may be necessary so that the board's desires can be carried out.

Mr. Hausler wanted to make it clear that any statements made on this date would be representative of GHP only and that he would not be speaking on behalf of any other entity currently involved in these negotiations.

Mr. Hausler noted, with regard to the issue of available space, that he completed the provided Conceptual Lot Layout (CLL) after having received a plat from Mapping and Planning Services Manager Pelletier and that, once completed, Mapping and Planning Services Manager Pelletier confirmed the acreage outlined on the CLL. Mr. Hausler stated that, while meeting a requirement to show that ample space is available, the GHP proposal also maintains the buffer requirements. It should be noted that the CLL as provided by Mr. Hausler was incorrectly dated June 16, 2004 instead of June 16, 2007.

Mr. Hausler also stated that GHP has retained Mr. Robert Massingill, a pellet plant design and operations consultant, who will be in Gunnison on June 25, 2007 in order to assist with the process of information dissemination. Mr. Massingill is expected to show options that would allow for the proposed GHP plant to operate in less than 10 acres. Mr. Massingill will be available at 3:00 pm on June 25, 2007 and Mr. Hausler invited county staff, including any available commissioners, to attend the meeting. Mr. Hausler also stated that he and Mr. Massingill will be meeting with local lenders on June 26, 2007.

Assistant County Manager Crosby said that she is currently in negotiations with Distinguished Wood Products (DWP) to accept the same area of land that Mr. Hausler shows on his CLL as dedicated to GHP, so she stated that she will need to discuss this possibility with DWP to determine whether the alternate area along Gold Basin Road, as outlined in the CLL, is agreeable to DWP.

Mr. Hausler presented a process flow chart for review and asked that county staff present outstanding issues and/or questions to him no later than June 21, 2007 so that he can present the information to Mr. Massingill. Mr. Hausler expressed reluctance to provide a complete financial assessment of GHP's proposal because he did not feel that the county had a legitimate need for this information. He did, however, state that GHP will need a total of \$7,500,000 in order to proceed with the wood palletizing plant and that \$1,500,000 of this amount is anticipated to be raised from within the local community with the remaining \$6,000,000 secured through loans.

Mr. Hausler requested board approval of the timelines as set on his process flow chart, however Commissioner Swenson stated that no approvals could be given until the next regular meeting on July 10, 2007. Mr. Hausler also requested board acknowledgement that available space exists in the industrial park for GHP's proposal, however Chairperson Channell stated that this acknowledgement cannot be given until county staff has had sufficient time to review the documents that Mr. Hausler produced during the meeting. Mr. Hausler further requested that county staff be instructed to begin the process of possible modification of the Shahan property lease.

Commissioner Starr stated that he will need detailed information regarding all related impacts of this proposed plant including decibel readings from similar plants already in operation. Mr. Hausler noted that the front end loader should be the loudest machine in operation and, if noise becomes an issue, a hopper can be installed that would hold enough material for the night operations. He also stated that mufflers can be installed on the cooling fans in order to minimize sound output and that all deliveries and shipments are slated to occur in daylight hours only.

Commissioner Swenson relayed concerns of noise and lighting related to the 24-hour operation. Mr. Hausler stated that he intends to follow LUR lighting requirements. County Attorney Baumgarten noted that, while the LUR can be used as a baseline, any requirements can be written into the lease agreement.

Chairperson Channell stated that a confidentiality agreement can be drafted by the County Attorney's office so that GHP can provide detailed financial information. He also requested that staff review county

and state standards so that lease options can be proposed. Furthermore, he requested that staff review the CLL as provided by GHP to determine the feasibility of available space.

Commissioner Starr stated that he would like any other potential locations brought to the forefront immediately so that all locations can be discussed and reviewed simultaneously. Mr. Hausler noted that he has reviewed all other spaces and that GHP has interest in the industrial park only. A Special Meeting was scheduled for 1:00 – 3:00 pm on July 5, 2007 to continue discussion of this item.

BREAK: This meeting recessed from 1:25 until 2:00 to convene the Gunnison/Hinsdale Board of Human Services meeting (see separate minutes) and to have a short break.

VISITOR – NEW CDOT REGIONAL DIRECTOR WELDON ALLEN: CDOT Regional Director Weldon Allen, Colorado Transportation Commission (CTC) Chairman Doug Aden, Region 3 Regional Planner Mark Rogers, Maintenance Supervisor John David, Traffic representative Sean Yeates, Design Engineer Ron Alexander, Section 2 Maintenance Superintendent Del French, Gunnison Valley Transportation Planning Region (TPR) Chairman Vince Rogalski and Mt. Crested Butte Town Manager Joe Fitzpatrick were present for discussion.

