

**GUNNISON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
January 6, 2009**

The January 6, 2009 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 1:00 pm.

AGENDA REVIEW: There were no changes to the agenda.

CONSENT AGENDA: Chairperson Channell asked to pull Items #4, #6, #11, and #13 for discussion. Commissioner Starr asked to pull Item #5 for discussion. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve the Consent Agenda, excluding Items #4, #5, #6, #11, and #13. Motion carried unanimously.

1. Acknowledgment of County Manager Signature; Interpreter at Gunnison County, Independent Contractor Agreement; Elisa Celestino; 1/1/08 thru 12/31/09
2. Acknowledgment of County Manager Signature; Colorado Department of Public Health and Environment, Immunization Program; General Immunization Core Services Contract Statement of Work; 1/1/09 thru 12/31/09
3. Acknowledgment of County Manager Signature; Memorandum of Understanding; Baby & Me Program; Tobacco Free Facilitator Training
4. Ratification of Assistant County Manager Signature; Modification No. 1 to Owl Creek-Cimarron Road Improvement Project Agreement; Between USDA Forest Service, Grand Mesa, Uncompahgre, and Gunnison Forests, Ouray District and Gunnison County; Extend Expiration Date to 12/31/2009
5. Gunnison County DOT Policy; PROCOM Professional Compliance & Testing, LLC; Drug Testing
6. Child Support Enforcement Purchase of Legal Services Agreement; Between the Board of County Commissioners of the County of Gunnison, Colorado and the Gunnison and Hinsdale County Board of Human Services; 1/1/09 thru 12/31/09
7. Colorado Department of Public Health and Environment, Colorado Family Planning Initiative; Contract #09 FLA 00856; Contract Amendment #1; \$27,267
8. Memorandum of Agreement; Between Gunnison County Public Health and Board of Governors of the Colorado State University System, Acting By and Through Colorado State University (CSU), for the Benefit of the CSU Cooperative Extension Tri River Area; Food Safety Classes; 10/1/07 thru 12/31/09; \$11,407
9. 2009 Memorandum of Agreement; High Country Citizens' Alliance; Community-Based Organization Funding; \$1,000
10. 2009 Memorandum of Agreement; Gunnison River Festival; Community-Based Organization Funding; \$2,000
11. Release of Landscaping Improvements Agreement; Riverland Industrial Park, Lot 27; Phillip Coombs
12. Airline Operating Agreement and Lease of Airport Facilities; Gunnison-Crested Butte Regional Airport; Delta Airlines, Inc.
13. Intergovernmental Agreement; Between Gunnison and Montrose Counties; Plowing on the Big Cimarron

CONSENT AGENDA ITEMS #4 AND #13: Chairperson Channell asked that these items be pulled from the Consent Agenda for discussion because neither of them included an agenda submittal form. County Manager Birnie explained that these contracts had already been executed, which negated the need for legal or financial review prior to signature. County Manager Birnie explained that some types of documents had historically been signed by County staff members instead of by the Board, and he asked for the Board to consider formalizing a process. Chairperson Channell noted that he has greatly appreciated the new agenda forms.

CONSENT AGENDA ITEM #5: Commissioner Starr asked that this item be pulled from the Consent Agenda because he felt that the procedures outlined in the document were dehumanizing and perhaps not appropriate. County Manager Birnie stated that the outlined practices were likely required by the State, but felt that Assistant County Manager Crosby should be consulted to confirm his belief. Commissioner Starr also questioned why the urine specimens would need to be retested for validity as he felt this would be redundant. County Attorney Baumgarten stated that all practices are set to comply with Federal requirements. This issue was suspended until later in the meeting, at which time Assistant County Manager Crosby would be able to confirm the requirements.

CONSENT AGENDA ITEM #6: Chairperson Channell asked that this item be pulled from the Consent Agenda in order to discuss the expenses outlined as he felt that the funding would run out prematurely. County Manager Birnie explained that the State usually backfills over-expenditures for child welfare and support enforcement issues. If the State did not backfill the overages, County Manager Birnie stated that these expenses would be paid out of the County's General Fund.

