

**GUNNISON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
September 2, 2008**

The September 2, 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 8:00 am.

AGENDA REVIEW: There were no changes to the agenda.

MINUTES APPROVAL: **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the Regular Meeting minutes from August 5, 2008. Motion carried unanimously. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the Regular Meeting minutes from August 19, 2008. Motion carried unanimously.

CONSENT AGENDA: **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the Consent Agenda, Items #1 through #12. Motion carried unanimously.

1. Acknowledgment of County Manager Signature; Purchase of Service Agreement; Between Gunnison/Hinsdale County Department of Health and Human Services and Gunnison Area Restorative Practices; Family Group Decision Making/Family Conferencing; 9/15/08 – 6/30/09
2. Acknowledgment of County Manager Signature; Purchase of Service Agreement; Between Gunnison/Hinsdale County Department of Health and Human Services and Griffith Centers for Children; Intensive Home Based Intervention; 6/1/08 – 5/31/09
3. Acknowledgment of County Manager Signature; Contractor Agreement; Between the Board of County Commissioners of Gunnison County and Sage Resources, Inc.; Early Childhood Council Services; 7/1/08 – 9/30/08
4. Acknowledgment of County Manager Signature; Agreement Between the Gunnison Board of County Commissioners and Western State College of Colorado; Prevention Education Coordinator
5. Acknowledgment of County Manager Signature; Agreement Between the Gunnison Board of County Commissioners and Gunnison Watershed School District RE1J; Prevention Education Coordinator
6. Authorize County Attorney Signature; Contract for Services; Westpack for WestlawPRO Services; Gunnison County Attorney's Office; 36-Month Renewal
7. Authorize County Attorney Signature; Legal Representation Engagement and Fee Agreement; Burns, Figa & Will, PC; Sullivan Green Seavy, LLC; and Goldman, Robbins & Nicholson, PC; Provision of Legal Counsel During County Attorney's Absence
8. Petition for Abatement or Refund of Taxes; Samuel W. Lumb, etal; Lot S77 Skyland Initial Filing #542447; Tax Years 2006 and 2007
9. Correspondence; Letter of Support for Silver Thread Scenic and Historic Byway Grant Application; CDOT Scenic Byway Program Coordinator Sally Pearce
10. Proposed Amendment to the Declaration Establishing Slate Riverside Condominiums; Reception Numbers 578139 and 578140; Insurance Requirements; Phillip S. Coombs
11. Memorandum of Understanding Regarding Provisions of Legal Services; Between the Board of County Commissioners of Gunnison County and the Gunnison-Hinsdale Board of Human Services; 7/1/08 - 6/30/09
12. Agreements; Between the Gunnison County Board of County Commissioners and Region 10 League for Economic Assistance & Planning, Inc., Region 10 Area Agency on Aging; Transportation, Homemaker and Senior Resources Services

SCHEDULING: The Upcoming Meetings Schedule was discussed and updated.

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

1. Gunnison County Housing Authority Issues.
 - a. Public-Private Partnership. County Manager Birnie reported that Mr. Pete Glatiotis had signed a letter of intent on August 21, 2008 and that the County Attorney's Office was in the process of drafting a final contract.
 - b. Governance and Budget. Later that same day, County Manager Birnie met with Colorado Division of Housing, Department of Local Affairs (DOLA) representative Bill Whaley along with the local town and city managers in Almont to discuss governance and budget issues. During that meeting, County Manager Birnie proposed that all jurisdictions participate in the hiring of the new director and evenly split the cost of funding the position; this proposal was well received by Mr. Whaley and the municipal managers. Later that same day, County Manager Birnie and Commissioner Starr attended a Housing

Advisory Board meeting to discuss the director selection process and governance issues. County Manager Birnie reported that DOLA will release funding for the Housing Needs Assessment so that the winter assessment can go forward as planned.

- c. Housing Authority Director Selection. County Manager Birnie reported that initial applicant screenings had been scheduled for 9/5/08 with six applicants participating via telephone. Included in the discussions, will be representatives from each of the local jurisdictions, one at-large representative from the Housing Authority Advisory Committee, elected officials from the Town of Mt. Crested Butte and the City of Gunnison, and Chairperson Channell. Of the applicants scheduled for telephone screenings, all but one of them have served as housing authority executive directors, one having served as the director for Eagle County, and most of them currently reside on the east coast. County Manager Birnie stated his hope that the hiring committee would be able to narrow the pool down to three of the candidates. County Manager Birnie expressed that the salary may become an issue as most of the applicants currently earn higher wages than what Gunnison County is offering.
- d. Housing Authority Advisory Board. County Manager Birnie reported that the HA Advisory Board had recently elected officers and Chairperson Channell stated that member David Owen was in the process of rewriting their bylaws. County Manager Birnie expressed his opinion that elected officials from each of the jurisdictions should serve on the HA Advisory Board.

