

**GUNNISON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
July 1, 2008**

The July 1, 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
Katherine Haase, Clerk to the Board
Others Present as Listed in Text

CALL TO ORDER: Chairperson Channell called the meeting to order at 8:02 am. Commissioner Starr was not present at the beginning of the meeting.

AGENDA REVIEW: Chairperson Channell informed the Board that CRWCD Representative Bill Trampe would not be available for the 10:35 am discussion, so this item was stricken from the agenda.

MINUTES APPROVAL: **Moved** by Commissioner Swenson, seconded by Chairperson Channell to approve the Regular Meeting minutes of June 3, 2008 as presented and authorize signatures. Motion carried. **Moved** by Commissioner Swenson, seconded by Chairperson Channell to approve the Regular Meeting minutes of June 17, 2008 as presented and authorize signatures. Motion carried. **Moved** by Commissioner Swenson, seconded by Chairperson Channell to approve the Special Meeting minutes of June 17, 2008 as presented and authorize signatures. Motion carried. **Moved** by Commissioner Swenson, seconded by Chairperson Channell to approve the Special Meeting minutes of June 24, 2008 as presented and authorize signatures. Motion carried. (Commissioner Starr was unavailable for the above votes.)

CONSENT AGENDA: Chairperson Channell asked that Consent Agenda Item #2 be removed from the Consent Agenda for discussion. **Moved** by Commissioner Swenson, seconded by Chairperson Channell to approve the Consent Agenda with the exception of Item #2. Motion carried. (Commissioner Starr was unavailable for the vote.)

1. Acknowledgment of County Manager Signature; Grant Acceptance Letter, Colorado Department of Education and the Colorado Department of Human Services, Early Childhood System Building, Gunnison and Hinsdale Counties, \$45,985
2. Purchase Agreement; Purchase and Installation of an Email Archiving System, Mitchell & Co.
3. Grant Extension Request; Gunnison County DTR System – Win, Contract Amendment #6
4. Grant Application; Office of Emergency Management Application for Bureau of Land Management Funds to Write/Re-Write Community Wildfire Protection Plans
5. Contract Renewal; US Department of Housing and Urban Development (HUD), Mountain View Apartments
6. Resolution #2008-31; Amending Resolution No: 98-25, Vacating a Certain Alley within Previously Incorporated Ohio City and a Portion of the Recorded Plat of Ohio City
7. Contractor Agreement; Sage Resources, Inc.; Gunnison County Substance Abuse Prevention Project; June 24, 2008 through September 29, 2009
8. Contractor Agreement; Molly Diachok-Mugglestone, Gunnison County Substance Abuse Prevention Project, June 24, 2008 through September 29, 2009
9. Agreement; Region 10 League for Economic Assistance & Planning, Inc. and Region 10 Area Agency on Aging; July 1, 2007 through June 30, 2008
10. Acknowledgment of County Manager Signature; Purchase of Service Agreement, Gunnison County Library District Board of Trustees, June 1, 2008 through June 30, 2009

Chairperson Channell requested more information about Consent Agenda Item #2. Specifically, he wanted to know how an email archiving system would benefit the County. County Manager Birnie explained that the use of this system would ensure compliance with current State laws pertaining to records retention for correspondence. Email information retrieval, primarily for public records requests, would also be much quicker and simpler than it had been in the past. County Manager Birnie stated that third-party services were available, but that those types of services were quite expensive compared to the proposed County-owned appliance. Further, all email transmissions going through the County's server would be saved with automatic purge cycles. **Moved** by Chairperson Channell, seconded by Commissioner Swenson to approve Consent Agenda Item #2 as submitted. Motion carried unanimously. (Commissioner Starr arrived during this discussion and, thus, was available for the vote.)

SCHEDULING: The Upcoming Meetings Schedule was discussed and updated.