CONSENT AGENDA ITEM #11: Chairperson Channell asked that this item be pulled from the Consent Agenda in order to discuss maintenance and covenant enforcement responsibilities. County Attorney Baumgarten confirmed that, once released, maintenance responsibilities will become Riverland's responsibility. He also confirmed that the County maintains the ability to enforce issues. **Moved** by Commissioner Swenson, seconded by Commissioner Starr to approve Consent Agenda Items #4, #6, #11, and #13. Motion carried unanimously.

SCHEDULING: The Upcoming Meetings Schedule was discussed and updated.

1. Designation of 2009 Meeting Dates. The Board agreed with the drafted schedule; however, in future years it was agreed that the first meeting of the year would be scheduled for the second Tuesday of January. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to adopt the regular meeting and work session calendar for the remainder of the year. Motion carried unanimously.
2. Designation of 2009 Agenda Posting Locations. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to designate the same locations as we had last year for the official agenda posting locations for 2009. Motion carried unanimously.

COUNTY MANAGER'S REPORT AND CORRESPONDENCE: County Manager Birnie was present for discussion; however, he did not have any reports to provide.

CONSENT AGENDA ITEM #5: County Attorney Baumgarten explained that all issues raised by the Board had become part of the Federal regulations, effective 11/1/2008. Moved by Commissioner Starr, seconded by Commissioner Swenson to approve Consent Agenda Item #5 and authorize signatures on the document. Motion carried unanimously.

APPEAL OF PLANNING COMMISSION MINOR IMPACT DECISION; HARD ROCK PAVING AND REDI-MIX, INC.: Assistant Planning Director Neal Starkebaum, County Attorney Baumgarten, and appellant Paul Banks were present for discussion.

County Attorney Baumgarten suggested entering into an executive session if any of the Board members had questions or comments appropriate for an executive session. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to go into executive session with the Board, County Attorney Baumgarten, County Manager Birnie, and Assistant Planning Director Starkebaum for the reason of receiving legal counsel from our attorney on the issue at hand. Motion carried unanimously.

The board went into executive session at 1:34 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 1:45 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.

Chairperson Channell noted that the County has limited decision making information in this matter, and that the Board could either go on record with the information available, or set a Public Hearing prior to a decision.

Commissioner Starr felt, since the Planning Commission's deliberations transcript would not be completed until the end of the month and that since many people had expressed interested in this matter, that he would prefer to hold a Public Hearing in order to gather more information prior to making a decision.

Commissioner Swenson agreed that a Public Hearing was warranted since the Board did not have transcripts, staff recommendations and any other related correspondence available. She also stated that the applicant's letter had raised concerns that she had not had the opportunity to research answers to. She felt that an all-day Public Hearing would be necessary in order to hear all testimony.

Chairperson Channell stated that the application and issue were multi-faceted with an extensive body of compiled information that the Board had not yet been privy to. He felt that he did not have a grasp of the issues in the amount of detail that he would need, so he supported the scheduling of a Public Hearing.

Assistant Planning Director Neal Starkebaum and County Attorney Baumgarten felt that holding the Public Hearing at the end of February would allow enough time for staff to complete all necessary information. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to set a Public Hearing to hear additional evidence on this appear for February 25, 2008 starting at 8:00 am, and we have reserved all day until 5:00 pm, excluding an hour and a half for lunch beginning at 12:00 pm.

Attorney Luke Danielson, representing Scott Gates, asked if new evidence would be allowed and County Attorney Baumgarten confirmed that it would. Attorney Danielson requested a deadline for the submission of evidence; however, County Attorney Baumgarten informed him that the County could not set a deadline. Chairperson Channell requested that all audience members submit information at the earliest possible date so that the Board would have sufficient time to review the information prior to the Public Hearing.

Appellant Banks felt that the Board's evidence should be limited to what was included within the Planning Commission's record on the case; however, County Attorney Baumgarten explained that the Board had the ability to either request additional information via a Public Hearing or immediately base a decision on the record to date.

Motion carried unanimously.

BREAK: The meeting recessed from 2:03 until 2:30 pm.

