

**GUNNISON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
December 4, 2007**

The December 4, 2007 Board of Commissioners meeting was held in the Commissioners Meeting Room at the Courthouse. Present were:

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

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

CALL TO ORDER: Chairperson Channell called the meeting to order at 8:16 am.

AGENDA REVIEW: The 10:40 am and 1:00 pm agenda items were stricken from the agenda. County Paralegal Rachel Magruder asked that the Development Improvements Agreement for Pioneer Plaza be stricken due to incomplete documentation. CRWCD Chairman Bill Trampe informed the board that he would not be able to attend the meeting due to a scheduling conflict.

MINUTES APPROVAL: **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the Gunnison County Board of County Commissioners Regular Meeting minutes of November 6, 2007 as presented. Motion carried unanimously. *(The November 6, 2007 minutes were modified later in the meeting. Please see Commissioner Meeting Reports for more information.)*

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

1. IGA; Saguache County for Noxious Weed Control
2. Ratification of Chairperson Signature; Colorado Heritage Planning Grant Committee Support Letter
3. Acknowledgement of County Manager Signature; County Health Officer Contract, Dr. John Tarr

SCHEDULING: The Upcoming Meetings Schedule was discussed and updated.

1. Gunnison County Board of County Commissioners/Planning Commission Joint Meeting. This meeting was scheduled for January 25, 2008 from 10:00 am until 12:00 pm.
2. High Cimarron, LLC (HC). County Manager Birnie presented correspondence and a draft resolution, received from HC, requesting county support for wireless telephone service in Big Cimarron. This item was scheduled for discussion and possible action on December 18, 2007.

COUNTY MANAGER'S REPORT AND CORRESPONDENCE: County Manager Birnie was present for discussion.

1. Colorado Counties, Inc. Conference. County Manager Birnie encouraged the board to become familiar with the Housing Investment Fund, which could be a beneficial tool in rehabilitating housing, since this state-wide proposed legislation piece may come to fruition. Commissioner Starr suggested submitting a letter to the applicable legislator. Chairperson Channell suggested that it might be beneficial for local jurisdictions to vote individually to generate an increase in locally-used funding, which County Manager Birnie thought would be included in the legislation. County Manager Birnie was asked to assemble a presentation for the CCI sub-committees.
2. White Water Festival Funding Request. County Manager Birnie reported that Upper Gunnison River Water Conservation District Manager Frank Kugel had requested approximately \$3,400 of funding assistance from the county for the White Water Festival. County Manager Birnie informed UGRWCD Manager Kugel that his request did not make the current budget process deadline. A total of \$10,000, slated for funding marketing efforts, was requested from Gunnison County and other jurisdictions. County Manager Birnie stated the county has already committed to fund other aspects of the White Water Park.
3. Performance Management. County Manager Birnie stated that he received a consultant quote for a comprehensive restructuring of the budget process, which would be guided by outcomes and management information. He also stated that the quoted costs were excessive, so he requested that the consultant submit a revised proposal relevant to fewer services. He also requested that the consultant begin by working with the board to review set priorities and measure strategic objectives. The revised proposal will include training of department heads.

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

1. Dan Beck's Property Drainage Issues. Assistant County Manager Crosby stated her belief that Mr. Beck and staff have agreed on a plan for his driveway, also known as the historic Antelope Creek Road. She reported that Mr. Beck was pleased with the county's response and that he recognized the limited possibilities during this season. Assistant County Manager Crosby stated

that the property may require a larger culvert to handle overflowing water. She will be contacting adjacent property owners to discuss easements.