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

1. Annual Snow and Ice Conference. Assistant County Manager Crosby stated that the cost of transportation may negatively affect attendance at the conference scheduled for the next few days in Gunnison. She also noted that the Eastern Snow and Ice Conference participation may decrease by as many as 300 persons for similar reasons. A poker night fundraiser will be part of this week's conference with proceeds going toward costs associated with a Denver conference scheduled for 2011.
2. Snow Plowing in Marble. Assistant County Manager Crosby informed the Board that she had received a formal request from the Town of Marble's town council to plow in the Town of Marble this winter. She stated that the plowing of selected areas of Marble should be delineated within the appropriate Intergovernmental Agreement. She stated that the County has sufficient staff to plow only the main roads in Marble as the part-time position has not yet been filled. She was scheduled to meet with two local contacts during the following week to discuss the position.
3. Cement Creek Pullout. Commissioner Starr requested clarification on this issue, particularly whether or not the County will maintain it and if insurance will emerge as an issue. Commissioner Starr also stated his opinion that the Rural Transportation Authority (RTA) should pay for the maintenance. Assistant County Manager Crosby stated that County crews usually only visit the area once a day while performing motor grader work during mornings. Commissioner Starr agreed to determine whether or not the RTA had made any inquiries to the Crested Butte South Metro District relevant to this issue.
4. Open Mechanic Position. Chairperson Channell requested an update on this vacancy and Assistant County Manager Crosby explained that the position will be readvertised as it had not yet been filled. County Manager Birnie confirmed that the position had been reclassified, which should generate interest for the position.
5. Town of Pitkin Vacation. Chairperson Channell requested an update on this issue that was conditional upon an access easement. Assistant County Manager Crosby explained that the County Attorney's Office and Geographic Information Systems Manager Mike Pelletier had completed the necessary work and that the work product will be attached in a Deed of Dedication and sent to the applicant during the following week.

CONDOMINIUM APPLICATION; CONDOMINIUMIZATION OF EXISTING BUILDING IN RIVERLAND INDUSTRIAL PARK, FILING 2; RPC-II: County Planner Cathie Pagano and attorney David Leinsdorf were present for discussion.

Attorney Leinsdorf presented this application encompassing two adjacent projects, one approved years prior, owned by the same individuals. When surveying the second project, the engineer discovered that the parking area for the first project encroached on the second project; because of this, an amended plat for the first project had been completed. He also confirmed that the owners held the requisite percentage to amend the pertinent plats since they own all but one of the lots in the original application, and that signs denoting the parking areas will be erected. County Planner Pagano confirmed that both of these phases had been evaluated by the Planning Commission without concern. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to approve the amendment to the condominium map and the declaration for Riverland Professional Center Condominiums, and approve the map and declarations for the RPC-II Condominiums, and authorize the chairperson's signature. Motion carried unanimously.

SUBDIVISION EXEMPTION REQUEST; 360 CR 744; ANN ANDERSON REPRESENTED BY ATTORNEY DAVID LEINSDORF: County Planner Pagano and attorney David Leinsdorf were present for discussion.

County Planner Pagano presented a plat for discussion and approval. She also informed the Board that she had been contacted by a local climber with concerns relative to access issues for the climbing area on Taylor River Road. Attorney Leinsdorf explained that this request, if approved, would create no changes, but would confirm as legal a parcel that was subdivided 25 years ago without compliance with the Gunnison County Land Use Resolution (LUR). He also explained that this area is approximately one-half mile up Spring Creek from the Harmel's resort. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the subdivision exemption request for the Anderson Subdivision and authorize the chairperson's signature on the plat. Motion carried unanimously.

BREAK: The meeting recessed from 9:02 until 9:14 am.

REVIEW AND POSSIBLE ACTION, WHETSTONE PARK PRELIMINARY PLAN AND PLANNING COMMISSION RECOMMENDATION; PROPOSED DEVELOPMENT INCLUDES A COMMERCIAL/RESIDENTIAL PARK ON APPROXIMATELY 13 ACRES OF LAND ON COLORADO STATE HIGHWAY 135 CONTIGUOUS TO THE NORTHWESTERLY BOUNDARY OF RIVERLAND INDUSTRIAL PARK FILING 2: Planning Director Joanne Williams, County Attorney David Baumgarten and attorney David Leinsdorf were present for discussion.

