

**GUNNISON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
September 16, 2008**

The September 16, 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.

CONSENT AGENDA: **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the Consent Agenda, excluding Items #3, #7, #8, #9, #10, #11, #16, and #19. Motion carried unanimously.

1. Acknowledgment of County Manager Signature; Funding Request Form; Metropolitan Recreation District; Redistribution of Conservation Trust Funds to Gunnison County
2. Acknowledgment of County Manager Signature; Public Officials Liability for Special Service Districts Confirmation of Material Information Form for Renewal Policies Only; Gunnison County Housing Authority; United States Liability Insurance Group; Effective 9/8/08
3. Acknowledgment of County Manager Signature; Colorado Discretionary Aviation Grant Application; Colorado Department of Transportation, Division of Aeronautics; Electronic Fingerprint Machine, Automated Gate and Blower Head for the 1998 H Truck; \$132,000
4. Acknowledgment of County Manager Signature; Limited Amendment for Task Orders #1; Colorado Department of Public Health and Environment PSD-HCP; Routing Number 09-00602
5. Acknowledgment of County Manager Signature; Grant Application; 2009 VAWA Funding for the Victim's Assistance Office; \$17,875
6. Certification of Non-Acceptance of Tobacco Industry Funds and Resources; Department of Health and Human Services Grant Funding Requirement
7. Petition for Abatement or Refund of Taxes; CB Condos, LLC; 1.767A NE4NE4 SEC 26 13S86W #570152; Tax Year 2007
8. Petition for Abatement or Refund of Taxes; Bryce Miller, etal; Lot 35 Summit Residential Filing 3 #519217 #577642; Tax Years 2006 and 2007
9. Petition for Abatement or Refund of Taxes; High Cimmaron, LLC; 212.42 AC TR Sec 31 47N6W #559914, Tax Year 2007
10. Petition for Abatement or Refund of Taxes; Horse Meadows, LLC; Lots 1-10 Horse Meadows Subdivision Plat #571788; Tax Year 2007
11. Petition for Abatement or Refund of Taxes; Charles B. Lutz, etal; Lot C-2 Prospect at Mt. Crested Butte Phase 1; Tax Year 2007
12. Approval of the Third Amendment to Declaration of Protective Covenants of Three Rivers Resort Subdivision
13. Acceptance of Deed of Dedication for a right-of-way located in the LaVeta Addition to the Town of Pitkin conveyed by the McGovneys
14. Intergovernmental Agreement; Between the Town of Mt. Crested Butte, the Gunnison County Clerk and Recorder, and the Board of County Commissioners of Gunnison County; Administration of the November 4, 2008 General Election
15. Intergovernmental Agreement; Between the Gunnison Watershed School District RE1J, the Gunnison County Clerk and Recorder, and the Board of County Commissioners of Gunnison County; Administration of the November 4, 2008 General Election
16. Intergovernmental Agreement; Between the Gunnison Valley Rural Transportation Authority, the Gunnison County Clerk and Recorder, and the Board of County Commissioners of Gunnison County; Administration of the November 4, 2008 General Election
17. Intergovernmental Agreement; Between the Delta Joint School District 50, the Gunnison County Clerk and Recorder, and the Board of County Commissioners of Gunnison County; Administration of the November 4, 2008 General Election
18. Approved Task Order Contract - Waiver #154; Department of Public Health and Environment, Routing No. 09 FLA 00666; Family Planning Funds for Tubal Ligations and Vasectomies; \$20,608
19. Agreement for Professional Services; Justice Benefits, Inc.; Illegal Alien Inmate Cost Data, Documentation, and Alien Assistance Claims
20. Agreement; Between A&D Communications and Gunnison County; Telecom Audit of Local, Long Distance, Wireless and Data Services

CONSENT AGENDA ITEM #3: Commissioner Starr requested clarification related to whether the party named on the contract should be the Gunnison-Crested Butte Regional Airport or the County. After brief discussion, the contract was agreed to be acceptable. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to approve Consent Agenda Item #3. Motion carried unanimously.

CONSENT AGENDA ITEMS #7, #8, #9, #10, and #11: The Board requested additional discussion and explanation regarding the dollar amounts on these petitions, as recommended for approval by County Assessor Kristy McFarland. A representative from the Assessor's Office was asked to report later in the meeting.

CONSENT AGENDA ITEM #16: Commissioner Starr recused himself from voting on this item as his position on the RTA Board and corresponding signature on the agreement presented a conflict of interest. **Moved** by Commissioner Swenson, seconded by Chairperson Channell to approve Consent Agenda Item #16, the Intergovernmental Agreement between the RTA, the Clerk and the Board of County Commissioners. Motion carried.