1. Public Meeting; Buckhorn Ranch and Stallion Park Project Update. Housing Authority Executive Director Denise Wise, Assistant County Manager Marlene Crosby and Legal Assistant Brenda Wiseman were present for discussion. A Public Meeting was scheduled for July 23, 2008 beginning at 4:30 pm in the Crested Butte Town Hall. Prior to the meeting, the Board, County Manager Birnie, Assistant County Manager Crosby, and Assistant Public Works Director Allen Moores will perform a site visit to the area. The site visit and subsequent Public Meeting were

requested by Commissioner Starr due to his concerns related to how the recent winter may have affected road conditions. Legal Assistant Wiseman explained that County Attorney David Baumgarten preferred to schedule the events for at least two to three weeks into the future, which would allow sufficient time for his office to address any issues already known.

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

1. Housing Needs Assessment. Chairperson Channell requested an update on this issue and County Manager Birnie explained that the County received two additional responses during the recent Request for Proposal (RFP) process. He also relayed that Housing Authority Executive Director Wise will be assembling a group, comprised of representatives from the local municipalities, that will make the selection decision.

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

1. Department of Local Affairs (DOLA) Grant Funding. Assistant County Manager Crosby reported that the County was in receipt of funds for construction of a heated garage at the Dos Rios Water Treatment Plant, which would allow indoor storage for and continued use of the sewer jet vacuum truck during winter months. She expressed her gratitude to Assistant Finance Director Ben Cowan for his calm and efficient assistance throughout the process. She also noted that DOLA officials had expressed concern over other County fund balances; however, she explained to the officials that healthy fund balances are crucial to the entire County operation.
2. Fairgrounds Storage Building; Conditional Use Application. Assistant County Manager Crosby explained that Maintenance Supervisor Rich Corbett had included this project within the Capital Improvement Plan (CIP) and that this project was funded for the current year. This building will be located at the fairgrounds complex near an existing building, which Assistant County Manager Crosby had recently learned was built without issuance of a permit within a residential zone. Because of this, she submitted a Conditional Use Application to the City of Gunnison Planning Commission and is scheduled to discuss and defend the application during a July 9, 2008 meeting. Per Assistant County Manager Crosby, she and City of Gunnison Director of Community Development Steve Westbay worked through the application process and that there had been no concerns presented. Lastly, she stated that the budgeted amounts may be insufficient due to rising costs.
3. Time to Lighten the Load. Assistant County Manager Crosby informed the Board that the Beautification/Scenic Corridors Committee (BSCC) held a half-price sale day at the County Landfill on June 21st. During this event, all residents delivering materials to the landfill would pay half of the fee while the BSCC accepted responsibility for the other half of the fee. The fees collected or due to the landfill totaled \$9,000 as a result of greatly increased participation. Additionally, she reported that the BSCC held a scrap metal and tire-recycling event on June 28th at the fairgrounds. During this event, temporary employees were employed to assist with the materials at the landfill due to the BSCC's hesitance to work at the facility. As a result of the scrap metal and tire-recycling event, fees of approximately \$5,000 will be due to the landfill. She reported that a great deal of metal roofing material was collected during the event.
4. Kebler Pass. Assistant County Manager Crosby reported that her teams were scheduled to use chloride on the pass beginning that day and extending through July 10th. She informed the Board that gravel from Paonia had been used on portions of the road and that the use of chloride was mandated by the rocky gravel that would otherwise not remain on the road. Lastly, she reported that the DOLA grant documents pertinent to Kebler Pass had been received.
5. Antelope Hills Water. Chairperson Channell asked for an update on this issue and Assistant County Manager Crosby explained that she received correspondence from the homeowners' board which, according to Commissioner Swenson, had not been able to reach a unanimous decision. Assistant County Manager Crosby noted that this issue has a history of approximately 10 years as the County had a study performed by RTW in 2000, which outlined several rectification alternatives ranging from \$1,900,000 to \$3,900,000 in cost. Assistant County Manager Crosby suggested that the County follow-up with a performance study, possibly completed by a different engineering firm, since the estimates provided in 2000 were assumed to be grossly outdated. Assistant County Manager Crosby expressed concern that the homeowners' association is continuing to fund system improvements that are of little or no value, so she suggested reevaluation of the proposal. She felt that work could potentially begin during the next winter, but that upfront funding would be necessary. Commissioner Swenson relayed that one of their board members expressed frustration to her that their board has approved ongoing costs in pursuit of solutions that have not come to fruition. She noted that, while the homeowners' board has limited funds, the board has expressed a desire to enter into discussions with the County so that long-range plans can be discussed. She confirmed that the homeowners' board understands that the County is not at fault for the current situation. Chairperson Channell requested that Assistant County Manager Crosby assemble a list of items to be completed so that all persons can be kept informed of any progress made. Commissioner Swenson stated intent to relay the above information to the homeowners' board and suggested that the Board meet with the homeowners' board in late fall or early winter.