Planning Director Williams explained that this project was originally intended to produce an industrial park, but that the updated plan was for a professional park. She noted that visual, sound and property value impact concerns had been presented to the Planning Commission by the opposition. This proposal had gone through much iteration and many public hearings were held to receive comment.

Planning Director Williams explained that the current proposal allowed for a lumber yard on commercial lot #2, with modifications and conditions, and that the property owners could request specific permissions. She also explained that the Town of Crested Butte had expressed concern about the appearance outside of the park boundaries, but that the Town and the applicant later reached agreement based upon conditions that the applicant agreed to comply with.

Planning Director Williams noted that County Attorney Baumgarten outlined his comments on the agenda submittal form and that she and County Attorney Baumgarten had discussed those issues in depth prior to agreement with this presentation. She also indicated that County Attorney Baumgarten and attorney Leinsdorf had worked through all easement issues and that County Attorney Baumgarten agreed that the proposed language was appropriate for the Board's consideration. She noted that the easement had not yet been finalized, which may cause the final language to differ slightly without substantive change.

Attorney Leinsdorf stated that this issue had been evaluated in seven Planning Commission work sessions and 11.5 hours of joint public hearings with a resulting unanimous recommendation for approval by the Planning Commission. He noted that the applicant had converted 13,500 square feet of commercial density into open space as a result of those meetings, for a total of 32% open space, which had a positive acceptance by the Planning Commission and at least one of the neighbors. He felt that the proposal complied with the portion of the Crested Butte area plan pertinent to locating commercial industrial projects and asked that the Board approve the preliminary plan.

Real estate appraiser Marty Froehlich stated that he had performed an analysis of the proposed project in March of 2006 and that the results indicated that adverse affects from unmitigated visual and noise impacts will be experienced by adjacent property owners. He also expressed concern that increased traffic will cause further issues with noise, while his primary concern was related to a potential net adverse affect on property valuation. He acknowledged that the impacts had been reduced from the first offering of this plan, but he felt that those changes were insufficient and that the proposal was inconsistent with the valley's culture.

Mr. Froehlich's 2006 survey indicated that two properties in close proximity to this park had experienced property value reductions totaling \$936,000 as a result of this park. To arrive at this conclusion, he explained that he had studied the properties market values in comparison to similarly impacted properties. Chairperson Channell felt that properties in Aspen's industrial park refuted Mr. Froehlich's claims; however, Mr. Froehlich stated that the Aspen and Telluride parks were not similar enough for comparison. Attorney Leinsdorf stated that the Planning Commission had heard these arguments, along with counter-arguments from another appraiser, and quoted the commission as stating that the project's impacts would not be considered significantly adverse.

Neighboring property owner Ted Colvin expressed his appreciation for the County's extensive consideration of this evolving project. Mr. Colvin felt that the project's location was inappropriate as the original application totaled 13,500 square feet while the final application totaled 128,500 square feet. He indicated that the number of large trucks entering the area, and at what time of day, had not been evaluated. He also felt that density had not decreased and that it had only shifted. Attorney Leinsdorf

stated that he would be inclined to agree with Mr. Colvin's arguments if other operations were not already in operation in the Riverland Industrial Park. Attorney Leinsdorf stated that the area is not pristine and that the project would help to create a transition from heavy industrial to light industrial to residential. Neighboring property owner Sterling Doster, who felt that his property value will be negatively affected by this application, stated that previously approving imperfect presentations should not warrant adding further impacts to the area.

County Attorney Baumgarten informed the Board that he had received email correspondence on 9/1/08 from Frank & Finger attorney Bob Hoban, legal counsel for Mr. Colvin, which he did not review until the morning of the meeting since 9/1/08 was a holiday. He disseminated copies of the correspondence and the Board took time to read through the correspondence during the meeting. Attorney Leinsdorf stated that he had not seen the information and he was given a copy for his review. Commissioner Starr recused himself from the remainder of the discussion due to a potential conflict of interest based on recollection of his previous representation of a proponent of the application on a separate issue. Commissioner Starr left the discussion at 10:03 am.

Mr. Colvin stated that the Whetstone Mountain Ranch was finalized in 18 months and that housing had been located at a distance from the highway due to opponents concerns. He felt that he had done his part to preserve the aesthetic beauty of the area and he felt that the area should be protected from becoming more industrial in nature. He also felt that the other areas discussed were not comparable to this application. Attorney Leinsdorf confirmed that the Planning Commission had heard all of Mr. Colvin's comments and objections, including those expressed by attorney Hoban, prior to unanimously recommending approval of the application.

