

**GUNNISON COUNTY BOARD OF COMMISSIONERS
SPECIAL MEETING MINUTES
May 9, 2008**

The May 9, 2008 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 - ABSENT
Katherine Haase, Clerk to the Board
Others Present as Listed in Text

CALL TO ORDER: Chairperson Channell called the meeting to order at 11:05 am.

BLACK CANYON QUANTIFICATION, ASPINALL WATER RIGHTS; DISCUSSION WITH ALEXANDRA DAVIS, DEPARTMENT OF NATURAL RESOURCES: County Attorney David Baumgarten was present for discussion. Colorado Department of Natural Resources Assistant Director for Water Alexandra Davis and Assistant Attorney General for the Colorado River Compact Subunit James Eklund were available for discussion via telephone.

County Attorney Baumgarten suggested that the Board enter into an executive session to discuss positions subject to negotiations and informed all parties that, since the communication would not be considered attorney-client privileged, the meeting would continue to be recorded. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to enter into an executive session. Motion carried unanimously.

The board went into executive session at 11:09 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)(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 11:45 am. 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.

Assistant Director Davis expressed interest in negotiating a contract between the State of Colorado and the Bureau of Reclamation for the purchase of available water in the Aspinall Storage Unit. Additionally, she thought that using the Blue Mesa Reservoir to satisfy compact allocations may be beneficial to the State. She stated intent to submit non-committal correspondence to the Bureau of Reclamation which would begin the process and confirmed that she had previously conferred with the Colorado River District about this correspondence. She noted that the State would request to contract for 200,000 acre feet of Blue Mesa Reservoir water to be used in downstream compact calls. She clearly stated that the water would not be used for transbasin diversions and confirmed that this statement would be delineated in the proposed contract. Assistant Attorney General Eklund suggested that a work shop be scheduled with the Colorado Water Congress to pursue the idea.

County Attorney Baumgarten acknowledged the political intent of using the water for only downstream compact purposes and suggested that an enforcement entity be chosen to ensure that the water cannot be used for transbasin diversions. Further, he suggested that the enforcement entity be a third-party beneficiary from the Western Slope.

Commissioner Starr stated that the County would need to ensure that future administrations would follow any agreement(s) as presently outlined and Assistant Director Davis acknowledged the statement as worthy of consideration.

GRANT APPLICATION; WOMEN WELLNESS CONNECTION: Moved by Commissioner Swenson, seconded by Commissioner Starr to approve the grant contract for the Women's Wellness Connection Program, as presented, with the caveat that it is reviewed and approved by both the Finance Department and the County Attorney's Office and then authorize signatures. Motion carried unanimously.

SUBDIVISION EXEMPTION CONSIDERATION AND POSSIBLE ACTION; KLINGSMITH HOMESTEAD ADJACENT TO DOS RIOS: County Attorney Baumgarten and property owner Phil Klingsmith were present for discussion.

County Attorney Baumgarten presented a draft resolution for discussion and approval. He also confirmed proper public notice of the discussion. He explained that this type of consideration was given in the 1960's and 1970's, but has been used only sparingly since then. Additionally, he explained that compelling circumstances must be identified in order to grant the exemption.

County Attorney Baumgarten explained that it was necessary for certain owners of the tract to secure financing on the property in order to provide health care for an aging member of their family. He further explained that, in order to accomplish this task, a portion of land would have to be subdivided from the entire property. He explained that Mr. Klingsmith was in agreement with an exemption from the Land Use Resolution process, while accepting responsibility to follow the process at a later date in order to safeguard the integrity of the process while allowing him to secure health care for his father.

County Attorney Baumgarten confirmed that Judge Steven Patrick was agreeable to this request.

Moved by Commissioner Swenson, seconded by Commissioner Starr to adopt Resolution #2008-18, a Resolution Granting an Exemption for a Division of Land from the Definition of the Terms "Subdivision" and "Subdivided Land"; Klingsmith Parcel. Motion carried unanimously.

SUBDIVISION REQUEST; TIM MICHALEK: Assistant County Manager Marlene Crosby was present for discussion.

Assistant County Manager Crosby explained that Mr. Michalek has requested permission to subdivide his parcel of land into two separate lots; a 1.5-acre parcel, which contains the existing residence, and a new 1.6-acre single-family residence. She asked for direction from the Board pertinent to scheduling a Public Hearing for this matter since a previous request had been approved for Mr. Albert Roper, one of Mr. Michalek's neighbors. County Attorney Baumgarten suggested that the process be followed, in its entirety, since the previous approval specifically stated that it should not set precedence.

Assistant County Manager Crosby reported that Mr. Roper has complied with his obligation to notify local residents of the bridge's weight restrictions and has ordered the applicable signage. The Board asked Assistant County Manager Crosby to confirm that the signage has been posted.

ADJOURN: Moved by Commissioner Swenson, seconded by Commissioner Starr to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 12:08 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. 2008-18

A RESOLUTION GRANTING AN EXEMPTION FOR A DIVISION OF LAND FROM THE DEFINITION OF THE TERMS "SUBDIVISION" AND "SUBDIVIDED LAND"; KLINGSMITH PARCEL

WHEREAS, pursuant to C.R.S. 30-28-101(10)(d), the Board of County Commissioners of Gunnison County, Colorado may exempt from the statutory definition of the terms "subdivision" and "subdivided land" if the Board determines that such division is not within the purposes of C.R.S. 30-28-101 et seq.; and

WHEREAS, the Board of County Commissioners of Gunnison County, Colorado is informed of the following:

1. The whole or a portion of the tract of land identified in Appendix A attached hereto and incorporated herein is the subject of certain legal proceedings and constraints including but not limited to constructive conservatorship.
2. That while those legal proceedings continue, it is necessary for certain of the owners of the tract of land to use a portion of the tract as security to obtain financing for immediate health care and elderly care for a member of the ownership family.
3. That identification of that portion of land as exempt from the definitions of "subdivision" and "subdivided land" will significantly assist in obtaining such financing.
4. That the owners of the entire parcel (or their legal representatives) have initiated formal proceedings for subdivision approval from Gunnison County.
5. That the owners of the entire parcel (or their legal representatives) agree that no portion of the parcel will be conveyed unless and until the formal subdivision by Gunnison County is approved.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado that:

1. The division of the parcel identified in Appendix A into two separate parcels identified in Appendix B, attached hereto and incorporated herein, is exempt from the terms "subdivision" and "subdivided land" ONLY for the purpose of making available the resultants parcels for security for financing for immediate health care and elderly care for a member of the ownership family (i.e. a financing institution could foreclose on a resultant parcel).
2. No portion of the parcel identified on Appendix A shall be separately conveyed (except as identified in paragraph 1 above) unless and until the formal subdivision process is completed and approved. If this paragraph 2 is violated, this Resolution shall be null and void and of no effect.

INTRODUCED by Commissioner Swenson, seconded by Commissioner Starr, and adopted this 9th day of May, 2008.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

Channell – yes; Starr – yes; Swenson – yes