CDOT Regional Director Allen and CTC Chairman Aden presented an overall CDOT update as outlined in the packet entitled, "Colorado Department of Transportation, Region 3, Gunnison County Meetings, 2007". CTC Chairman Aden also stated that he serves as Co-Chairman on the 32-member Colorado Transportation Finance and Implementation Panel as assembled by Governor Ritter to gather information from around the State of Colorado regarding transportation needs and alternatives. A meeting schedule was provided and CTC Chairman Aden urged attendance at any of the participatory meetings. The schedule of meetings and their applicable agendas can also be found on the internet at <http://www.colorado.gov/governor/blue-ribbon-transportation-panel.html>. Governor Ritter has asked that this panel make recommendations to him by the end of November 2007.

CTC Chairman Aden noted that, with the passage of Referendum C, CDOT has received approximately \$750M in general revenue over the past two years with another \$750M anticipated over the next three years, yet CTC Chairman Aden also noted that CDOT projections show that there will be insufficient funding to cover future CDOT needs unless other measures are taken.

CDOT Regional Director Allen summarized upcoming priorities as detailed in the 2035 Revenue Forecast and Resource Allocation appendix for the years 2008 through 2035, allowing a 40% inflation rate. For this period, Region 3's Regional Priority Program (RPP) earmark was explained to be \$93.9M. For the period of 2009-2014, which encompasses the Statewide Transportation Improvement Plan (STIP), Region 3's RPP earmark was explained to be \$30.758M. Fiscal years 2008 and 2009 showed Region 3 RPP earmarks of \$3.983M and \$1.779M, respectively. There was additional discussion between all parties related to the negative effects of earmarking funds.

Regional Planner Rogers presented an update on the 2035 Plan, which itself is an update to the 2030 Plan adopted in January 2005. The 2035 Plan is scheduled for public comment later this year, followed by presentation to the Transportation Commission, for adoption in early 2008. Compliance with a new federal authorization law entitled Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) necessitates this 2035 Plan update.

Design Engineer Alexander provided updates regarding the ongoing construction projects on SH 65 Cedaredge North, SH 92 E. of Austin, SH 92 Smith Fork Bridge, US 50 Cimarron Chip Seal, SH 149 Henson Creek Bridge, SH 114 Tomichi Creek Bridge and US 50 / SH 135 Gunnison Surface Treatment.

Chairperson Channell questioned the current curb work being completed in the City of Gunnison. Design Engineer Alexander explained that all of the existing handicap ramps are being reinstalled due to a legal obligation to ensure accessibility to more types of wheel chairs and sight-impaired citizens. Design Engineer Alexander stated that the subtle differences being implemented were designed to enrich the ability of handicapped citizens to move throughout the city.

Design Engineer Alexander's update on the SH 114 Tomichi Creek Bridge project was explained as replacing the current timber bridge with a three-cell concrete box structure and that the original schedule has been modified to accommodate a high-water situation. Construction is scheduled to begin on this project in the fall.

Section 2 Maintenance Superintendent French summarized the maintenance program into nine categories: 1) Roadway Surface; 2) Roadside Facilities; 3) Roadside Appearance; 4) Traffic Services; 5) Structure Maintenance; 6) Snow and Ice Control; 7) Building, Grounds and Equipment; 8) Planning and Training; and 9) Tunnels. He further outlined total maintenance dollars spent in 2006 for Gunnison County as \$1,037,744.33 with snow removal costs comprising nearly 60% of this amount.

Maintenance Supervisor David stated that John McDonald has been hired to fill Mike Morris' position as the TMII on SH 135 after Mr. Morris was promoted out of the position. Maintenance Supervisor David

was promoted to his current position after Ray David retired in April. He also stated that several maintenance projects are slated for 2008, including increasing the budget for de-icing on SH 135 with a new truck that will arrive this fall and will be equipped with both a de-icer and a sander.

Traffic representative Sean Yeates presented a binder of general information related to basic traffic department operations. Assistant County Manager Crosby reminded Mr. Yeates that she has previously requested motorcycle safety signage to be placed on the curve just before the intersection at Forest Service Road 867 where two recent fatalities have occurred.

Commissioner Starr questioned the 50 MPH speed limit on a section of SH 135 between Almont and the fish hatchery. It was explained that the speed limit was changed from 55 to 50 during a period of construction and that it has not been returned to 55. Mr. Yeates stated that he will investigate this issue.