2. Snotrackers. Assistant County Manager Crosby reported that this snowmobile group requested plowing of CR 730 to the trailhead, since they were previously under the mistaken-impression that the Forest Service would be plowing this portion of the road. She informed the group that the private plow requests have already been finalized for the season and suggested submission of a request in the summer of 2008 for the 2008-2009 winter season. She also explained to them that they could elect to make their request directly to the board, should they choose not to wait until next summer. She further recommended that the board hold a public hearing if this issue is brought before the board, since this request may have opposition.
3. Enhancement Funding for Gunnison River Bridge. Assistant County Manager Crosby reported that CDOT representatives contacted her in order to ascertain whether or not it would be possible for Gunnison County to fund the design portion of this project. If so, CDOT stated that a construction contract would be possible within eight weeks. Otherwise, the project would be on hold until mid-Spring of 2008. Assistant County Manager Crosby stated her desire to have the design completed so that the bidding process could begin by the end of February 2008.
4. Airport Personnel Shortage During 2007 Holiday Season. Assistant County Manager Crosby spoke with Airport Manager John DeVore last week and was informed that the Transportation Security Administration (TSA) will not be adding additional part-time employees to the airport staff this holiday season due to decreased travel reservations. Ten part-time employees were added to the regular nine-member team during the 2006 holiday season. Assistant County Manager Crosby warned that this decrease in personnel could cause delays at the airport.
5. Request for Waiver of Standards. Assistant County Manager Crosby stated that Mr. Albert Roper submitted a partial application for a waiver of standards and explained that Mr. Roper desires to build three homes on his property. Assistant County Manager Crosby expressed concern that the application was not complete and requested guidance from the board relative to the setting of a public hearing to discuss the issue since a previous board ruling opposed such building. Assistant County Manager Crosby explained that the bridge in question was built in the 1980's by the Army Corps of Engineers. The width of the road is approximately 10' to 12' wide and in poor condition. Additionally, the bridge does not have a legal guard rail and has not been inventoried since the date of installation. The board requested that Assistant County Manager Crosby contact Mr. Roper to inform him that the county will process his request, including the scheduling of a public hearing, once a completed application is submitted. In order for the application to be deemed complete, a current bridge inventory must be included.
6. Kebler Pass Paving Concerns. Commissioner Starr reported receiving telephone calls related to paving areas of Kebler Pass that might enable mining trucks to haul ore from the area. Commissioner Starr informed the concerned citizens that the county is planning on hard-surfacing up to a total of eight miles of road in three separate target areas. Assistant County Manager Crosby stated that this is a necessary maintenance project and hopes to reduce the amount of magnesium chloride necessary for the road. It has no relationship to any potential mining activity. She also confirmed that any hauling of ore would be addressed by the Planning Department and that widening of roads will be limited to ensuring sufficient room for two lanes prior to chipsealing.
7. Impact Study for Roads. County Manager Birnie stated that the board may elect to finance this project via the Professional Services fund. He also stated that he will be in contact with the Mesa County Administrator to determine the vendor they used. Commissioner Starr stated his desire to start this process in 2008. Assistant County Manager Crosby said that a task force was to be assembled to address this issue, but that there had been no clarity from the board pertinent to a direction. County Manager Birnie will determine cost information.
8. Taylor Road Work. Commissioner Starr stated that Congressman John Salazar may be entertaining funding requests, during the summer of 2008, for Taylor road work. He also suggested that the county should pursue this possibility no later than January. Commissioner Starr will follow-up with additional information.

BREAK: This meeting recessed from 9:22 until 9:23 am in order to call to order as the County Board of Equalization (see below minutes).

GUNNISON COUNTY BOARD OF EQUALIZATION MEETING MINUTES

The December 4, 2007 Board of Equalization meeting was held in the County Commissioner's Meeting Room in the county courthouse building. Present were:

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

Matthew Birnie, County Manager
 Katherine Haase, Clerk to the Board

CALL TO ORDER: Chairperson Channell called the meeting to order at 9:22 am.

APPROVAL OF STIPULATION FOR CBOE ARBITRATION TAX APPEAL FOR JOSEPHINE LONGFELLOW, ET AL C/O VIRGIL MEADOWS; CBOE #124 UNIT 7, COAL CREEK CONDO;

SCHEDULE NO. R003308: Moved by Commissioner Swenson, seconded by Commissioner Starr to approve the Stipulation for CBOE Arbitration Tax Appeal for Josephine Longfellow, et al c/o Virgil Meadows; CBOE #124 Unit 7, Coal Creek Condo; Schedule No. R003308 as presented by the Assessor's office and authorize signatures. Motion carried unanimously.

ADJOURN: Moved by Commissioner Swenson, seconded by Commissioner Starr to adjourn the meeting. Motion carried unanimously. The County Board of Equalization meeting adjourned at 9:23 am.

CONTRACT EXTENSION; QINETIQ HELICOPTER TESTING: Airport Manager John DeVore, Assistant County Manager Crosby, County Attorney Baumgarten and Airport Administrative Director Kathie Lucas were present for discussion.

Airport Manager DeVore presented the QinetiQ contract extension for discussion and approval. He explained that QinetiQ would like to return to Gunnison after January 1, 2008 with a possible extension of the contract until May 31, 2008. He confirmed that QinetiQ is in agreement not to begin flights until after 8:00 am, which would require warming engines at approximately 7:45 am. He also explained that the airport would provide ARFF coverage.

County Manager Birnie felt that the morning start-times could be addressed in the contract extension as the time of first-light changes throughout the year.

The board expressed a desire to eliminate testing on weekends, in excess of the first seven days, and Airport Manager DeVore felt that this limitation would be beneficial to the airport since weekend traffic already presents the challenge of increased activity.

Airport Manager DeVore will determine whether QinetiQ would agree to no more than 10 days of low-altitude testing, no weekend or holiday flights and beginning flights no earlier than 6:30 am, which should encompass first-light. This item was added to the December 18, 2007 agenda for further discussion of the contract conditions in the event that QinetiQ is not in agreement with the proposed modifications.

Airport Manager DeVore also suggested clarification and possible modification of the termination and extension dates.

Moved by Commissioner Starr, seconded by Commissioner Swenson to direct staff to move forward, as long as all of the conditions are met as set forth, and authorize the county manager to execute the contract, and present the contract to the board only if QinetiQ is not agreeable to the conditions. Motion carried unanimously.

Airport Manager DeVore will draft a memorandum to QinetiQ outlining the board's wishes and will then present the memorandum to County Manager Birnie for review prior to transmission to QinetiQ.

ADOPTION OF THE GUNNISON BASIN SAGE-GROUSE STRATEGIC COMMITTEE PROCEDURAL GUIDELINES AMENDMENTS: Gunnison Sage-grouse Conservation Coordinator Jim Cochran and Administrative Assistant III Keri Hodgins were present for discussion.