CONSENT AGENDA ITEM #19: Commissioner Starr expressed concern related to the fee structure outlined in this contract. County Manager Birnie explained that this contract would apply to individual inmates. After discussion, Commissioner Starr felt comfortable with the contract. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to approve Consent Agenda Item #19. Motion carried unanimously.

SCHEDULING: The Upcoming Meetings Schedule was discussed and updated.

1. State of Colorado, Department of Natural Resources Request for Negotiations. Commissioner Starr reported receipt of correspondence from Assistant Director for Water Alex Davis requesting contract negotiations relevant to 200,000 acre feet of water from the Aspinall Unit of Blue Mesa Reservoir. Negotiations will begin in Denver on October 1, 2008 and Commissioner Starr agreed to attend those negotiations in the absence of County Attorney Baumgarten.
2. Set Public Hearing Date for Proposed Amendment to Gunnison County Land Use Resolution, Setting Limit on Extended Time for Information Submittal for Land Use Change Permits. This Public Hearing was scheduled to begin at 8:50 am on October 21, 2008.

CONSENT AGENDA ITEMS #7, #8, #9, #10, and #11: Senior Appraiser/Analyst George Lickiss was present for discussion and supplied additional information relevant to these items, which supported the requested adjustments. He explained that the parcel identified in Consent Agenda Item #7 is not a buildable lot; this was an error that has been permanently fixed. He also explained that the topography for the parcel identified in Consent Agenda Item #8 was not appropriate for building. The owner of the parcel identified in Consent Agenda Item #9 was able to provide a copy of the lease for this property indicating agricultural use of the property. Receipts and a physical inspection of the parcels identified in Consent Agenda Item #10 indicate that the land is being hayed. Lastly, he explained that the parcel identified in Consent Agenda Item #11 was erroneously classified as a ski-in lot and has been reclassified. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve Consent Agenda Items #7, #8, #9, #10, and #11. Motion carried unanimously.

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

1. Correspondence; Charles Pusey. County Manager Birnie informed the Board that Mr. Pusey had sent correspondence to him, but that the correspondence did not request any actions. A draft response, with modifications suggested by Assistant County Manager Crosby, was discussed and agreed upon. Chairperson Channell noted that he had previously acknowledged receipt of Mr. Pusey's correspondence and that he has informed Mr. Pusey that a response would be drafted. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to approve the letter and authorize signatures on it. Motion carried unanimously.
2. Housing Authority Director Selection Process. County Manager Birnie informed the Board that background checks had been completed for the two candidates selected as finalists by the screening committee after telephone interviews. County Manager Birnie noted that no other applications warranting interviews had arrived. A second interview session will be scheduled for 10/6/08, followed by an opportunity for the candidates to meet with staff, Housing Authority Advisory Board members, Commissioner Starr, and Commissioner Swenson so that input from all parties can be considered prior to a decision.
3. Strategic Planning. County Manager Birnie informed the Board that Assistant County Manager Crosby will be working with Marv Weidner to complete a strategic business plan for the Public Works Department toward the end of 2008. He also indicated a desire to perform a status update on all outlined strategies and tasks during a November work session.

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

1. Facilities Maintenance Building. Assistant County Manager Crosby informed the Board the local contractor chosen to construct this building would be signing the appropriate contract before the end of the day. Use of the building is anticipated for the coming winter. She informed the Board that the cost was low enough to allow for the automatic garage door, lighting, and insulation. She also reported that the roof will be a different style than what was bid, which will allow for easier snow removal.
2. Gold Basin Industrial Park Update. Assistant County Manager Crosby informed the Board that a limited bid for power installation was completed and that she hoped to enter into a contract by

the following week. Per the bid requirements, this work is to be completed no later than 10/15/08. Two conduits, located in the same trench, will be available for City of Gunnison power and for Qwest high-speed internet access. Sewer and water lines have been completed.