REQUEST FOR A MORATORIUM ON STREET VACATIONS: Assistant County Manager Crosby was present for discussion.

Assistant County Manager Crosby explained that the Board had agreed, during a recent work session, to cease acceptance of street vacation applications. This moratorium would continue until definitive answers were made available regarding public benefit issues. Assistant County Manager Crosby noted that she would prefer that any formal policies be flexible in nature.

Assistant County Manager Crosby stated that the Board had instituted a moratorium in the past via motion. She relayed that County Attorney Baumgarten agreed, if approved by the Board, that a motion would also be appropriate in this instance. She opined that the moratorium on accepting street vacation applications should be lifted within three to four months time. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to impose a moratorium on street and alley vacations within the County until November 1, 2008 for the reason that we need to gather staff input on how best to proceed with these in the future, taking into account the various factors we discussed in our last meeting, with the understanding that Staff would endeavor to have something on the Board's agenda around the first part of October for consideration and possible adoption by the first Regular Meeting in November; any pending applications are not subject to the moratorium. Motion carried unanimously.

LOT CLUSTER APPROVAL; LOTS 14, 15, 26 & 27 OF BLOCK 23; REVISED PLAT OF SCHOFIELD TOWNSITE, GUNNISON COUNTY, COLORADO; OWNERS FITZGERALD J.H. YOUNG AND KERRY D. YOUNG: Planning Department Administrative Services Manager Beth Baker was present for discussion.

Planning Department Administrative Services Manager Baker presented the lot cluster application and site plan. She explained that this lot cluster, if approved, would result in a half-acre parcel for which the applicants were seeking a waiver of ISDS standards. She informed the Board that the applicants have been made aware that ISDS approval is not guaranteed. The applicants are attempting to purchase contiguous properties owned by a private trust. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to approve the requested lot cluster by Fitzgerald and Kerry Young in the Schofield Townsite, Lots 14, 15, 26 and 27, Block 23 in Schofield. Motion carried unanimously.

BOUNDARY LINE ADJUSTMENT; SECTION 7, T11S, R88W, 6TH P.M.; ADJACENT TO CHAIR MOUNTAIN RANCH SUBDIVISION, BURNS: Assistant Planning Director Neal Starkebaum and attorney Dave Barton were present for discussion.

Assistant Planning Director Starkebaum presented this request that, if approved, would result in three parcels being combined into two parcels, each in excess of an acre. He confirmed that an ISDS permit had been issued for one of the lots, but that no structures were present on either lot. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to approve the Boundary Line Adjustment for the Burns Boundary Line Adjustment contiguous to the Chair Mountain Subdivision, Phase II property, as presented, and authorize the chair's signature. Motion carried unanimously.

COVENANT AMENDMENT REQUEST FOR APPROVAL; SHADY ISLAND: County Planner Cathie Pagano, attorney David Leinsdorf and developer Bill Lacy were present for discussion.

Attorney Leinsdorf presented the request to delete the six-month minimum term from the covenants and explained that the covenants were originally patterned after Red Mountain Ranch, which is a different kind of development. He reported that this six-month term was not discussed during the planning process and he apologized for not acknowledging it sooner. He noted that the developer did not want to allow short-term rentals in this subdivision, but that he envisioned lot owners being capable of renting properties for short terms to seasonal visitors. County Planner Pagano confirmed that this issue was not addressed by the public or by the Planning Commission.