Gunnison Sage-grouse Conservation Coordinator Cochran presented the procedural guidelines amendments for discussion and approval. Modifications were discussed and agreed upon. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the amendments to the Gunnison Basin Sage-Grouse Strategic Committee Procedural Guidelines as presented and amended. Motion carried unanimously.

MINOR IMPACT SUBDIVISION; FINAL APPROVAL, DAVID AND MELINDA TREDWAY: Planning Director Joanne Williams, Assistant Planning Director Neal Starkebaum, County Planner Cathie Pagano and applicants David and Melinda Tredway were present for discussion.

Assistant Planning Director Starkebaum and County Planner Pagano presented the request for discussion and approval. Appropriate controls for domestic pets, relevant to Gunnison Sage-grouse protection, were discussed and agreed to be the responsibility of the homeowner to follow any controls outlined in their covenants. However, Planning Director Williams stated that the Tredway's did not want to place covenant control on this property so she asked that the board define appropriate controls pertinent to this application. Planning Director Williams also stated that dog control issues are becoming more pronounced as more building is being completed. The board agreed that homeowners not governed by covenants should be responsible for utilizing whatever controls maybe appropriate for their location. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to adopt Resolution #2007-42, a Resolution Approving Land Use Change Permit No. 2007-31, a Land Use Change Permit for David and Melinda Tredway for the Subdivision of a Parcel into Two Lots and authorize signature on the plat. Motion carried unanimously.

BREAK: This meeting recessed from 10:08 until 10:46 am.

RELEASE OF DEVELOPMENT IMPROVEMENTS AGREEMENT FOR PIONEER PLAZA LOCATED AT CRESTED BUTTE SOUTH: This item was stricken from the agenda at the beginning of the meeting.

WILLOWS AGREEMENT; BETWEEN THE GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS, THE HOSPITAL BOARD OF TRUSTEES AND THE GUNNISON HOME ASSOCIATION: Gunnison Valley Hospital (GVH) Administrator Randy Phelps and GVH CFO Tim Cashman were present for discussion.

GVH Administrator Phelps stated that the Hospital Board of Trustees requested language changes within the agreement, including a three-year term in lieu of a five-year term. He also relayed that the Hospital Board of Trustees was committed to an expeditious agreement. GVH CFO Cashman stated that he anticipated a definitive agreement during their December 17, 2007 board meeting.

RESOLUTION; AUTHORIZING THE GUNNISON VALLEY HOSPITAL TO FINANCE THE PURCHASE OF THE ORE BUCKET BUILDING IN CRESTED BUTTE, COLORADO: County Attorney Baumgarten, GVH Administrator Randy Phelps and GVH CFO Tim Cashman were present for discussion.

GVH CFO Cashman explained that Crested Butte Physical Therapy (CBPT) has been renting Unit #2 of the Ore Bucket building for approximately 10 years and that the owner of the building has decided to sell the property. He confirmed that GVH would like to purchase three units of the building, at a cost of \$650,000, to ensure that the CBPT is guaranteed occupancy at a reasonable expense rate.

GVH CFO Cashman outlined the square footage as 738 sq. ft., 200 sq. ft. and 704 sq. ft. for Units #2, #3 and #4, respectively. He also stated intentions to combine Units #2 and #3 to accommodate a growing number of patients. Unit #4 is currently occupied and GVH intends to continue subletting the unit until future plans have been formulated.

County Attorney Baumgarten presented the draft resolution for discussion and acceptance. He confirmed that GVH intends to borrow \$650,000 from Bank of the West in order to purchase the three units of the Ore Bucket building. The loan will include terms of a one-year interest-only loan financed at 3.81%, secured with matching funds of \$650,000 by the Hospital Board of Trustees.

Commissioner Starr expressed his appreciation for expanding these and other services in the north end of the valley as the population continues to grow. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to adopt Resolution #2007-43, a Resolution Authorizing the Board of Trustees of Gunnison Valley Hospital to Incur Indebtedness with Regard to the Purchase of Units #2, #3 and #4 Inclusive, Ore Bucket Commercial Center Condominiums, Town of Crested Butte, 214 5th Street, Crested Butte, Colorado 81224 and authorize signatures. Motion carried unanimously.

COMMISSIONERS MEETING REPORTS: This item began earlier than scheduled due to a break in the schedule.

Commissioner Swenson:

1. Antelope Hills Commercial Operation Concern. Commissioner Swenson reported that she had been contacted by Mr. David Lee who expressed concern regarding a potential commercial operation, involving materials and heavy equipment, in close proximity to the river in the Antelope Hills area. Mr. Lee also expressed concerns that these activities could negatively impact the fishing in the river and he provided photographs of the area that were reported to have been taken during the previous week. Commissioner Swenson noted that Assistant Planning Director Neal Starkebaum spoke with the owner of the equipment who insisted that the materials do not involve a commercial operation. Assistant Planning Director Starkebaum also confirmed that the materials are not contained within the owner's property, that the materials are not allowed in their present location, and that this situation may call for the enforcement of a legal requirement. The board requested that Assistant Planning Director Starkebaum and County Attorney Baumgarten work closely on this issue and then inform County Manager Birnie of their findings so that he can address Mr. Lee's concerns.
2. Severance Tax and Royalty Legislation. Commissioner Swenson stated her intent to attend a Club 20 special meeting on December 6, 2007 regarding legislation on severance taxes and royalties. She requested guidance from the board on how to best represent Gunnison County at the meeting. She will also relay Gunnison County's stance to Representative Kathleen Curry, who is opposing the legislation. The board agreed to provide opinions to Commissioner Swenson after speaking with Representative Curry later in the meeting.