3. Right-of-Way Acquisition Discussions with Taylor River Ranch. Assistant County Manager Crosby informed the Board that this ranch is in the process of dividing into approximately 20 lots, each 35-acre lot to touch Taylor River Road after the division. The County will relocate Jack's Cabin Road and the Federal Highway Administration (FHA) will use the existing road to store excess fill that will be used for contour on that road. The County will be responsible for the construction of the new road, which crosses two lots in the ranch. The current ditch will require a 60-foot right-of-way and Assistant County Manager Crosby stated her hope that the FHA will pay for the cost of piping. The ranch intends to chip seal the main road through the property once the heavy construction traffic has ceased. Assistant County Manager Crosby indicated that County Attorney Baumgarten was in agreement with this request and asked the Board for permission to proceed with the acquisition as she felt that it would be less costly to negotiate through a cooperative effort with one property owner than with multiple owners after the division of lots has occurred. The Board agreed with this assessment and asked her to proceed.
4. Crested Butte Temporary Animal Shelter Facility. Commissioner Starr informed the Board that the facility will not be able to share the GCEA trench due to associated costs. He noted that the task force was considering a proposal to create a diagonal path underneath the highway toward the school, which may be less expensive and will avoid crossing private property.

RESOLUTION; APPROVING THE PRELIMINARY PLAN FOR WHETSTONE PARK, WHETSTONE BUSINESS PARK, LLC: Assistant Planning Director Neal Starkebaum, attorney David Leinsdorf, and Whetstone Business Park, LLC member Mike Potoker were present for discussion.

Attorney Leinsdorf informed the Board that the proposed resolution reflected all discussions and understandings between Planning Director Joanne Williams, the Board, and his client. **Moved** by Commissioner Swenson, seconded by Chairperson Channell, to adopt Resolution #2008-39, a Resolution Approving the Preliminary Plan for Whetstone Park, Whetstone Business Park, LLC and authorize signatures. Motion carried. (Commissioner Starr recused himself from the vote due to a potential conflict of interest.)

LOT CLUSTER AGREEMENT AND DECLARATION; LOTS 34-49, BLOCK 19, LAVETA PLACER, #567992 AND #573380; MICHAEL L. BENNETT: Planning Department Administrative Services Manager Beth Baker was present for discussion.

Planning Department Administrative Services Manager Baker explained to the Board that this lot cluster, if approved, would result in a 1.4 acre parcel. The parcel includes a pre-existing cabin and the owners are pursuing installation of a septic system. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the Lot Cluster Agreement for Lots 34-49, Block 19, LaVeta Placer, Michael L. Bennett and authorize signature. Motion carried unanimously.

TOWNHOME APPLICATION; ROSE TOWNHOMES; LOT RNT-4, SKYLAND RIVER NEIGHBORHOOD; TODD WALKER: County Planner Cathie Pagano was present for discussion. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to approve the map of the Rose Townhomes within Lot RNT-4, Skyland River Neighborhood, Gunnison County, and authorize signatures. Motion carried unanimously.

CORRESPONDENCE:

1. Letter of Support; Oxbow Mining, LLC Lease-By-Application; Elk Creek East Tract, COC-70615. A draft of this correspondence was discussed and modifications were agreed upon. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to approve the letter and authorize the changes suggested. Motion carried unanimously.
2. Letter of Support; Irwin Backcountry Guides' Lake Irwin Snowcat/Skiing Application. Irwin Backcountry Guides representatives Missy Ox and Alan Bernholtz were present for discussion and requested support for their Forest Service application to run a snowcat skiing operation in the Lake Irwin area. Mr. Bernholtz stated that this daytime operation would be low-impact with only one Snowcat in use. He confirmed that there would be no overnight lodging and that the Irwin Lodge would be closed. The current movie cabin is intended for remodel into a warming house and all food will be catered. Avalanche control would be performed between 6:00 am and 9:00 am. A maximum of 10 skiers will be transported daily to the trailhead via shuttle and to the warming house via Snowcat or comparable vehicle; all skiers will be returned to the trailhead no later than 4:00 pm. This service, costing \$350/day for tourists and \$200/day for locals, will include food, transportation and skiing. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to approve writing a letter of support for the discussed activity to Jim Dawson of the Forest Service, sending it out as soon as reasonably possible, and signatures on the letter. Motion carried unanimously.

FUNDING REQUEST; BAXTER GULCH TRAIL; LOCATION, DESIGN AND COST ESTIMATE WORK: Trails Commission (TC) member Joellen Fonken, Assistant County Manager Crosby, and Town of Crested Butte Planner John Hess were present for discussion.

CB Planner Hess presented a map, draft trail design, and cost estimates for the Baxter Gulch Trail. He explained that the trail is proposed to be approximately 3.5 miles in length and would cost approximately \$5,000 for design and preliminary work. He acknowledged that the necessary easements were not complete, and that completion of those easements would be the first step in the process; Commissioner Starr noted that the current proposal was the most costly option and that the costs would decrease if a pending easement negotiation is finalized. Lastly, CB Planner Hess asked whether or not the County would like to participate with the Town to decide on the trail's location.