Commissioner Starr expressed concern that eliminating this clause could reduce long-term rentals as short-term rentals may be more attractive to renters. He also suggested that the County should encourage the workforce to rent near population centers and that short-term rentals may primarily appeal to vacationers. While Chairperson Channell expressed agreement with Commissioner Starr, he stated that he did not feel that this request would violate the original discussions and/or intent of the Planning Commission and the neighboring property owners. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to adopt Resolution #30, Series 2008, a Resolution Approving an Amendment to the Declaration of Protective Covenants of Shady Island Subdivision. Motion carried unanimously.

CAPITAL IMPROVEMENT PROGRAM RANKING: Finance Director Linda Nienhueser, Assistant Finance Director Cowan and Assistant County Manager Crosby were present for discussion.

Finance Director Nienhueser stated that Assistant Finance Director Cowan had performed much of the work involved with assembling the CIP and he humbly acknowledged his role.

Chairperson Channell questioned the energy conservation issue, because of his opinion that the weight factor should be increased. Assistant Finance Director Cowan noted that the factor was raised; however, since it does not apply universally to all of the projects, he suggested the possibility of utilizing a multiplier. Chairperson Channell felt that all governmental agencies should be giving more attention to energy conservation practices. Assistant Finance Director Cowan noted that this item receives greater attention within the County because it had been identified as a Board priority. County Manager Birnie also informed the Board that the County had joined the EnergyStar program, which includes a 10% reduction goal.

It was determined that six of the top 15 projects identified in the 2007 CIP were completed and that many others were transferred to stand-alone project status. It was agreed that CIP discussions, separate from the budget process, were beneficial in systemizing the Board's decisions within the budget, while Chairperson Channell felt that the weighting system may need reviewed to ensure that budgetary decisions are within proportion to importance within the entire County organization. Commissioner Starr agreed that the CIP was a very helpful and more sophisticated tool than what the Board has been able to utilize in previous years.

The Board agreed that the ranking was appropriate. Miscellaneous modifications were discussed and agreed upon. The Board complimented staff for their time spent and their excellent work product. Commissioner Starr was pleased that so many of the priorities from 2007 had been completed, which indicated to him that the CIP process is working.

BREAK: The meeting recessed from 10:05 until 10:18 am.

CODE ENFORCEMENT; HIGH PLAINS STONE, LLC; SUSPENSION OF LUC 2003-68; POSSIBLE ACTION; POSSIBLE EXECUTIVE SESSION: Deputy County Attorney Tom Dill, County Paralegal Rachel Magruder, Assistant Public Works Director Moores and property owner Scott Wagner were present for discussion.

Deputy County Attorney Dill outlined the chronology of the violations in this enforcement case, including access issues and noncompliance of a commercial LUC permit. On September 18, 2007, issuance of LUC Permit #2003-68 was suspended and fees of \$1,315.86 were imposed on Mr. Wagner. On April 1, 2008, County Attorney Baumgarten sent correspondence to Mr. Wagner delineating all required tasks that needed to be accomplished in order for Mr. Wagner to be in compliance. On May 6, 2008, County Attorney Baumgarten sent additional correspondence to Mr. Wagner stating the deadline by which Mr. Wagner must be in compliance. On May 8, 2008, Mr. Wagner attended a meeting with County staff to discuss all related issues. On May 28, 2008, correspondence was submitted to the State Attorney General requesting authorization to negotiate a warrant check received, in the amount of \$1,315.86, apparently for payment of the imposed fine. As of the meeting, the State Attorney General's office had not replied to the request.

Assistant Public Works Director Moores informed the Board that he had met on site with Mr. Wagner to discuss the work that would be necessary after the issuance of a permit. He explained that the permit was being held in the County Attorney's office pending a determination of fees. He also reported that no further work had been performed on site by Mr. Wagner.

Mr. Wagner stated his opinion that he had been as compliant as possible since being cited and fined for not having a valid access permit. He noted that he had filed for the permit and that he had paid the application fee and the fine. He stated that he had cleaned the permitted area in order to comply with State rules and that the State paid for the fine as the State requested that the work be performed.

Mr. Wagner relayed that the State had requested confirmation that, once the check in the amount of \$1,315.86 was accepted by the County, he would be allowed to continue his operations. County Paralegal Magruder stated that the County needed permission from the State to cash the warrant check received because no supplemental documentation was enclosed with the check. Mr. Wagner stated his impression that the State had left numerous telephone messages with the County Attorney's office, but that a return call had not been initiated. County Paralegal Magruder confirmed that County Attorney Baumgarten and other staff members had spoken with Colorado State Board of Land Commissioners Field Operations Manager Beverly Rave several times to discuss this matter.