Commissioner Starr:

1. Temporary Animal Shelter. Commissioner Starr stated that he had met with PAWS board members and relayed information to them from the county and the Town of Crested Butte regarding levels of intended assistance toward the proposed temporary animal shelter. He also

noted that Mt. Crested Butte will be sponsoring a grant for this endeavor and that PAWS is continuing to raise necessary operational funds. He reported that an architect will be identified in January and that Assistant County Manager Crosby will have involvement in scheduling the infrastructure. If a lift station is needed, an additional \$150,000 may be necessary. The Town of Crested Butte, Gunnison County and GCEA will all enjoy use of the utilities.

WASHINGTON GULCH; UPDATE FROM STAFF: Assistant Planning Director Neal Starkebaum, engineering representative for the Public Works Department Allen Moores, County Attorney Baumgarten and attorney Luke Danielson were present for discussion.

Commissioner Starr reminded the board that he volunteered to meet with Mary Frame and her legal representative, Art Tresize, to try to determine a resolution to this matter. He also reminded the board that there is one storage yurt on a deck, one deck without a yurt, and two other decks with framing structures on top of the platforms. Ms. Frame originally requested permission to leave all structures in their present status and the board agreed to allow this, provided that she agrees to apply for the appropriate permits and, if the application was denied, agree to disassemble the structures and pay \$25,000 in liquidated damages to the county. There had also been discussions related to the historic use of the cabin by cross-country skiers, for which affidavits were needed from users prior to the LUR adoption in 1978. Additionally, ISDS issues had not been addressed. Commissioner Starr stated that the county needed to be presented with a long-term plan for the area so that the community could respond accordingly.

Commissioner Starr reported that, as a result of his meeting with Ms. Frame and Mr. Tresize, Mr. Tresize intended to file the application. Assistant Planning Director Starkebaum reported that, to date, no applications for either the yurts or the ISDS have been filed with the county. Engineering representative for the Public Works Department Moores confirmed that the Stop Order remained in effect and County Attorney Baumgarten confirmed that activities appeared to have ceased. County Attorney Baumgarten also stated that Ms. Frame had apparently not used the yurts thus far this winter, as agreed. Assistant Planning Director Starkebaum also reported discovery of underground propane tanks, as determined by the county within the previous two weeks.

Assistant Planning Director Starkebaum stated that the storage yurt contains countertops, bunk beds and the appearance of a future sink and informed the board that he had taken photographs as evidence. He further stated that no materials have been removed from this yurt, yet additional materials have been added between inspection dates. He confirmed that two platforms seem ready for yurt erection and that one yurt had been taken out of commission by what appeared to be a natural weather-related event.

Mr. Danielson, on behalf of the Hagler family that neighbors the Frame property, provided copies of letters indicating growing concern related to the Frame's activities. He also stated that he had met with some of the Frame family members during the previous summer to express the desire for an open relationship and a willingness to come to agreement, without sense of a cooperative desire from the Frames. Mr. Danielson also alerted the board that any commercial operations would be met with resistance by not only the Hagler family, but also from other neighbors who have requested a deadline for the filing of applications. County Attorney Baumgarten stated his opinion that an identified date may assist with neighbor's concerns.

The board expressed concerns that this issue had already extended to nearly a year without resolve. Chairperson Channell asked for monitoring, as may be possible, and encouraged neighbors to keep the board informed.

County Attorney Baumgarten suggested a timeframe of 60 days for filing a completed application; and, if no applications had been filed within that time, that the county proceeds with the abatement process, which involves approximately 30 days. The board agreed to the application deadline of February 1, 2008. County Attorney Baumgarten agreed to inform the Frames of the application deadline and also to remind them of the \$25,000 liquidated-damages clause.

Assistant Planning Director Starkebaum agreed to verify ISDS application status with Richard Stenson of the Environmental Health office.

Mr. Danielson thanked the board for their time and stated that he felt he had been given sufficient information to convey to his clients and the surrounding neighbors.

BUCKHORN RANCH/STALLION PARK; NON-ISSUANCE OF BUILDING PERMITS: Dr. Richard Landy, attorney Mike Dawson and County Attorney Baumgarten were present for discussion.

County Attorney Baumgarten informed the board that the parties had reached an agreement sufficient enough to resolve the issues of the physical location for Stallion Park, the authorization to approve the application for Stallion Park, the security for infrastructure and the timing. He also stated that these issues would soon be incorporated into a court document and requested that the board rescind the previous ruling restricting issuance of building permits for the open lots.

A subsequent update to the board was scheduled for January 22, 2008. County Attorney Baumgarten estimated that the settlement documents should be completed and accepted by the court no later than mid-January 2008.

The board thanked all parties for their diligence in finding a satisfactory resolve to this issue.

BLACK CANYON QUANTIFICATION LITIGATION MEDIATION REPORT; POSSIBLE EXECUTIVE SESSION: County Attorney Baumgarten was present for discussion.