TC member Fonken provided a copy of the TC's Master Plan and explained that the TC opposed this trail since it would not benefit mountain bikers and be difficult to maintain. She confirmed that the Crested Butte Mountain Bike Association had also expressed concern. However, she did acknowledge that the trail would greatly benefit horseback riders.

Assistant County Manager Crosby informed the Board that the United States Forest Service (USFS) had expressed opposition and dismay relevant to the lack of inclusion in this proposal as many variables exist that could prove this project to be unfeasible. Chairperson Channell agreed that the County would need input from the USFS prior to making a final decision.

TC member Fonken expressed the TC's position that this low-priority trail did not justify the expenditure of \$2,500, as requested by the Town; County Manager Birnie felt that the TC's position should assist the Board with deciding whether or not to allocate funding for the project.

Commissioner Starr opined that, while it is unfortunate that the mountain biking community would not benefit from the trail, the trail should be considered a top priority since it would be the only access to the Ohio Creek. Chairperson Channell agreed that every possible group not being able to use the trail should not be a predominant factor. The Board also expressed concern that this funding request was made prior to the feasibility of the trail being completely explored.

CB Planner Hess relayed that the CB Town Council decided to pursue this project at this time, even though the USFS had not yet publicized their plans for the area. Chairperson Channell questioned whether or not USFS efforts should dictate pursuit of this proposal, simply due to the exclusion of the mountain biking community, and stated his general support of the project. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to authorize \$2,500 out of the Economic Development Budget to go towards the planning layout of the potential trail up Baxter Gulch and to participate with the Town of Crested Butte. Motion carried unanimously. CB Planner Hess agreed to immediately contact USFS representatives Jim Dawson and Greg Austin for further discussion and involvement by the USFS.

HISTORICAL PRESERVATION COMMISSION (HPC); VACANCY DISCUSSION: Administrative Assistant III Ruth Dukeman was present for discussion.

Administrative Assistant III Dukeman explained that, per Board resolution, the HPC must be comprised of seven members for quorum purposes, and that the membership had recently dropped to six. Further, County Manager Birnie explained that the County may appoint a member outside of the normal process.

Chairperson Channell stated that filling board vacancies is generally suspended until the regular cycle, unless quorum difficulties present themselves. Commissioner Starr noted that the HPC bylaws indicate that a quorum will ignore vacancies. The Board agreed to suspend advertising the vacancy since the next advertising period was near, unless the HPC indicates that the vacancy has caused quorum issues.

BREAK: The meeting recessed from 10:27 until 10:32 am.

BUCKHORN RANCH FILING 2B; NOTICE OF DEFAULT OF DEVELOPMENT IMPROVEMENTS; POSSIBLE ACTION; STALLION PARK PROJECT UPDATE; POSSIBLE EXECUTIVE SESSION: Deputy County Attorney Tom Dill, County Paralegal Rachel Magruder, developer Dr. Richard Landy, and attorney Mike Dawson were present for discussion.

County Paralegal Magruder informed the Board that Bank of the West accepted, via email, the extension of the letters of credit. She suggested that the Board set September 26, 2008 as a deadline for receipt of the official documents from Bank of the West. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to authorize staff to issue a Letter of Default with the understanding that, if the appropriate financial security documents are received by the County no later than the end of business on September 26, 2008, the notice will not issue. Motion carried unanimously.

Property owner Fran Guy expressed concern related to the establishment of the Stallion Park HOA, dues structure, and monitoring of the HOA. He also questioned the disposition of funds collected from property owners for dues and maintenance. County Paralegal Magruder suggested that the use of collected funds should remain a private matter for the HOA, and that the Board should not have involvement in those types of discussions. Attorney Dawson refused to comment due to pending litigation, and he suggested that the property owners retain legal counsel.

Property owner Guy expressed his opinion that the County had allowed Dr. Landy to suspend completion of the final two buildings, which violated the Settlement Agreement. However, County Paralegal Magruder stated that the County was not a party to the Settlement Agreement and, therefore, is not privy to the details of that agreement. Commissioner Starr questioned whether or not the County would be in violation of a Court order; however, County Paralegal Magruder explained that the County was not liable for the settlement agreement since it had no participation in the agreement.