Mr. Wagner also relayed that the State had expressed the desire for a language amendment defining whether or not quarry operations were considered an operational function. County Paralegal Magruder noted that any language change requests would need to be processed through Planning Commission.

Assistant Public Works Director Moores confirmed that he had received the particulars of the permit and that it was ready for issuance as soon as the State's check was deposited by the County; however, deposit of that check required the State to respond to the County's inquiries in writing.

CODE ENFORCEMENT; MILE 200, LLC; ENFORCEMENT OF THE GUNNISON COUNTY INDIVIDUAL SEWAGE DISPOSAL SYSTEM REGULATIONS; INTERNATIONAL BUILDING

CODES; GUNNISON COUNTY STANDARDS AND SPECIFICATIONS FOR ROAD AND BRIDGE STANDARDS AND RECLAMATION; POSSIBLE ACTION; POSSIBLE EXECUTIVE SESSION:

Deputy County Attorney Dill, County Paralegal Magruder, Assistant Public Works Director Moores and property owner Scott Wagner were present for discussion.

Mr. Wagner stated that he was unaware of any pending issues and requested clarification on this item; however, County Paralegal Magruder noted that Mr. Wagner had previously been informed of all issues via US mail and in person. Mr. Wagner stated that he did not feel prepared to fully discuss all related matters during the meeting and County Manager Birnie informed him that the scheduled discussion was for the purpose of discussion only and was not a formal hearing.

Deputy County Attorney Dill outlined the chronology of the ISDS, reclamation, building permit and access violations. On April 1, 2008, County Attorney Baumgarten sent correspondence to Mr. Wagner, via certified mail with return receipt, outlining the tasks that needed completion in order for Mr. Wagner to be in compliance. On May 6, 2008, additional correspondence was sent to Mr. Wagner from County Attorney Baumgarten providing a deadline for compliance. On May 8, 2008, Mr. Wagner attended a meeting with County staff to discuss all pending issues.

Deputy County Attorney Dill stated that the County needed Mr. Wagner's permission to access the property in question so that all potential violations could be evaluated. US Forest Service District Manager Jim Dawson was present and informed the Board that the Forest Service right-of-way easement is a necessary element of the access permit. He further informed the Board that Mr. Wagner had been noncompliant with stipulations, which caused the issue to be referred to the Assistant District Attorney's office. Commissioner Starr confirmed that the County will not issue an access permit until the Forest Service issue has been resolved.

Assistant Public Works Director Moores informed the Board that he had met with Mr. Wagner on site approximately four years prior to explain the Forest Service easement issue and that, to date, the easement issue has not been resolved. He also reported that Mr. Wagner had been contacted by the Army Corps of Engineers outlining additional requirements relevant to a problematic bridge.

County Manager Birnie reminded all parties that the County would need permission in order to access the property and that, if permission was not granted, the County Attorney's office would need permission from the Board to begin litigation. Mr. Wagner stated his intention to grant permission for access to property after retention of legal representation. He also stated that he was incapable of complying with the requests outlined in County Attorney Baumgarten's correspondence due to the age of the building.

Moved by Commissioner Swenson, seconded by Commissioner Starr to authorize staff to pursue legal matters on this situation and, if you (staff) haven't scheduled it (site visit), you can come back to us and let us know. The Board agreed that the site visit should be completed by August 4, 2008. Chairperson Channell summarized that the site visit must be completed by August 4, 2008 and, if not completed, the Board authorized staff to initiate court proceedings. As well, the Board requested an update from the County Attorney's office if the site visit was not completed within the specified timeframe. Motion carried unanimously.

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

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

Commissioner Swenson:

1. Alpine Plateau Road. Commissioner Swenson stated that she had met with the Arrowhead Homeowners' Association to discuss the possibility of Alpine Plateau Road becoming a County road. She noted that the meeting was productive and that other ideas will be pursued as there was consensus that the road should remain a Forest Service road.