County Attorney Baumgarten stated this litigation is currently in mediation and that the parties have agreed to non-public disclosure until further into the mediation process. He then suggested an executive session between himself, County Manager Birnie and the board for the purpose of reporting to the board in the capacity of a negotiator during the mediation, and to relay the status of the mediation to the board. **Moved** by Commissioner Swenson, seconded by Commissioner Starr, to enter into an executive session with the board, the county attorney and the county manager for the purposes of attorney-client privilege with respect to the Black Canyon Quantification mediation. Motion carried unanimously.

The board went into executive session at 11:51 am. *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 Gunnison County Attorney, that I represent the Gunnison County Board of County Commissioners, that I attended all of the above referenced executive session, that all of the executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4) and that, because in my opinion all of the discussion during the executive session constituted a privileged attorney-client communication, no record of the executive session was required to be kept and no such record was kept.

Date: _____

David Baumgarten
Gunnison County Attorney

Chairperson Statement Regarding Executive Session

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

Date: _____

Hap Channell, Chairperson
Gunnison County Board of Commissioners

The Board came out of executive session at 12:10 pm. Chairperson Channell confirmed that the discussion remained on-topic, that all parties stated to be in attendance were, in fact, in attendance and that no decisions were made.

BREAK: This meeting recessed from 12:10 until 1:30 pm.

COLORADO RIVER WATER CONSERVATION DISTRICT REPORT: This item was stricken from the agenda at the beginning of the meeting.

BREAK: This meeting recessed from 12:10 until 1:30 pm for lunch and to hold the below Public Hearing.

**PUBLIC HEARING
ALLEY VACATION IN THE TOWNSITE OF IRWIN**

The Public Hearing was opened by Chairperson Channell at 1:32 pm. Assistant County Manager Crosby confirmed proper public notice. County Attorney Baumgarten and attorney John Belkin were present for discussion.

Assistant County Manager Crosby provided a map of the area, as completed by an area resident, and explained that this alley was mistakenly not vacated as it previously should have been. She further stated that County Attorney Baumgarten felt this alleyway vacation was appropriate.

Chairperson Channell opened the discussion for public comment.

Ms. Ruta Hay, owner of a mining claim predating the formation of Irwin, provided a map outlining her property, a quit claim deed and proof of granted easements. Ms. Hay sought reassurance that her water rights would not be affected in the event of any future building. As well, Ms. Hay presented concerns about the possibility of widening the 8'-0" wide road to facilitate large equipment necessary for building because this might translate into a need for destruction of many trees. The actual easements were not discernable during the hearing, however Assistant County Manager Crosby stated that easements would dictate any future ability to widen the road. County Attorney Baumgarten explained that Ms. Hay's concerns may warrant conversations separate from the hearing and that the concerns identified would not be affected by any decisions made as a result of today's hearing. The board stated that Ms. Hay would have the opportunity to set related requirements for any easements granted in the future.

Chairperson Channell closed the hearing at 1:53 pm. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to adopt Resolution #2007-44, a Resolution Vacating a Portion of the Alley Within Block 6, Townsite of Irwin and authorize signatures. Motion carried unanimously.

RED LADY COALITION DISCUSSION: County Attorney Baumgarten, Lucky Jack spokesman Perry Anderson, and representatives from the Red Lady Coalition (RLC), John Norton, Sammy Meadows and Bob Salter were present for discussion.

Mr. Norton stated that RLC was seeking community support that would force Lucky Jack to produce a fully-disclosed plan for operations and explained that RLC is concerned that the mine may eventually be much larger than Lucky Jack has stated thus far. He also expressed concerns related to ensuring a high-level of water quality and stated that RLC would prefer the involvement of the Forest Service while Lucky Jack formulates their long-term operational plan. He further supplied correspondence from the Crested Butte South Property Owners Association and stated that a position paper was supplied to Jim Dawson of the Forest Service this morning with signatures from 63 various organizations acknowledging their support for a fully-disclosed plan. Feedback had not yet been received from the Forest Service.

Mr. Salter stated that RLC was not requesting board endorsement of their efforts. Instead, he explained that RLC could not determine a stance on the Lucky Jack mine until the scope of the project was conveyed and understood.

Mr. Anderson acknowledged that many local entities have requested similar information from his office, but stated that detailed information will not be ready for dissemination until engineering studies have been completed. He also suggested that the position paper sent to the Forest Service included inaccurate information. He stated that the current mining permit was for a 10-year period, but that the life of the mine cannot be predicted beyond the first 10-year period due to technological, environmental and economic changes yet to be realized. He also stated that he will disseminate information as it becomes available via summary statements using layman terminology as well as full-technical disclosure. He estimated that public information would be available in late-February or March after the engineering studies are completed and the preliminary information is either supported or refuted.

Chairperson Channell thanked all parties for bringing the matter to the attention of the board. He also confirmed that, when applicable, the mine will follow the county permitting process, which mandates full-disclosure.

VISITOR; REPRESENTATIVE KATHLEEN CURRY, LEGISLATIVE UPDATES: Representative Kathleen Curry, County Attorney Baumgarten and Gunnison Sage-grouse Conservation Coordinator Jim Cochran were present for discussion.