Property owner Sam Walsh presented photographs taken of the construction site to illustrate potentially unsafe conditions due to exposed metal, building debris, trailers, equipment, and unfinished landscaping. As president of the Design Review Board, he felt that these conditions should be managed immediately, as outlined in the Development Improvements Agreement (DIA). County Paralegal Magruder stated that an addendum to the DIA might need to be drafted once the extended security has been obtained.

Commissioner Starr requested that staff provide a recommendation, and County Manager Birnie indicated that it was appropriate for County involvement since the conditions were unsafe and unsightly. Attorney Dawson stated that he could not argue the issue without first being afforded sufficient time to review the DIA and the security requirements. Dr. Landy stated that work was being done on the landscaping, but he did not provide a timeline for completion.

Property owner Nancy Olsen requested that the County perform a review of the insurance, due to safety hazards, while the issues are being argued.

Property owner Guy requested that the foundation be backfilled until Dr. Landy is prepared to resume work on the buildings.

HB 1177 ROUNDTABLE UPDATE: Dennis Steckel called after the meeting started to cancel this discussion due to a scheduling conflict.

BREAK: The meeting recessed from 10:55 until 11:30 am.

COMMISSIONERS MEETING REPORTS:

Commissioner Starr:

1. Crested Butte Temporary Animal Shelter. Commissioner Starr stated that the task force is evaluating whether or not to pursue the option of placing the water line underneath the highway, at the County's expense with partial assistance from the Town of Crested Butte.

Commissioner Swenson:

1. Club 20. Commissioner Swenson reported that Club 20 Executive Committee member Wayne Jefferies visited with her to discuss Club 20's sense of balance, and that he was receptive to her thoughts. She indicated that the general tone and balance of Club 20 appears to be stabilizing, and she recommended that the County continue involvement with Club 20.
2. Small Business Development Committee (SBDC). Commissioner Swenson informed the Board that she had been appointed to serve on a committee tasked with finding a new director. Chairperson Channell stated his hope that the new director will reside in the Gunnison area to be close to the SBDC office.
3. Gunnison Sage-grouse Strategic Committee. Commissioner Swenson informed the Board that the committee was close to finalizing a strategic plan, and making a recommendation to the Board. She indicated that antler shed issues were discussed during September's meeting and that the committee agreed that a cooperative effort would be most effective.

Chairperson Channell:

1. Wildwood HOA Meeting. Chairperson Channell reported that he attended this meeting on the previous evening, along with over half of Wildwood's residents. During the meeting, attorney Luke Danielson briefed the residents on creation of the HOA bylaws. Chairperson Channell expressed to the residents that the County may be willing to provide financial assistance toward establishment of the HOA, but he made no specific commitment.
2. Energy Summit. Chairperson Channell reported that he attended the recent Energy Summit. He also indicated that it was well-attended, informative, and attracted a good cross-section of community members. A representative from the Office for Resource Efficiency will be providing a compilation of expressed ideas to Chairperson Channell at a later date. Approximately 15 people volunteered to be part of the County's action team. County Manager Birnie relayed that several County staff members were impressed by the summit.

BREAK: The meeting recessed from 11:58 am until 1:12 pm in order to call to order as the Gunnison/Hinsdale Board of Human Services (see separate minutes) and for a lunch break.

UNSCHEDULED CITIZENS:

1. Wendy McDermott, High Country Citizens' Alliance. Ms. McDermott invited the Board and County staff members to a Sustainable Communities Symposium on September 25-26, 2008. The Board thanked Ms. McDermott for the invitation; however, both Commissioner Swenson and Chairperson Channell declined as they would not be able to attend due to a scheduled debate forum and a Chamber of Commerce banquet.
2. Phil Klingsmith. Mr. Klingsmith asked the Board to reiterate a prior decision. Deputy County Attorney Dill was present for discussion. Mr. Klingsmith explained that he had obtained a one-year commercial loan and that he was going through the application process for a long-term loan through Gunnison Savings & Loan. However, GS&L would require further confirmation that the parcel had been subdivided. County Manager Birnie stated that he had reviewed previous minutes, along with the appropriate resolution, to confirm that the parcel in question was not included in the exemption granted via resolution, which should be sufficient proof for GS&L. If needed, Deputy County Attorney Dill will draft a letter to GS&L to clarify and interpret Resolution #2008-18.

GUNNISON PRAIRIE DOG: Deputy County Attorney Dill was present for discussion to provide a quick update on this issue. He reported that DNA testing had been completed to assist with identification of the species, but that those results may or may not dictate listing the species as an endangered species. He also reported that Gunnison Sage-grouse Conservation Coordinator Jim Cochran received for review a drafted management plan from the Division of Wildlife (DOW). The management plan is available to the public.