Applicant John Nichols stated that Mr. Colvin's house had a complete view of the Riverland Industrial Park and that Mr. Colvin is already impacted because of that view. However, Mr. Nichols felt that the use of berms, landscaping and trees will help to minimize those existing impacts. Mr. Froehlich stated that his evaluations completed in March 2006 and May 2008 acknowledge those impacts.

The Board felt that the Planning Commission had performed exceptionally while considering all evidence presented. The Board confirmed that no new testimony had been heard during the meeting and that no further discussions or public hearings were necessary. **Moved** by Commissioner Swenson, seconded by Chairperson Channell to not have an additional public hearing at the Board of County Commissioners level regarding the Whetstone Business Park. Motion carried.

Commissioner Swenson stated that the Planning Commission had evaluated all aspects of this application thoroughly. **Moved** by Commissioner Swenson, seconded by Chairperson Channell to approve the preliminary plan of the Whetstone Business Park. Chairperson Channell felt that, while much conversation could be held on this issue, the defining factor was the definition of "significant" and he did not feel that the impacts were significant enough to deny the project. He stated that he gives serious consideration to appraisal issues, but that it would be difficult to prove that one occurrence would not impact another occurrence at some level. He also indicated that he was persuaded by the Town of Crested Butte's acceptance of this plan, while he held reservations about recommendation #28. Attorney Leinsdorf recommended approval of the proposal via resolution so that all aspects of the Planning Commission's recommendation could be addressed; County Attorney Baumgarten stated that this would be easy to accomplish and suggested that the Board direct staff to draft such a resolution. Commissioner Swenson withdrew her motion and Chairperson Channell withdrew his second. **Moved** by Commissioner Swenson, seconded by Chairperson Channell to direct staff to draft a resolution regarding the approval of the preliminary plan of Whetstone Business Park with the caveat of rewriting recommendation #28 to take out the language requiring properties outside the Whetstone Business Park to be participatory in the assessment. Planning Director Williams felt that the resolution could address the Board's safety concerns while being subject to the approval of CDOT requirements to mitigate safety issues, including creation of a possible underpass, and that the development would be subject to a prorated share or contribution to fund that improvement. Mr. Colvin expressed concern relative to the unknown cost of hooking into the sewer line and Chairperson Channell explained that tap fees are determined by dividing the cost of the line by the numbers of persons hooking onto it. Motion carried.

BREAK: The meeting recessed from 10:31 until 10:35 am. Commissioner Starr rejoined the meeting during the break.

RESOLUTION; SUPPORT FOR THE CONSTRUCTION OF A COMMUNITY CORRECTIONS AND TREATMENT FACILITY IN MONTROSE COUNTY, COLORADO: **Moved** by Commissioner Swenson, seconded by Commissioner Starr to adopt Resolution #2008-37, a Resolution of Support for the Construction of a Community Corrections and Treatment Facility in Montrose County, Colorado and authorize signatures. Motion carried unanimously.

VISITOR; BUREAU OF LAND MANAGEMENT (BLM) MONTROSE FIELD OFFICE MANAGER BARBARA SHARROW; GENERAL DISCUSSION OF LANDS IN MONTROSE FIELD OFFICE'S JURISDICTION ALSO WITHIN GUNNISON COUNTY: BLM Montrose Field Office Manager Barbara

Sharrow, BLM Environmental Coordinator Bruce Krickbaum and Gunnison Sage-grouse Conservation Coordinator Jim Cochran were present for discussion.

Ms. Sharrow explained that approximately 13,000 surface acres, in addition to 401,000 subsurface acres, of Gunnison County land fall within her jurisdiction. The BLM will begin its Land Use Plan this calendar year, which should take three to four years to complete and will include specific allocation studies. Ms. Sharrow indicated that the area does not affect sage grouse, but acknowledged that unknown prairie dog issues could surface. She noted that the 23 communities within her jurisdiction will primarily deal with urban growth issues in the future, but that mineral and river scenic issues will also be problematic.

Ms. Sharrow stated that she has been following the County's lead on antler shed collection season information and closures. She noted that enforcement of the closure appears to be a problem, to an unknown degree. She also informed the Board that Assistant Planning Director Starkebaum had requested an explanation for why she signed a recent Application or Permit to Drill (APD), so she explained to the Board that she has authority to sign an APD for subsurface lands.

Commissioner Starr requested a status update on the Oxbow application and Ms. Sharrow explained that the Forest Service portion was removed from the proposal.

BUCKHORN RANCH FILING 2B; NOTICE OF DEFAULT OF DEVELOPMENT IMPROVEMENTS; POSSIBLE ACTION; STALLION PARK PROJECT UPDATE; POSSIBLE EXECUTIVE SESSION: County Attorney Baumgarten, County Paralegal Rachel Magruder, developer Dr. Richard Landy, Paul Greenberg, Community Banks of Colorado Branch Manager Jeff Buehler, and attorney Mike Dawson were present for discussion.