Representative Curry provided a general update on all pending and anticipated legislative issues. She also suggested that the next session, beginning on January 9, 2008, may be dominated by topics such as the Transportation Task Force, health care and climate-control bills. She confirmed that 40 RSVP's had been received for the Club 20 meeting scheduled for December 6, 2007.

She also noted that detailed discussions regarding Federal Mineral Lease Distribution (FMLD) have not occurred because recommendations had not been received from the working group and there was insufficient time to discuss. She did, however, state her impression that insufficient FMLD funds are being routed back to impacted communities with as little as 20-25% return of what has been produced in those communities. She explained that the governor's office appears to be leaning toward a bonding-proposal that may further reduce the amount of money received by energy-impacted communities in the short-term. Commissioner Swenson stated her concern that 50% of the funding due to communities is retained by the state and placed in the general fund and that the remaining funds may be divided into categories such as higher-education, transportation, water conservation and DOLA grant funds.

Representative Curry stated her expectation of chaos on this issue when the session begins. She also stated her impression that only Senator Isgar's proposal adequately addresses energy-impacted areas, of which Gunnison County ranks high on the contributors' list of FMLD funds.

Representative Curry stated that there is a current non-compliance with the Republican River Compact and that the State of Kansas will likely initiate litigation.

Representative Curry stated that she and Senator Isgar are working on legislation that would provide state protection of senior water rights by conditionally approving requests for junior water rights.

Representative Curry offered to provide assistance related to the hazardous materials transportation safety issues on Hwy 114. The board asked her to be aware of the issue in the event that her involvement becomes necessary.

UNSCHEDULED CITIZENS: No unscheduled citizens were present.

BREAK: This meeting recessed from 3:07 pm until 3:27 to hold the below Public Hearing.

PUBLIC HEARING CREATION OF THE LIBRARY DISTRICT

Chairperson Channell opened the Public Hearing at 3:07 pm. Administrative Assistant III Katherine Haase confirmed proper public notice. County Attorney Baumgarten, Finance Director Linda Nienhueser, Assistant Finance Director Ben Cowan, Gunnison County Library Director Carol Primus and library representative Marsha Rose were present for discussion.

Director Primus stated that the library board intends to retain the current board members and asked that the county continue with the process of selection for Ms. Kennedy's upcoming vacancy.

County Manager Birnie provided a draft resolution for review and consideration. He also stated that an Intergovernmental Agreement was being formulated and should be completed in January 2008.

County Manager Birnie reported that the library had retained legal counsel to specifically advise them according to library laws and their interests. He also stated that input from the state library was received and supported the appearance that the draft resolution solves all issues regarding TABOR and other financial concerns as a result of the creation of the library district. Ms. Rose stated that the counsel for the library was in agreement with the draft resolution.

County Manager Birnie stated that the specifics of the mill levy will be included in the IGA while the dedicated mill levy itself will be created via formalization of the draft resolution.

Commissioner Starr questioned whether or not the currently-provided mill levy from the county would remain in effect if the library passes the mill levy through the electorate. County Attorney Baumgarten explained that the county currently collects for the mill levy, but that the county can decide whether or not it is then distributed to the library. He also explained that the county could decrease the mill levy, if desired, once the library has received voter approval of a separate mill levy. Ms. Rose stated that the library board does not intend to request voter approval for another year and a half.

Ms. Rose thanked the county for facilitation of this changeover. She also stated that the library is an asset to the community and that she hopes to make the county residents proud.

There was no public comment during the hearing. Chairperson Channell closed the Public Hearing at 3:27 pm. The resolution was scheduled for presentation to the board on December 18, 2007.

COMMISSIONERS MEETING REPORTS:

Chairperson Channell:

1. Inclusionary Housing Task Force Presentation to Realtors. Chairperson Channell attended this presentation given to the local area realtors by Housing Authority Director Denise Wise. Chairperson Channell reported that realtors Erich Ferchau and Mindy Costanzo presented arguments against inclusionary housing and noted their belief that housing prices may rise significantly as a result of the fee. While Ms. Costanzo appeared to be completely against the proposal, Mr. Ferchau thought that a good approach might be for the county to trial a 2-3% fee and then reexamine the effects before proceeding.
2. Miller Ranch Purchase. Chairperson Channell asked for board input on the formulation of a thank you letter to the Miller family for agreeing to the recent purchase of their property by the BLM. It was agreed that a letter should be written.
3. November 6, 2007 Minutes Correction. Chairperson Channell asked for a correction to a portion of the approved minutes for November 6, 2007. **Moved** by Commissioner Swenson, seconded

by Commissioner Starr to reconsider minutes passed this morning. Motion carried unanimously. The correction was discussed and agreed upon. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the Gunnison County Board of County Commissioners Regular Meeting minutes of November 6, 2007, as amended. Motion carried unanimously.

Commissioner Swenson:

1. Stockgrowers. Commissioner Swenson reported attendance at this meeting on December 3, 2007, along with Mapping and Planning Services Department Manager Mike Pelletier. She stated that the meeting included many constructive conversations related to the Transfer of Development Rights program.