ADJOURN: **Moved** by Commissioner Swenson, seconded by Commissioner Starr to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 1:02 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. 39 SERIES 2008

A RESOLUTION APPROVING THE PRELIMINARY PLAN FOR WHETSTONE PARK,
WHETSTONE BUSINESS PARK, LLC

WHEREAS, Applicant Whetstone Business Park, LLC (members Mike Potoker, John Nichols, and John Councilman, represented by attorney David Leinsdorf) submitted the Whetstone Park Preliminary Plan December 8, 2006 ; and

WHEREAS, the Gunnison County Planning Commission and Board of County Commissioners, pursuant to the public hearing requirements of the *Gunnison County Land Use Resolution* conducted a public hearing May 4, 2007; June 1, 2007; July 6, 2007; August 3, 2007; September 7, 2007 and October 5, 2007; and

WHEREAS, the Gunnison County Planning Commission on May 2, 2008 unanimously recommended approval of said Preliminary Plan to the Board of County Commissioners and the Board formally received said Recommendation September 2, 2008; and

WHEREAS, the Board, based upon all evidence of the record for this application, including the Planning Commission recommendation, adopts all Findings and the Recommendation of the Planning Commission as presented in the May 2, 2008 Recommendation except that Findings No. 6 and 36 and Recommendation condition No. 28 are replaced as follows:

Finding No. 6 shall read: The proposed project is not located adjacent to a municipality; it *is* located within the Three Mile Plan area of the Town of Crested Butte. The cumulative impacts of the proposed development and existing development will result in no significant net adverse impact to adjacent lands or land uses, wildlife, visual quality, air or water quality, including impacts caused by a proliferation of individual sewage disposal systems and/or individual water wells. The proposal complies with Section 10-102: *Locational Standards for Residential Development*.

Finding No. 36 shall read: There is a concern regarding pedestrian safety for persons in this area who may need to cross Colorado Highway 135 from this development and other developments in the area on this the same side of the highway; it is in the best interest of public health, safety and welfare, that when the Colorado Department of Transportation determines that related pedestrian facilities are required, Whetstone Park shall contribute its prorata share of funding to such project.

Condition No. 28 shall read: When the Colorado Department of Transportation determines that related pedestrian facilities are required, Whetstone Park shall contribute its prorata share of funding to such project.

FURTHER, the Board finds the following:

- A. The design for Whetstone Park has incorporated elements that provide a mitigating buffer between the existing uses in Riverland Industrial Park and nearby agricultural and residential uses; design features and protective covenants are included in this plan such that the development will be constructed and maintained in a manner that will not adversely affect the character and tranquility of nearby residential or public use areas. Further, those design elements and protective covenants will:
 - 1. Help to protect other land uses from undue noise, dust, fumes, odor, explosion, aircraft flight patterns, or other hazards or nuisances, and
 - 2. Eliminate or minimize or mitigate conflicts between adjoining land uses and to the maximum extent feasible, avoid changes that will result in significant net adverse impact to adjoining land.
- B. The applicant has demonstrated through competent evidence that the proposed land use change complies with all applicable requirements of the *Gunnison County Land Use Resolution*.
- C. The proposed land use change is compatible with the character of existing land uses in the development area, and will not adversely impact the future development of the development area.
- D. No phases are proposed for the development.
- E. All uses for all lots in the subdivision have been identified.

FURTHER, the Board finds the following:

- A. There been substantial public interest in the proposal, which has been acknowledged within six sessions of a public hearing conducted jointly by the Planning Commission and Board, and continued over a period of six months.
- B. It is not reasonably probable that new issues related to the Preliminary Plan application of the proposed land use change will be identified.
- C. It is not reasonably probable that new information related to the Preliminary Plan of the proposed land use change will be provided.

NOW, THEREFORE, pursuant to *Gunnison County Land Use Resolution* Section 7-302. K., the Board determines that it shall not conduct another public hearing on the Preliminary Plan of Whetstone Park; and

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that the Preliminary Plan for Whetstone Park, Whetstone Business Park LLC is hereby approved.

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

INTRODUCED by Commissioner Paula Swenson, seconded by Commissioner Hap Channell, and passed on this 16th day of September, 2008. Commissioner Jim Starr recused himself from voting.

BOARD OF COUNTY COMMISSIONERS
GUNNISON COUNTY, COLORADO

Channell – yes; Swenson – yes; Starr – recused.