APPOINTMENT OF GUNNISON COUNTY DIRECTOR TO THE COLORADO RIVER WATER CONSERVATION DISTRICT; OATH OF OFFICE: CRWCD Representative Bill Trampe was not available for this discussion due to a scheduling conflict. County Attorney Baumgarten was present for discussion and confirmed that the Oath could occur at a future date.

Commissioner Starr felt that the County could reappoint CRWCD Representative Trampe, but that the County should convey the requirement to appoint on 1/6/09 to anyone that may be interested in turning in a letter of interest by the 1/15/09 deadline. County Attorney Baumgarten noted that this appointment is mandated by State statutes to occur during the first meeting in January.

Chairperson Channell suggested that this appointment should be advertised separately in the future with a separate deadline to manage the gap between statutory dates and the County's deadlines. He also explained that he would either support the sole candidate or abstain from the vote because of the deadline issues. He noted that he had previously spoken with CRWCD Representative Trampe about this issue and that no concerns had been raised.

County Attorney Baumgarten maintained that the statute should be adhered to, and that the advertising schedule could be altered in the future. He felt that suspension of the appointment could negatively affect the CRWCD's structure.

Commissioner Swenson felt that negative effects, be they real or perceived, resulting from a suspension of the appointment could imply that the Board was considering not appointing CRWCD Representative Trampe. As well, it could project a message that the County is not concerned with abiding by State statutes.

Moved by Commissioner Starr, seconded by Commissioner Swenson to reappoint Bill Trampe to the Colorado River Water Conservation District for the next three-year term. Chairperson Channell abstained from the vote, not to disrespect Bill Trampe, but to honor the process that the Board had established while acknowledging that the process conflicts with statutory requirements. Motion carried. Commissioner Swenson and Commissioner Starr voted in favor. Chairperson Channell abstained from the vote.

UNSCHEDULED CITIZENS: There were no Unscheduled Citizens present for discussion.

COMMISSIONERS MEETING REPORTS:

Commissioner Starr:

1. Office for Resource Efficiency Grant Packet. Commissioner Starr requested clarification from the Board about the correspondence from ORE, dated December 23, 2008. Commissioner Swenson explained that ORE submitted a grant packet without a letter of support from the Board, although the Board had prepared a letter for signature. The Board expressed frustration that the ORE request for support was received without sufficient time for the Board to fully review the request.
2. Science, Technology, Engineering and Math (STEM) Program. Commissioner Starr informed the Board that he would be attending the next meeting on January 23, 2009, beginning at 8:00 am at the Aspinall-Wilson Center. Chairperson Channell expressed frustration about how a previous meeting was handled by STEM. Commissioner Swenson will also attend.
3. Habitat for Humanity & Gunnison Food Pantry Funding Requests. Commissioner Starr asked for an update on funding requests received by these two organizations. Commissioner Swenson explained that the food pantry only had enough funding to pay rent through to the end of the month, and that the City of Gunnison has discussed an additional contribution of up to \$3,000. She also stated that the City of Gunnison declined to waive the tap fees requested by Habitat for Humanity, but that there may be the possibility of the County and the City of Gunnison each paying half of the food bank's \$9,000 rental fees.
4. Rural Transportation Authority. Commissioner Starr informed the Board that the RTA was beginning to consider options outside of the warranty for the busses as three of the four busses were inoperable during the holidays. The manufacturer's representative is scheduled to attend the next RTA meeting on 1/9/2009. Commissioner Starr informed the Board that the RTA is considering purchases of used busses, at less than \$15,000 per bus, to utilize as a backup. Those busses are located in California, so the RTA may elect to send an Alpine mechanic to perform pre-purchase inspections. The 1/9/2009 meeting will include a report on cancelled flights.

Chairperson Channell:

1. Gunnison County Substance Abuse Prevention Program Coordinator Jere Thomas. Chairperson Channell informed the Board that Ms. Thomas had resigned her position with the GCSAPP because she had received other offers and had tired of the commute from Salida to Gunnison.
2. Correspondence; Brad Haugh. Draft correspondence, previously reviewed and modified by the Board, was received from Assistant County Manager Crosby. The Board signed the letter.
3. Correspondence; Club 20. The Board decided not to meet with Mr. Reeves Brown to discuss his correspondence.
4. Boards and Commissions Interviews. Chairperson Channell confirmed with the other commissioners that each had been generating interest within the community for membership application to the various Boards and Commissions with posted vacancies.