Commissioner Starr:

1. Electronic Voting Software. Commissioner Starr requested a discussion with County Clerk and Recorder Stella Dominguez so that she may provide an update to the board regarding electronic voting results. Chairperson Channell felt that the county already possesses the necessary software, but may be lacking in the proper training needed for utilization. This discussion was scheduled for January 8, 2008. IT Director Mike Lee, County Clerk and Recorder Dominguez and Elections representative Kathy Similion will be invited to join the conversation. County Manager Birnie suggested that voting by mail returns a higher percentage of overall votes cast, compared to physical voting at polling locations, and also may provide less opportunity for fraud.

ADJOURN: **Moved** by Commissioner Swenson, seconded by Commissioner Starr to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 3:50 pm.

Hap Channell, Chairperson

Paula Swenson, Vice-Chairperson

Jim Starr, Commissioner

Minutes Prepared By:

Katherine Haase, Deputy County Clerk

Attest:

Stella Dominguez, County Clerk

GUNNISON COUNTY BOARD OF COMMISSIONERS TEXT INCLUSION INTO MINUTES

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 42, SERIES 2007

A RESOLUTION APPROVING LAND USE CHANGE PERMIT NO. 2007-31
A LAND USE CHANGE PERMIT FOR DAVID AND MELINDA TREDWAY
FOR THE SUBDIVISION OF A PARCEL INTO TWO LOTS

WHEREAS, David and Melinda Tredway, have applied for a Land Use Change permit to subdivide an existing 2.86-acre parcel into two lots; Lot 1 is to be 2.36 acres and Lot 2 is to be 0.50 acres. There is an existing residence, workshop, garage and second residence on the proposed Lot 1. Lot 2 is proposed to be used for a single-family residence. The parcel is legally described as being in the East half of the Northwest quarter of the Southeast quarter of the Northeast quarter, Section 3 and the Southwest quarter of the

Northwest quarter, Section 2, Township 49 North, Range 1 West, N.M.P.M. The subject parcel is located at 332 Bevington Road; and

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

FINDINGS:

1. The proposed project, by definition, is classified as a Minor Impact.
2. The proposed lot sizes are similar and compatible to other lots within the area.
3. The applicant will utilize individual wells for the water supply; augmentation water has been purchased from the Upper Gunnison Water Conservancy District (Contract No. 07.94A) and the applicant has provided a legal and adequate supply of water.
4. The subdivision will be served by central sewer service.
5. This application is generally consistent with the standards and requirements of this *Resolution*.
6. No phases are proposed for this development.
7. Access will be from the existing Bevington Road; any new driveway shall be required to comply with the Gunnison County Road and Bridge Standards.
8. Approval is limited to the plan described within the "Project Description" of this application, and as depicted on the site plan as submitted. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the former *Land Use Resolution*.
9. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application; including all exhibits, references and documents as included therein.

CONDITIONS:

1. Per Section 11-106 G.e. of the *Gunnison County Land Use Resolution*, unless pre-empted by Federal or State law, Gunnison County will require, as a condition of permits issued on all lots within this subdivision, that non-indigenous gallinaceous game-birds (including but not limited to pheasants, chukar, and quail), shall be imported only from a source certified by the State of Colorado to be disease free. Prior to importation of any species of gallinaceous game-birds to a parcel within this subdivision, the person proposing such action shall submit a list of species, with numbers proposed, and a disease certification, with a listing of diseases certified, from the source proposed. No importation (movement onto the property) of any wild birds, as defined above, shall occur without written approval by Gunnison County. This requirement is necessary because of significant use of the area by the Gunnison Sage-grouse and will help prevent the potential transmission of disease from outside avian sources to Sage-grouse.
2. Loose domestic pets, particularly dogs and cats, are a hazard to wildlife including Sage-grouse. Appropriate controls are required to insure that negative affects from pets do not occur. This includes construction workers pets.
3. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the Plan submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution*.
4. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
5. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.
6. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.
7. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that Land Use Change Permit No. 2007-31, for David and Melinda Tredway is approved as a Minor Impact, subject to each and all conditions of the decision document, as identified above, and;

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

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

INTRODUCED by Commissioner Starr, seconded by Commissioner Swenson, and passed on this 4th day of December, 2007.

BOARD OF COUNTY COMMISSIONERS

Channell – yes; Starr – yes; Swenson – yes

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 2007-43

A RESOLUTION AUTHORIZING THE BOARD OF TRUSTEES OF GUNNISON VALLEY HOSPITAL TO INCUR INDEBTEDNESS WITH REGARD TO THE PURCHASE OF UNITS 2, 3 AND 4 INCLUSIVE, ORE BUCKET COMMERCIAL CENTER CONDOMINIUMS, TOWN OF CRESTED BUTTE, 214 5TH STREET, CRESTED BUTTE, COLORADO 81224

WHEREAS, the Board of County Commissioners of Gunnison County, Colorado (THE "Board") is the Board of Commissioners of Gunnison County, Colorado, which is a County duly organized an existing pursuant to the Constitution and laws of the State of Colorado; and

WHEREAS, the Board of Trustees of the Gunnison Valley Hospital ("Hospital Board") is a duly and regularly created, established, organized, and existing public hospital board created by the Board pursuant to Title 25, Article 3, part 3, C.R.S. (the "Hospital Act"), and existing as such under and pursuant to the constitution and laws of the State of Colorado; and