Commissioner Starr also reported that the MapQuest® internet mapping system directs drivers from the I-70 location over Scofield Pass in order to arrive in Crested Butte. Assistant County Manager Crosby noted that her office, as well as State of Colorado offices, have attempted to correct this issue with MapQuest® but that nothing has been done thus far. Mr. Yeates will investigate this issue as well.

Commissioner Starr asked about safety funding for the Ohio Creek intersection and was told that CDOT has \$50,000 in available funding for this project.

CDOT Regional Director Allen closed the presentation by stating that he looks upon his position as one of servitude and that he believes it is the duty and goal of his position to work with the counties and cities and assist in making our region the best that it can be. He further stated his dedication to this goal and invited contact from county staff related to any future issues that would benefit from his involvement.

Mt. Crested Butte Town Manager Fitzpatrick expressed his appreciation to the CDOT attendees for their presentations. He asked, and received positive confirmation, related to the schedule for stripe-painting on the three-mile section of SH 135 extending southward when exiting Crested Butte since the existing stripes have worn down creating difficult visibility.

WARRANTS & TRANSFERS: Finance Director Linda Nienhueser presented monthly Warrants, Cash Transfers, and Sales Tax Reports. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the Warrants from warrant #86906 through warrant #87315 on the report dated 6-19-07 in the amount of \$1,865,158.91. Motion carried unanimously. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to approve the Cash Transfer Authorization for the May 2007 in the amount of \$2,476,460.42. Motion carried unanimously.

TREASURER'S MONTHLY REPORT: Treasurer's Office representative Darrin Eicher was present for discussion and provided the Treasurer's Monthly Report for May 2007 along with the Investment Report as of May 31, 2007. Commissioner Channell questioned the process for determining the 5.03% Calculated Total Yield on Investments. Mr. Eicher agreed to follow up with Treasurer Melody Marks in order to answer that question. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to accept the Treasurer's Monthly report for May 2007 as presented and authorize chair signature. Motion carried unanimously.

NOTICE TO PROCEED – TAXIWAY PROJECT: Airport representative Kathie Lucas was present for discussion.

Ms. Lucas produced a Notice to Proceed and requested chair signature on the document. She also requested that this document not be dated since A & S Construction Company will have only 10 days from the date on the form until they must begin construction. The original start date was intended to be April 10, 2007 however Ms. Lucas stated that A & S Construction Company has extended that date on more than one occasion. Ms. Lucas stated that the current estimated start date is July 9, 2007 with an estimated September 23, 2007 completion date. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the Notice to Proceed and authorize chair signature. Motion carried unanimously.

REQUEST FOR ROAD WORK – 6TH STREET: Public Works Director Marlene Crosby, Housing Authority Director Denise Wise, City of Gunnison Planning Director Steve Westbay and Mr. Chris Macarak were present for discussion.

Mr. Macarak explained that he is in need of an intergovernmental agreement between the City and County of Gunnison in order to proceed with the proposed road work on 6th Street. Commissioner Starr asked if the timeline for this project has been finalized and Mr. Macarak replied that his site work representative is currently working with Allen Moores and that the project is on schedule.

Housing Authority Director Wise stated that part of the original agreement was a requirement to provide up to two deed-restricted affordable housing units. Mr. Macarak stated his intent to fulfill this affordable housing element of the agreement.

Planning Director Westbay noted that, while he is not requiring a formal agreement, he would minimally appreciate a verbal agreement from Public Works Director Crosby stating her intent to follow through with road construction. He also stated that a reimbursement clause would be part of the agreement.

Public Works Director Crosby stated that she had sent a Letter of Intent to Mr. Macarak's lender stating that the county will participate in the project. She noted that, since financial estimates were completed by her staff last year and since costs have risen, she will need to redo the estimates. She also stated that cost sharing related to pavement, curbs and gutters was not originally discussed. She received reaffirmation from the board of their previously-stated intent to place and compact sub-grade and then gravel as long as affordable housing units are included in Mr. Macarak's proposal.

Chairperson Channell expressed that the board would like to see this project move forward. He then encouraged Public Works Director Crosby, Housing Authority Director Wise, Planning Director Westbay and Mr. Macarak to meet in the near future so that they can decide on necessary steps and then approach the board, as a whole, once all parties have come to agreement.

Commissioner Swenson asked that Mr. Macarak calculate the cost of materials while Public Works Director Crosby calculates the cost of labor.