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS BOARD REORGANIZATION APPOINTMENTS:

1. BOCC Chairperson. **Moved** by Chairperson Channell, seconded by Commissioner Starr to appoint Commissioner Swenson as Chairperson and Commissioner Starr as Vice-Chairperson for the 2009 calendar year. Motion carried unanimously.
2. BOCC Vice-Chairperson. (See above motion.)
3. Personnel Board. **Moved** by Chairperson Swenson, seconded by Commissioner Channell to appoint Commissioner Starr as the Board representative to the Personnel Board. Motion carried unanimously.
4. Community Foundation of the Gunnison Valley. **Moved** by Commissioner Starr, seconded by Chairperson Swenson to reappoint Commissioner Channell to the Community Foundation of the Gunnison Valley. Motion carried unanimously.
5. Office for Resource Efficiency. **Moved** by Chairperson Swenson, seconded by Commissioner Starr to reappoint Commissioner Channell as the Board's position on the Board of the Office for Resource Efficiency. Motion carried unanimously.
6. Rural Transportation Authority. **Moved** by Commissioner Starr, seconded by Chairperson Swenson to reappoint Commissioner Channell and Commissioner Starr to the Rural Transportation Authority Board. Motion carried unanimously.
7. Region 10. **Moved** by Commissioner Channell, seconded by Commissioner Starr to reappoint Chairperson Swenson to the Region 10 Board and the Gunnison Basin Sage-grouse Strategic Committee. Motion carried unanimously.

8. Gunnison Basin Sage-grouse Strategic Committee. **Moved** by Chairperson Swenson, seconded by Commissioner Channell to appoint Commissioner Starr as the alternate on the Gunnison Basin Sage-grouse Strategic Committee. Motion carried unanimously. (See above for other appointment to this committee.)

PRIVATE PLOW REQUEST; TIM SCHAAF; FOR A PORTION OF KEBLER PASS: County Manager Birnie stated that the recommendation received from the Public Works Department and the Attorney's Office was to deny the request. **Moved** by Commissioner Starr, seconded by Commissioner Swenson, based on staff recommendations, to deny the requested access. Motion carried unanimously.

BREAK: The meeting recessed from 3:24 until 3:43 pm.

CRESTED BUTTE MOUNTAIN RESORT (CBMR) REQUEST FOR SPECIAL GEOGRAPHIC AREA (SGA) DESIGNATION: County Attorney Baumgarten, Assistant Planning Director Starkebaum, attorney Mike Dawson, CBMR Planning Director John Sale, CBMR Chief Operating Officer Ken Stone, and CBMR Vice-President of Resort Planning and Permitting Michael Kraatz were present for discussion.

County Attorney Baumgarten explained that the process for evaluating this type of request was outlined in a section of the Gunnison County Land Use Resolution (LUR). He further explained that the Board would need to decide whether or not to direct Planning Director Joanne Williams to pursue this request, via motion from the Board, and to provide additional information.

Mr. Kraatz reminded the Board that he had submitted written correspondence on October 2, 2008 to the County that outlined CBMR's concerns with the 1041 Special Area Regulations, specifically the County's ability to govern events that may occur on Forest Service (FS) land with regard to recreational development. He also stated his opinion that creation of an SGA in this matter would eliminate duplication of effort when pursuing the EIS process, as mandated by the FS, for either the main mountain or Snodgrass.

Attorney Dawson described the land in question as a unique area of the County in that it falls under the FS plan. He also felt that the SGA process, when compared to the 1041 process, would serve as a better foundation to review the recreational area. He requested that the County collaborate with CBMR to draft regulations in order to determine viability.

Chairperson Swenson expressed concern that CBMR had only proposed the SGA process, but had not provided any proposed regulation information. Mr. Kraatz stated his opinion that proposing draft regulation language at this time would have been premature; however, he confirmed that CBMR was prepared to offer many details.