County Attorney Baumgarten explained that his office had requested this discussion to determine whether or not to complete the affordable housing portion of this project at this time because of the current state of the housing market. He also provided an infrastructure update and stated confidence in releasing approximately \$1.5M of security, based on the work completed to date, while retaining approximately \$1.6M. He reminded all parties that the current Letters of Credit (LOC) were set to expire on 10/31/08 and asked for consideration to extend and combine them into one comprehensive LOC. He also indicated that his office may need to send a Notice of Default to Dr. Landy on 9/16/08.

Dr. Landy stated that many of the improvement requirements had been completed, but that they had not yet been acknowledged as complete. As well, Dr. Landy indicated that he had agreed to gravel roads in Filings #1 and #2, and he felt that the homeowners' association should be responsible for the cost of chip sealing.

Mr. Greenberg felt that the reductions would be helpful to give to the financial institution and County Attorney Baumgarten noted that this would not put the County at risk. Mr. Greenberg also did not want to combine all LOC documents into one comprehensive LOC since some of them are pertinent to Stallion Park.

Commissioner Starr asked for clarification on the ball field dimensions and Dr. Landy stated that the land owners voted to reallocate the funding that would have been utilized on the ball field. County Attorney Baumgarten stated that this type of reallocation would require an amendment to the previous Board approval which included the field, and he asked that the amendment process begin no later than the 9/16/08 deadline to eliminate possible confusion.

Commissioner Starr requested clarification on the funding being held so that the leakage from the lake can be addressed. Dr. Landy stated that he contracted Spallone Construction, Inc. to correct the problem. He also indicated that he is working with Lacy Construction Company to possibly allow fresh water to infiltrate the lake so that the leakage may be allowed.

County Attorney Baumgarten suggested withholding 25% of the water distribution costs to ensure that all freezing issues have been completely resolved.

Moved by Commissioner Swenson, seconded by Commissioner Starr to authorize the release of \$1,529,412.25 in securities. Motion carried unanimously. County Attorney Baumgarten stated his hope that acceptable financing will become available by the 9/16/08 deadline.

Dr. Landy requested that discussions related to Area Median Income (AMI) requirements begin as a means of making the units more readily available to buyers. He indicated that Stallion Park is losing buyers to other housing projects because of current restrictions. Commissioner Swenson stated that Dr. Landy's proposed AMI modifications were unacceptable, but that she was open to further discussion. She also requested a cost analysis of the market and levels that owners may be able to qualify for. Mr. Buehler stated that the appraiser would need information from the Housing Authority in order to make determinations about the marketplace. Dr. Landy stated that he has been working with the Housing Authority on the affordability issue and that set pricing had not been assigned to the units. Mr. Buehler thought that statistics relative to the number of persons in the northern part of the valley that would fit

within the AMI tables, who also do not currently own a home, would be beneficial information. County Manager Birnie stated that the County has been open to these types of conversations and the potential for flexible qualifications. Discussions will continue.

BREAK: The meeting recessed from 11:54 am until 1:02 pm.

COLORADO RIVER WATER CONSERVATION DISTRICT REPORT: CRWCD Representative Bill Trampe was present for discussion.

CRWCD Representative Trampe informed the Board that the annual budget workshop was scheduled for 9/18/09 in Montrose to be immediately followed by a joint meeting between the Colorado River Water Conservation District Board of Directors and the Southwestern Water Conservation District Board of Directors. This joint meeting will be held to discuss west slope issues and compact protection.

CRWCD Representative Trampe also informed the Board that the IBCC met during the previous week and was not able to determine a vision statement. He stated that he was not confident in the proposed statement and that he worries about the future of agriculture if land and water continue to be removed from the industry. He also expressed concern that the population in the State of Colorado is anticipated to grow without sufficient hydrology available.

CODE ENFORCEMENT; JAMES DUNHAM FOLLOW-UP; REMOVAL OF BUILDING: County Building Inspector Rich Wojdakowski and County Attorney Baumgarten were present for discussion.

County Building Inspector Wojdakowski presented photos taken 8/29/08 of the building in question indicating only partial compliance by Mr. Dunham. Since Mr. Dunham did not meet the previously established deadline for compliance, County Attorney Baumgarten requested permission from the Board to draft suitable correspondence to Mr. Dunham. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to authorize appropriate staff to initiate a legal proceeding against the Dunhams for violation of the various building codes that are in place and have the staff send a letter to him in the meantime. Motion carried unanimously.