Commissioner Starr:

1. Crested Butte South Special Area Regulations. Commissioner Starr stated that he had met with CB South Manager Chris Behan, along with the CB South Planner, to discuss related documentation. He also reported that the regulations should be ready on July 25, 2008 for finalization.
2. Transportation Safety Administration Correspondence Request. Commissioner Starr requested that Airport Manager John DeVore draft correspondence addressing additional personnel needs at the Gunnison-Crested Butte Regional Airport during increased winter schedules.
3. Affordable Housing Deed Restriction Language. Commissioner Starr reported that he and Housing Authority Executive Director Wise had been working on language modifications to deed restrictions and that this issue will be placed on a future agenda for discussion.

Chairperson Channell:

1. Substance Abuse Awareness Presentations. Chairperson Channell reported that he and Health and Human Services Health Educator Margaret Wacker gave a presentation to the Rotary Club. He stated his impression that the County is raising the level of awareness on substance abuse. He also informed the Board that an application will be made to extend the current grant.
2. Curecanti Motorized Access Plan. Chairperson Channell reported that this meeting was very poorly attended and that the Curecanti office had completed a vast amount of work leading up to the meeting.
3. Library Architectural Design Firm. Chairperson Channell reported that BRS, the architectural design firm selected for this project, presented a few architectural features during a recent meeting. The majority of attendees were either library personnel or supporters.
4. Colorado Water Conservation Board. Chairperson Channell reported that this meeting, which provided a forum for public input, was well-attended.
5. Gunnison Area Community Foundation Retreat. Chairperson Channell attended this retreat during the previous weekend. He noted that this was the first retreat since the recent merger and that the boards are working together well. The first grant cycle with the combined board occurred during the previous week and notification letters will be released in the near future. The awards breakfast was scheduled for July 17th from 8:00 until 9:30 am.

UNSCHEDULED CITIZENS: There were no unscheduled citizens present for discussion.

CORRESPONDENCE: Gunnison Valley Hospital Administrator Randy Phelps, Dr. John Tarr, EMS Team Leader Bryan Hess and various other hospital personnel were present. Chairperson Channell read the below letters aloud and the Board expressed their congratulations to all present. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to ratify the signatures on the below letters. Motion carried unanimously.

1. Congratulations; Dr. John Tarr, 2008 Rural Healthcare Excellence Award by the Colorado Rural Health Center
2. Congratulations; Gunnison Valley Hospital Emergency Medical Services Team, Colorado's Ambulance Service of the Year Award from the Emergency Medical Services Association of Colorado and the Colorado Department of Public Health and Environment
3. Congratulations and Appreciation; Gunnison Valley Hospital Board of Trustees and Administrator Randy Phelps, Joint Commission Accreditation and Willows Assisted Living Center

ADJOURN: **Moved** by Commissioner Swenson, seconded by Commissioner Starr to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 11:13 am.

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. 30, SERIES 2008**

A RESOLUTION APPROVING AN AMENDMENT TO THE

DECLARATION OF PROTECTIVE COVENANTS OF SHADY ISLAND SUBDIVISION

WHEREAS, Verzuh Ranch, Inc. has submitted a request to amend the *Declaration of Protective Covenants of Shady Island Subdivision*, which amendment is attached; and

WHEREAS, the *Protective Covenants of Shady Island* have not been recorded at this time but the Board of County Commissioners has approved the Protective Covenants and final Plat of Shady Island in Resolution No. 19, Series 2008, recorded in the Gunnison County Clerk and Recorder's Office at Reception No. 584019; and

WHEREAS, Shady Island Subdivision is a subdivision approved by Gunnison County, and the *Declaration of Protective Covenants of Shady Island Subdivision* requires that amendment of those covenants require Gunnison County approval; and

WHEREAS, after a review of the submitted information, the Board of County Commissioners has determined that approval of the amendment violates no provision of the *Gunnison County Land Resolution*; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that the *Declaration of Protective Covenants of Shady Island Subdivision* are hereby amended, as reflected in the attached "Exhibit A," 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 Swenson, seconded by Commissioner Starr, and passed on this 1st day of July, 2008.