Commissioner Starr requested information about the process for developing these types of regulations and County Attorney Baumgarten explained that, if the Board agreed to proceed with this request, a motion outlining the boundaries of the land in question would need to be made during a Regular Meeting. Assistant Planning Director Starkebaum stated that applicants had historically drafted these types of regulations.

Commissioner Channell stated that he was not opposed to investigating the viability of this request as long as it would be beneficial to the citizens of Gunnison County. However, he did request that additional details be provided prior to directing County staff members to design draft regulations. Attorney Dawson confirmed that CBMR was in the process of drafting regulations. Mr. Kraatz felt that CBMR could present a final draft of the regulations in the near future.

Commissioner Starr expressed concerns that accepting the draft regulations for review could present the assumption that the Board agrees to the draft regulations prior to allowing for public input. He also felt that the SGA application had many external impacts and that the County should avoid creation of a process while working through the process. Further, he expressed concern that the 1041's were being challenged prior to finalization. He felt that the 1041's should be adopted, including an outline for the SGA process, prior to the County accepting a site-specific application. Commissioner Channell agreed that the SGA process currently outlined in the LUR had not been optimal. Commissioner Channell and Chairperson Swenson felt that the County could review the draft regulations without the implication of prejudice.

Commissioner Channell was not concerned with the off-site impacts since any concerns would be addressed during the process. County Manager Birnie confirmed that, even with the SGA designation, the County would retain authority under the 1041 Special Area Regulations. Mr. Kraatz felt that CBMR could provide a rationale for pursuing an SGA before the County made a decision on whether or not to pursue it. Commissioner Channell felt that the Board could review the draft regulations without committing staff hours or implying acceptance. Commissioner Swenson agreed and noted that the draft regulations would need reviewed before any other step.

Town of Crested Butte Town Planner John Hess requested information related to the legal interest in the FS property, and attorney Dawson explained that CBMR would be owner, operator and lessee. County Attorney Baumgarten felt that this would be sufficient.

Citizen Michelle Simpson requested information about when the draft 1041's would be made available to the public and County Attorney Baumgarten informed her that the draft would be available that week. He also requested that County staff cease referring to the Special Development Project Resolution (SDPR) as the 1041's due to the fact that the SDPR has several statutory foundations of authority, not just 1041's.

Citizen Maureen Hall expressed concern that John Norton once emphatically stated that CBMR would adhere to the SDPR process, then known as the 1041 process. Mr. Kraatz confirmed that Mr. Norton had previously agreed to follow the process, but that the change in regulations had caused a change in CBMR's position.

Citizen Jim Sharp felt that CBMR could submit draft regulations, without a requirement for action, which would allow suspension of action until the completion of the SDPR. He also felt that this would allow sufficient time for the public to digest the information.

Citizen Erika Vohman agreed that the SDPR should be finished before asking County staff to work on this SGA request.

Citizen Glo Cunningham expressed her opinion that the SDPR should be completed before moving forward with this request. She also felt that CBMR should not be placed on another Board agenda to discuss the request until after the SDPR was complete.

Citizen Chuck Shaw requested that ample public notice be given when future meetings are scheduled. He stated that he felt protected by the SDPR process and that he was concerned about evaluation of a project outside of that process prior to the completion of the SDPR.

Citizen Sue Navy stated that CBMR had agreed to the 13 points presented by the Economic Focus Group of the corridor comprehensive plan. She also noted that the recommendation from the Economic Focus Group was passed by the Planning Commission.

Citizen Vicky Shaw requested information related to the timing of an application to expand on Snodgrass, but Mr. Kraatz noted that a projected application timeframe was unknown.

ADJOURN: **Moved** by Commissioner Starr, seconded by Commissioner Swenson to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 4:43 pm.

Hap Channell, Chairperson

Paula Swenson, Vice-Chairperson

Jim Starr, Commissioner

Minutes Prepared By:

Katherine Haase, Deputy County Clerk

Attest:

Stella Dominguez, County Clerk