BREAK: The meeting recessed from 1:42 until 1:46 pm.

DUE DILIGENCE APPLICATION, WATER RIGHTS OF MT. EMMONS MINING COMPANY; POSSIBLE EXECUTIVE SESSION: Lucky Jack Director of Community Relations Perry Anderson and County Attorney Baumgarten were present for discussion.

County Attorney Baumgarten explained that a Due Diligence Application was filed in water court by the company that owns the water rights associated with Lucky Jack and that the deadline for comment is at the end of September 2008. He requested an executive session to discuss the legalities of this application. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to go into executive session with County Attorney Baumgarten, the Board and County Manager Birnie to discuss legal issues associated with the Due Diligence Application. Motion carried unanimously.

The board went into executive session at 1:48 pm. *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).*

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 2:08 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.

Commissioner Starr stated that since the application encompasses 30 c.f.s. out of the Slate River, with no reservoir indicated, he assumes that this would mean 30 c.f.s. would come out of the Slate River year round, which causes him concern for the negative affect that would have on the Slate River drainage and operations downstream. He supported the Board entering comments on the application.

Chairperson Channell felt that the Board had taken a distant point of view on the Lucky Jack Project, as citizens press elected officials for an opinion, since the Board could be asked to serve in a quasi-judicial capacity during the permitting process. Because of this, he felt that the County should provide no comment and show no bias. He acknowledged that the Board joined the issue of the discharge permit for the existing water treatment plant only because the situation involved the health, safety and welfare of the public.

Commissioner Swenson agreed with Chairperson Channell because she felt that the Board must remain objective on any project that may be presented to the Board during a permitting process. She felt that involvement at this time could taint the Board's objectivity if the project were presented to the current Board, or any future Board.

Commissioner Starr stated that, while he respected the other Board members' opinions, he felt that allowing 30 c.f.s. could affect the health of citizens. County Attorney Baumgarten confirmed that no action was needed.

LOT 22 DEVELOPMENT; POSSIBLE EXECUTIVE SESSION: County Attorney Baumgarten was present for discussion.

County Manager Birnie requested an executive session in order to discuss specific contract negotiations before opening the discussion to the public and the Housing Authority Advisory Board members that were present. County Attorney Baumgarten clarified that the executive session would be held to instruct negotiators and to protect attorney-client privileged information. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to go into executive session on the grounds outlined by the County Attorney with the Board, County Manager Birnie and County Attorney Baumgarten. Motion carried unanimously.

The board went into executive session at 2:19 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 2:36 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.

County Manager Birnie recommended, pursuant to his previous meeting with the Housing Authority Advisory Board and receipt of correspondence, that the County pursue infrastructure completion this Fall, but suspend building until later due to a restrictive timeline. He felt that completion of roads and the utilities to the curb boxes would be appropriate progress for now and that the manufactured units can be installed next Spring. He also confirmed that the builder has agreed with the suspension.

Commissioner Starr stated his impression that the Public-Private Partnership is critical to the County.

Housing Authority Advisory Board member David Owen requested a price range for the finished product and County Manager Birnie agreed to furnish the current information by the end of the week, though he felt that the pricing schedule would need updated next Spring. County Manager Birnie reported that the banking institution had expressed concern about the marketability of the current proposal. Commissioner Starr felt that reworking governance issues will enable other entities to help make critical decision.

DESIGNATION OF CRESTED BUTTE SOUTH SPECIAL AREA AND RELATED REGULATIONS: CONSIDERATION BY THE BOARD OF MAP, STAFF REPORT, PROPOSED REGULATIONS, AND PLANNING COMMISSION RECOMMENDATION; AND POSSIBLE ADOPTION OF THE DESIGNATED CRESTED BUTTE SOUTH SPECIAL AREA AND PROPOSED RELATED REGULATIONS: County Attorney Baumgarten, CB South Manager Chris Behan, CB South POA Board President Al Smith, and Julie Ann Woods were present for discussion.

County Attorney Baumgarten presented proposed regulations for adoption and stated that all parties had worked diligently to produce the final product. Ministerial changes to the proposed resolution were discussed and agreed upon. The appeals process was discussed because the Board felt that only citizens within a three-mile radius of the boundary would be afforded the right to appeal; the resolution was modified accordingly. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to adopt Resolution #2008-38, a Resolution Designating Crested Butte South as a Special Area. Motion carried unanimously.

CB South Manager Behan agreed to deliver the appropriate documentation to County Manager Birnie after the regulations have been approved by his Board.