BOARD OF COUNTY COMMISSIONERS

Channell – yes; Starr – yes; Swenson – yes

EXHIBIT A - ARTICLE 3
USE OF LOTS

Section 3.1 Residential Use. All Lots shall be used exclusively for residential purposes. Each Lot shall have one Family Residence and one attached or detached Garage. No additional Buildings shall be permitted. No time-sharing shall be allowed.

Section 3.2 Building Site. The Family Residence and other Improvements shall be located entirely within the Building Site.

Section 3.3 Approval of Use. No Improvement shall be constructed on any Lot except only as approved by the Executive Board.

Section 3.4 No Commercial Use. No commercial or business enterprise of any nature shall be allowed or permitted on any Lot or Common Area; provided, however, that the Owner of the Lot may be permitted to rent or lease the Family Residence and to conduct a home occupation, artistic or literary activity on any Lot upon the prior approval by the Executive Board as to such occupation or activity. No such home occupation or artistic or literary activity shall diminish the residential character of the subdivision or employ any persons who do not reside in the Family Residence. No home occupation involving client or customer visits to a Lot shall be allowed.

Section 3.5 Snowmobiles. Snowmobiles, snowcats, snowtractors or other similar motorized vehicles for travel over snow shall not be operated upon the Property.

Section 3.6 Motorcycles and All Terrain Vehicles. Motorcycles, all terrain vehicles and other similar or noisy vehicles shall not be operated upon the Property, except to access a Lot.

Section 3.7 Parking. Parking is prohibited in all roads within Shady Island. All motor vehicle parking shall be in designated parking areas approved by the Executive Board. Tractors, snowmobiles, motorcycles, recreational vehicles, trailers and other similar vehicles and watercraft and boats shall be parked and/or stored within a fully enclosed Garage at all times.

Section 3.8 Rules and Regulations. The Executive Board shall have the authority to promulgate and enforce Rules and Regulations and/or design guidelines regarding the Property and its use on condition that such rules and regulations and/or design guidelines are not inconsistent with this Declaration.

Section 3.9 Partition of Lots. No part of a Lot may be partitioned, separated or subdivided from any other part thereof.

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO: 08-31

A RESOLUTION AMENDING RESOLUTION NO: 98-25 A RESOLUTION VACATING A CERTAIN ALLEY
WITHIN PREVIOUSLY INCORPORATED OHIO CITY AND A PORTION OF THE RECORDED PLAT OF OHIO
CITY

WHEREAS, Gunnison County, by virtue of Colorado law, has become the owner of certain platted streets and alleys within the previously incorporated Town of Ohio City; and

WHEREAS, on August 4, 1998, the Board of County Commissioners of the County of Gunnison, Colorado approved and signed Resolution No: 98-25 vacating that certain alley bounded on the north by Gunnison Street and on the south by the Colorado & Southern Railroad Right of Way, according to the Plat of Ohio City And Adjacent Area, recorded with the Gunnison County Clerk and Recorder's Office on October 2, 1972, bearing Reception No: 290878 (herein the "Alley"); and

WHEREAS, Resolution No: 98-25 was recorded with the Gunnison County Clerk and Recorder's Office on September 30, 1998, bearing Reception No: 487432 and on September 8, 2006, bearing Reception No: 568891; and

WHEREAS, a request has been made for a more specific description of the Alley; and

WHEREAS, the Alley is more specifically identified in "Appendix A" attached hereto and incorporated herein; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Gunnison, Colorado that Resolution No: 98-25 shall be and hereby is amended by this resolution to incorporate "Appendix A" attached hereto and incorporated herein for a more specific description of that certain alley bounded on the north by Gunnison Street and on the south by the Colorado & Southern Railroad Right of Way, according to the Plat of Ohio City And Adjacent Area, recorded with the Gunnison County Clerk and Recorder's Office on October 2, 1972, bearing Reception No: 290878.

INTRODUCED by Commissioner Swenson, seconded by Chairperson Channell, and passed on this 1st day of July, 2008.

BOARD OF COUNTY COMMISSIONERS

Channell – yes; Starr – yes; Swenson – yes