WHEREAS, the Hospital is a tax exempt entity; and

WHEREAS, pursuant to the Hospital Act at C.R.S. 25-3-304 (2) the Hospital Board shall have the power to borrow money and incur indebtedness except that no indebtedness shall be created, except as otherwise provided by statute, in excess of the revenue which may reasonably be expected to be available to the hospital for repayment thereof in the fiscal year in which such indebtedness is to be created, and except that no such indebtedness shall be incurred without the approval of the board of county commissioners; and

WHEREAS, the Hospital Board intends to purchase real property, described as Units 2, 3 and 4, Ore Bucket Commercial Center Condominiums, Town of Crested Butte, 214 5th Street, Crested Butte, Colorado 81224 (the "Real Property") by borrowing the loan amount of six hundred fifty thousand dollars (\$650,000) from Bank of the West, attention: David Glasser, 201 N. Civic Drive, Suite 120, Walnut Creek, CA 94596 (the "Lending Bank") at terms including a one year interest only loan at 3.81%, secured with matching funds of six hundred fifty thousand dollars (\$650,000) by the Hospital Board, as restricted by the Hospital Board, deposited into a Certificate of Deposit at the Lending Bank; and

WHEREAS, the obligation of the Hospital Board shall be from year to year only; shall constitute currently budgeted expenditures of the Hospital; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the Hospital within the meaning of any constitutional or statutory limitation or requirement concerning the creation of indebtedness, nor a mandatory payment obligation of the Hospital in any ensuing fiscal year; and

WHEREAS, it is the intent of the Board to authorize the purchase of the Real Property by the Hospital and the creation of said indebtedness by the Hospital;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO:

Section 1. The Hospital Board is hereby authorized to negotiate, enter into, execute and deliver the necessary documents to purchase the Real Property for terms substantially as identified above.

Section 2. This Resolution shall take effect immediately upon its adoption and approval.

INTRODUCED by Commissioner Swenson, seconded by Commissioner Starr, and passed on this 4th day of December, 2007.

BOARD OF COUNTY COMMISSIONERS

Channell – yes; Starr – yes; Swenson – yes

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO: 07-44

A RESOLUTION VACATING A PORTION OF THE ALLEY
WITHIN BLOCK 6, TOWNSITE OF IRWIN

WHEREAS, the Board of County Commissioners of the County of Gunnison, Colorado (herein the "Board"), by virtue of Colorado law, has become the owner of certain platted streets and alleys within the previously incorporated Townsite of Irwin; and

WHEREAS, the Board has determined that not all of said streets and alleys are necessary for public access to the privately-owned property within the Townsite of Irwin; and

WHEREAS, the Board has received a petition from the owners of Lots 3 through 5 and 14 through 16, inclusive, Block 6, Townsite of Irwin, to vacate that portion of the alley immediately adjacent to the aforesaid lots;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Gunnison, Colorado, that the portion of the alley in Block 6 adjacent to Lots 3 through 5 and 14 through 16, inclusive, according to the official recorded plat of the Townsite of Irwin, be and the same hereby is vacated, with the following understanding and conditions:

1. It is the specific intent of the Board that the vacated portion of alley should accrue to and vest in the record owners pursuant to the provisions of C.R.S. § 43-2-302; and

2. This Resolution shall be effective upon the recording on the records of the Clerk and Recorder of Gunnison County, Colorado of a Lot Cluster Agreement executed by Gunnison County and the owners of Lots 3 through 5 and 14 through 16, inclusive, Block 6, Townsite of Irwin, clustering said lots, that vacated portion of 12th Street adjacent to Lots 3 through 5 inclusive, Block 6 and the vacated portion of the alley within Block 6 granted herein; and

3. The owners of Lots 3 through 5 and 14 through 16, inclusive, Block 6, Townsite of Irwin have acknowledged that the clustering of said lots, the vacated portion of 12th Street adjacent to Lots 3 through 5 along with the vacated portion of the alley within Block 6 granted herein may not create a parcel of land one acre or more in size and, therefore, the owners may need to apply for and obtain a variance of Gunnison County's Individual Sewage Disposal System Regulation to legally install an ISDS system; and further, that entering into the Lot Cluster Agreement will not guarantee the granting of such waiver.

4. The owners herein understand and acknowledge that the vacation of that portion of the alley granted herein, does not guarantee public access to Lots 3 through 5 and 14 through 16, inclusive, Block 6, Townsite of Irwin.

5. Notwithstanding paragraph 4 above, the owners of Lots 3 through 5 and 14 through 16, inclusive, Block 6, Townsite of Irwin, herein understand, agree and covenant, by language to be set forth in the Lot Cluster Agreement identified in paragraph 2 herein, not to contest the existence of public access to said Lots 3 through 5 and 14 through 16, inclusive, Block 6, Townsite of Irwin.

6. This resolution shall not become effective until such time as it is recorded in the office of the Clerk and Recorder of Gunnison County, Colorado at the expense of the owners of lots described above, and pursuant to the conditions identified herein.

INTRODUCED by Commissioner Starr, seconded by Commissioner Swenson, and passed on this 4th day of December, 2007.

BOARD OF COUNTY COMMISSIONERS

Channell – yes; Starr – yes; Swenson – yes