UNSCHEDULED CITIZENS:

1. Perry Anderson. Mr. Anderson suggested to the Board that the North Bridge be improved to clean the area and create a more scenic environment. He also recommended installation of a large sign illustrating a map of the river. Mr. Anderson proposed that the improvements be funded by tourism dollars and some in-kind contributions. County Manager Birnie asked Mr. Anderson to speak with Assistant County Manager Crosby about the pending construction planned for that area. The Board felt that Mr. Anderson's suggestion warranted follow-up.

COMMISSIONERS MEETING REPORTS:

Chairperson Channell:

1. None.

Commissioner Starr:

1. Planning Processes. Commissioner Starr felt that the Planning Commission should be consulted to help determine which planning processes should begin with staff reviews to determine the legitimacy of the requests prior to being scheduled for Planning Commission involvement.
2. Housing Authority Advisory Board Meeting. Commissioner Starr reported that he and County Manager Birnie attended this recent meeting and that the Advisory Board was appreciative of their involvement and information since some of the members felt that they were being kept out of the loop. County Manager Birnie also expressed that he had been kept out of the loop with regard to Advisory Board meetings. Commissioner Starr felt that dedicated and knowledgeable Advisory Board members should be included in the reorganization.
3. Personnel Issue. Commissioner Starr reported that he had received correspondence from a former staff member. He stated that he would give the correspondence to County Manager Birnie and then wait for his advice on how the County should proceed.

Commissioner Swenson:

1. Western Slope Small Business Development Center (SBDC). Commissioner Swenson stated that WSC President Jay Helman has begun the search for a new SBDC director and that entity involvement in the program will be made simpler in the future.
2. Wildwood Mobile Home Park. Commissioner Swenson informed the Board that she had been approached by residents of the park who explained that the homeowners' association is interested in purchasing the 23-acre parcel of land that the park is located on. She stated that sale of the property, offered at \$2.2M, to another entity could displace 40 families from their affordable housing. She indicated that the homeowners' association has been in discussions with the Housing Authority, the County Attorney's Office, and the City of Gunnison City Manager Ken Coleman and that, following those discussions, this issue was suggested for Board-level

involvement. County Manager Birnie explained that this scenario will present challenges since the residents have understood the ownership arrangement of the park. County Manager Birnie will gather information about this situation and report back to the Board at a future meeting.

3. Club 20. Commissioner Swenson stated that she would be attending the business portion of a Club 20 meeting on 9/5/08. The Board expressed concerns about voting procedures within Club 20, specifically whether or not governmental agencies should be involved with the organization, because individuals should not have the ability to represent a governmental agency via vote. Chairperson Channell will draft a position statement for the Board to review.
4. Gunnison Valley Aviation Brochure. Commissioner Swenson stated that Airport Manager John DeVore drafted this brochure and that she was pleased with the appearance. Editing comments were due to Airport Manager DeVore no later than 9/5/08.

ADJOURN: **Moved** by Commissioner Swenson, seconded by Commissioner Starr to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 4:18 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 THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO: 2008-37**

**A RESOLUTION OF SUPPORT FOR THE CONSTRUCTION OF A COMMUNITY CORRECTIONS
AND TREATMENT FACILITY IN MONTROSE COUNTY, COLORADO**

WHEREAS, the Board of County Commissioners of the County of Gunnison, Colorado (herein the "Board") is aware that in the judicial system there are individuals who are convicted of less severe offenses and need an alternative to incarceration in prison and there are individuals who are diverted from prison and are in transition between prison and parole; and

WHEREAS, the Board recognizes that one of the goals of community corrections is to reintegrate offenders back into the community and a mechanism for this integration is a community corrections and treatment facility; and

WHEREAS, currently the closest community corrections and treatment facility that is available to Gunnison County citizens is located in Grand Junction which is approximately 130 miles from Gunnison County, Colorado; and

WHEREAS, it has come to the Board's attention that currently there is a proposal to construct a community corrections and treatment facility on the western slope and in the Seventh Judicial District, specifically at a facility in Montrose County in the Justice Center complex at 1200 N. Grand Avenue in Montrose, Colorado; and

WHEREAS, it would be in the best interest and welfare of the citizens of Gunnison County that a community corrections and treatment facility be constructed in Montrose County in order to provide such reintegration services to individuals necessitating such services; and

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Gunnison, Colorado that support shall be and hereby is given for a Community Corrections and Treatment Facility to be constructed in Montrose County, Colorado at the Justice Center complex.

INTRODUCED by Commissioner Swenson, seconded by Commissioner Starr, and adopted this 2nd day of September, 2008.