AUTHORIZATION FOR CONVEYANCE AND ACCEPTANCE OF PROPERTY IN ORDER TO IDENTIFY THE ACTUAL PHYSICAL LOCATION AND PROPER OWNERSHIP OF A CERTAIN PORTION OF COUNTY ROAD 38 AS IT TRANSVERSES AND IS ADJACENT TO THE FOGO PARCEL: Deputy County Attorney Tom Dill and property owner Kathy Fogo were here for discussion.

Deputy County Attorney Dill presented a Quitclaim Deed and an Acceptance for chair signature. Upon execution of the Acceptance, the board would acknowledge dedication of property as a public highway pursuant to Colorado Revised Statute 43-2-201(1)(a) without obligation to maintain, improve or snowplow the road. Deputy County Attorney Dill stated that the purpose of the Acceptance was to correct a legal description for a portion of CR 38 as it crosses the Fogo parcel.

Moved by Commissioner Starr, seconded by Commissioner Swenson to authorize execution of the Quitclaim Deed from the county to Ken and Kathleen Fogo as presented in exchange for the Deed of Dedication being executed from Ken and Kathleen Fogo to the county as presented and the Acceptance of that deed being executed by the board chair. Motion carried unanimously.

UNSCHEDULED CITIZENS: There were no unscheduled citizens present at the meeting.

WILLOWS – POSSIBLE EXECUTIVE SESSION: **Moved** by Commissioner Swenson, seconded by Commissioner Starr to go into executive session to discuss issues regarding the future of the Willows and that executive session will include Deputy County Attorney Tom Dill and Assistant County Manager Marlene Crosby. Motion carried unanimously.

The Board went into executive session at 9:10 a.m. *Executive sessions of the Board of County Commissioners are conducted as per C.R.S. 24-6-402(4). This specific session was conducted as per C.R.S. 24-6-402(4)(b)(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 Deputy 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: _____

Tom Dill
Deputy 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 5:00 pm. Chairperson Channell reported the session stayed on the identified topic with attendees as previously stated. No decisions were made. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve distribution of the letter from the Board of County Commissioners to the Gunnison Home Association, the Gunnison Valley Hospital Board of Directors, the Willows, the Housing Authority and the Gunnison Health Care Center, as edited by Commissioner Starr, dated June 19, 2007. Modifications were discussed and agreed upon by all parties. Motion carried unanimously.

Chairperson Channell expressed his gratitude to Commissioner Swenson for her ongoing work regarding the Willows.

BRUSH CREEK PROPERTY AGREEMENT DISCUSSION: Housing Authority Director Denise Wise, President and CEO of Three Peaks Development Tim Mueller, Town of Crested Butte Town Manager Susan Parker, CBMR General Manager Randy Barrett and CBMR representing attorney Mike Dawson were present for discussion.

Chairperson Channell noted that, at Mayor Manager's meeting on June 14, 2007, Mr. Barrett asked a few attendees to remain afterward for a brief discussion and that Chairperson Channell represented the county during that discussion. Crested Butte Town Manager Susan Parker, Mt. Crested Butte Town Manager Joe Fitzpatrick, Mt. Crested Butte Mayor Chris Morgan and attorney Mike Dawson also attended the discussion. The discussion involved the Memorandum of Agreement (MOA) as developed between four entities in June of 1998 with specific reference to Page 7, Sections 8.3, 8.3.1, 8.3.2 and 8.4 referencing the affordable housing requirements of the agreement. Chairperson Channell read aloud from the MOA as follows:

Section 8.3: CBMR currently is planning to construct a restaurant facility at the top of the Keystone lift on the ski area. Such area is on the United States Forest Service property and within the jurisdiction of Gunnison County. Prior to commencing construction of this restaurant facility, CBMR agrees as follows:

8.3.1: CBMR will make available sufficient affordable housing for 72 persons.

8.3.2: In the event that CBMR has not used its best efforts as determined by the participating parties pursuant to paragraph 5 to create or expand the current supply of affordable housing to accommodate the 72 persons, CBMR will withdraw its applications for, and Gunnison County can withhold or suspend, all necessary permits including, but not limited to, the building permit for the new restaurant until adequate mitigation measures as determined by the participating parties, are provided by CBMR.

Section 8.4: CBMR will use its best efforts to provide additional affordable housing for 128 persons in the Town of Mt. Crested Butte and such future efforts can include affordable housing credits for CBMR structures or CBMR-sponsored structures located within the Town of Mt. Crested Butte.