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY
OF GUNNISON, COLORADO

Channell – yes; Swenson – yes; Starr – yes

**BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO: 2008-38**

A RESOLUTION DESIGNATING CRESTED BUTTE SOUTH AS A SPECIAL AREA

WHEREAS, pursuant to Section 1-110: Process For Designating Special Areas of the Gunnison County Land Use Resolution, as amended, the Board of County Commissioners of the County of Gunnison, Colorado (herein the "Board") has the authority to designate special areas within Gunnison County, Colorado; and

WHEREAS, the purposes of designating the Crested Butte South Special Area are:

- A. SIMPLIFY LUR REVIEW AND APPROVAL. To simplify the Gunnison County Land Use Resolution review and approval process for the real property wholly contained in the Crested Butte South Special Area;
- B. PROMOTE COMPACT COMMERCIAL AND BUSINESS DEVELOPMENT PATTERN. To promote a compact commercial and business development pattern wholly contained in the Crested Butte South Special Area;
- C. PROTECT ENVIRONMENT, PUBLIC HEALTH, SAFETY AND WELFARE. To protect the environment, public health, safety and welfare in the Crested Butte South Special Area;
- D. PROVIDE OPPORTUNITY FOR NEW AND EXISTING BUSINESSES. To provide opportunity for new and existing businesses in the Crested Butte South Special Area;
- E. ENCOURAGE ECONOMIC DIVERSITY. To encourage economic diversity in the Crested Butte South Special Area;
- F. ACKNOWLEDGE, ENCOURAGE AND EMPOWER CRESTED BUTTE SOUTH BOARD OF DIRECTORS. To acknowledge, encourage and empower the Crested Butte South Board of Directors (the "BOD") as an effective governance body elected by and responsive to the citizens in the Crested Butte South Special Area.

WHEREAS, the Crested Butte South Special Area Regulations are identified in the "Exhibit A" attached hereto and incorporated herein; and

WHEREAS, all necessary procedural steps, recommendations, meetings as identified in Section 1-110 of the Gunnison County Land Use Resolution have occurred.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Gunnison, Colorado that Crested Butte South in its entirety shall be and hereby is designated as the "Crested Butte South Special Area." The Crested Butte South Special Area is, in its entirety, that real property contained in:

- A. Crested Butte South, First Filing, more fully described in Reception #280978, in the records of the Clerk and Recorder of Gunnison County, Colorado; and
- B. Crested Butte South, Second Filing, more fully described in Reception #281588, in the records of the Clerk and Recorder of Gunnison County, Colorado; and
- C. Crested Butte South, Second Filing, Replat of Lots 1 through 3 inclusive, and lots 10 through 15 inclusive, all in Block 9, more fully described in Reception #458318, in the records of the Clerk and Recorder of Gunnison County, Colorado; and
- D. Crested Butte South, Second Filing, Corrected Plat, Lot 15, Block 11, more fully described in Reception #521255, in the records of the Clerk and Recorder of Gunnison County, Colorado; and
- E. Crested Butte South, Third Filing, more fully described in Reception #282791, in the records of the Clerk and Recorder of Gunnison County, Colorado; and
- F. Crested Butte South, Fourth Filing, more fully described in Reception #291415, in the records of the Clerk and Recorder of Gunnison County, Colorado; and
- G. Crested Butte South, Fourth Filing, Replat of Lots 4 through 6, Block 26, more fully described in the records of the Clerk and Recorder of Gunnison County, Colorado; in Reception # 553180, all inclusive.

FURTHERMORE, BE IT RESOLVED that each land use change decision made pursuant to these Crested Butte Special Area Regulations shall be classified as Administrative Review Projects That Require No Land Use Change Permits pursuant to LUR Section 4-102: Administrative Review Projects That Require No Land Use Change Permits. The Planning Department staff is hereby directed to initiate any applicable related amendment to the LUR.

FURTHERMORE, this Resolution shall be in effect for each Land Use Change Permit application, including those that are Building Permits, currently pending, or filed with Gunnison County, after the effective date of this Resolution.

FURTHERMORE, BE IT RESOLVED that the Board of County Commissioners of the County of Gunnison, Colorado shall and hereby does adopt the regulations identified in "Exhibit A" herein as the "Crested Butte South Special Area Regulations," to be placed and known as "Appendix Special Area

Regulations 1: CRESTED BUTTE SOUTH SPECIAL AREA Regulations," attached to and incorporated in the Gunnison County Land Use Resolution, as amended.

INTRODUCED, by Commissioner Swenson, seconded by Commissioner Starr, and passed and effective this 2nd day of September, 2008.

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY
OF GUNNISON, COLORADO

Channell – yes; Swenson – yes; Starr – yes