Chairperson Channell stated that CBMR has an application pending with the Planning Commission, for Red Lady Lodge, which brought the June 1998 MOA to the attention of all parties. CBMR General Manager Barrett stated that, since this issue has arisen at this late date, construction timelines may now possibly be disrupted. Chairperson Channell also stated that representatives from all four entities will be in attendance for an RTA meeting on June 22, 2007.

Mr. Dawson provided a summary of this issue and stated that the MOA specifies neither the process by which decisions will be made nor the method of defining "best efforts". He stated that this issue was discussed with the Town of Crested Butte Town Council as part of their June 18, 2007 agenda. Furthermore, he stated that this issue would be heard as part of the Town of Mt. Crested Butte agenda that evening at 7:00 pm and that the Town of Crested Butte has suspended any actions until both the Town of Mt. Crested Butte and Gunnison County have stated opinions or actions.

Town of Crested Butte Town Manager Parker stated that she presented her analysis of the MOA to the Crested Butte Town Council, which raised the question of whether or not a deficit exists. She was given authority by the Crested Butte Town Council to pursue this issue with all involved jurisdictions and stated that she has the authority to defer to the decisions of the other entities, if so chosen, for formal ratification at a later date. Her stated issues were relevant to whether or not public housing in Pitchfork can be counted as affordable housing units, defining "best efforts" and defining the number of units and persons necessary, which would then determine a level of deficiency.

Mr. Dawson stated that the CBMR has met the requirement of 72 persons, but that a deficiency issue is pending related to 128 persons. He stated that the 124 bedrooms on the basement floor of the Marcellina Apartments was previously used to satisfy an affordable housing requirement and that the CBMR does not feel as though it should have a requirement to provide additional affordable housing. He stated the average on all the properties is 1.2 persons per bedroom and, without a definitive method with which to calculate the number of bedrooms necessary, his best estimate showed that an average of 1.4 persons per bedroom is currently being met. He also stated that the Mt. Crested Butte town code defines a 1-bedroom apartment as including 1.5 persons, so he felt that the current 1.4 persons per bedroom should be considered reasonable. He also stated that, in units such as Marcellina Apartments, it may be more accurate that there is only 1 person per bedroom while units such as Pitchfork, which has 43 bedrooms, may average 2 persons per bedroom.

Commissioner Starr questioned the potential to formally amend the MOA to mandate that, within a certain amount of days after commencement of construction, all issues will be resolved so as not to disrupt construction timelines.

Mr. Mueller stated his interpretation of the MOA as a total need of affordable housing to accommodate 200 persons, but that there is a requirement to provide for only 72 prior to construction with the remaining 128 being provided at a later date through the yet-undefined clause of "best efforts". He summarized that a method for calculating deficiencies must be defined so that, if deficiencies are determined, they can be corrected to satisfy the MOA.

Chairperson Channell stated his preference that the Planning Commission proceed with their process on the requested permit for Red Lady Lodge. He also requested that all pertinent parties meet with intent and fairness in order to arrive at a consensus to then present their unified agreement, outlining a clear direction to proceed, to the various councils and boards. He also stated that the RTA, which meets on June 22, 2007, is comprised of a multi-jurisdictional body and that those members could, with delegated authority from their respective boards and councils, come to agreement on the process. He also added that representation from CBMR would need included as they do not have representation on the RTA.

Town of Crested Butte Town Manager Parker stated that she would contact the Board of County Commissioners the following morning to relay all information discussed at the Town of Mt. Crested Butte meeting scheduled for that evening.

Mr. Barrett stated his belief that written correspondence is warranted and should be sent to the Planning Commission with all involved entities being party to any such correspondence. Deputy County Attorney Dill was asked to draft this correspondence. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to authorize chair signature on a statement to the Planning Commission, along with the entities of Mt. Crested Butte and Crested Butte, to go ahead and move forward with the process of CBMR's application for the restaurant with the express understanding that all parties agree to resolve outstanding issues related to compliance. Motion carried unanimously.

COMMISSIONER MEETING REPORTS: Due to the late hour, all parties agreed to suspend Commissioner Meeting Reports until the next regular meeting scheduled for July 10, 2007.

ADJOURN: **Moved** by Commissioner Swenson, seconded by Commissioner Starr to adjourn the meeting. Motion carried unanimously. This meeting adjourned at 5:39 pm.

Hap Channell, Chairperson

Paula Swenson, Vice-Chairperson

Jim Starr, Commissioner

Minutes Prepared By:

Katherine Haase, Deputy County Clerk

Attest:

Stella Dominguez, County Clerk