

**GUNNISON COUNTY BOARD OF COMMISSIONERS  
REGULAR MEETING MINUTES  
May 19, 2009**

The May 19, 2009 Board of Commissioners meeting was held in the Commissioner's Meeting Room at the Courthouse. Present were:

Paula Swenson, Chairperson  
Jim Starr, Vice-Chairperson  
Hap Channell, Commissioner

Matthew Birnie, County Manager  
Katherine Haase, Clerk to the Board  
Others Present as Listed in Text

**CALL TO ORDER:** Chairperson Swenson called the meeting to order at 8:07 am.

**AGENDA REVIEW:** There were no changes to the agenda.

**MINUTES APPROVAL:** **Moved** by Commissioner Starr, seconded by Commissioner Channell to approve the Special Meeting minutes of April 14, 2009 as submitted. Motion carried unanimously.

**CONSENT AGENDA:** Commissioner Channell requested that Items #12 and #17 be pulled from the Consent Agenda for discussion. **Moved** by Commissioner Channell, seconded by Commissioner Starr to approve the Consent Agenda, minus Items #12 and #17, and authorize signatures. Motion carried unanimously.

1. Acknowledgment of County Manager Signature; Provider Agreement; Susan Russell; Assessment, Service Planning and Clinical Services; 4/27/09 - 6/30/10
2. Acknowledgment of County Manager Signature; Provider Agreement; Midwestern Mental Health Center; Assessment, Service Planning and Clinical Services; 4/27/09 - 6/30/10
3. Acknowledgment of County Manager Signature; Provider Agreement; Gunnison Area Restorative Practices; Assessment, Service Planning and Clinical Services; 4/27/09 - 6/30/10
4. Acknowledgment of County Manager Signature; Provider Agreement; Monica Bilow; Assessment, Service Planning and Clinical Services; 4/27/09 - 6/30/10
5. Acknowledgment of County Manager Signature; Provider Agreement; Allison Schultheis; Assessment, Service Planning and Clinical Services; 4/27/09 - 6/30/10
6. Acknowledgment of County Manager Signature; Grant Application; Community Foundation of the Gunnison Valley; Light Program Reimbursements to Primary Care Providers and Expansion of the Voucher Program to Include Oral and Behavioral Health; \$6,000
7. Acknowledgment of County Manager Signature; Grant Application; Community Foundation of the Gunnison Valley; Temporary Aid to Needy Families (TANF); \$8,300
8. Acknowledgment of County Manager Signature; Purchase of Sale Agreement for Real Property; Timothy E. Kahn and Joanne K. Kahn; Expansion of Right-of-Way at the Ohio Creek and State Highway 135 Intersection; \$31,498
9. Agreement; Jviation, Inc. and the Board of County Commissioners of Gunnison County on Behalf of the Gunnison Crested Butte Regional Airport
10. NGS America Amendment to Service Agreement
11. Provider Agreement; Gunnison/Hinsdale Youth Services, Inc.; Mentoring to Individuals and Families Referred from Gunnison County Department of Health and Human Services; 6/1/09 - 5/31/10
12. Agreement; Gunnison Valley Landscape; Landscaping at the Gold Basin Industrial Park; 4/27/09 - 7/1/09
13. Contract Amendment #2; Colorado Department of Public Health and Environment Colorado Family Planning Initiative; Contract Routing Number 10-00230; 7/1/09 thru 6/30/10; \$65,129
14. Contract Amendment #2; Colorado Department of Public Health and Environment PSD-FPP; Contract Routing Number 10-00026; Family Planning Program; \$87,691
15. Approved Task Order Contract - Waiver #154; Department of Public Health and Environment; Routing No. 10 FAA 00034; Health Disparities Grant Program
16. Out-of-State Travel Request; Housing Authority Director KT Gazunis; Salt Lake City, Utah; 5/28/09 thru 5/30/09; \$500
17. Contract Amendment #1; Colorado Department of Public Health and Environment PSD-CCPD; Contract Routing Number 10-0062;
18. Limited Amendment for Task Orders #3; Colorado Department of Public Health and Environment PSD WIC; Contract Routing Number 09-00977; Women and Infant Children Program Funding; \$12,895 by 9/30/09
19. Resolution; Granting an Exemption for a Division of Land from the Definition of the Terms "Subdivision" and "Subdivided Land"; for the Kahns, Lot 26, North Elk Meadows, Filing II
20. 2009 Homeland Security Grant Application; Governor's Office of Homeland Security; \$578,690
21. Lease Agreement; Gunnison Valley Observatory; 2804 CR 38, Gunnison, CO 81230; \$10.00 Annually for Twenty (20) Years
22. Resolution; Authorizing the Acquisition of Real Property from the Kahns
23. Bid Award; Hertz Corporation; Gunnison-Crested Butte Regional Airport Rental Car Concessions

24. Bid Award; Avis Rent-A-Car System; Gunnison-Crested Butte Regional Rental Car Concessions
25. Bid Award; MICAR, Inc., County Attorney Baumgarten Budget Rent-A-Car; Gunnison-Crested Butte Regional Airport Rental Car Concessions
26. Bid Award; AEX, Inc., County Attorney Baumgarten Alpine Express; Gunnison-Crested Butte Regional Airport PUC Passenger Carrier Concessions

**CONSENT AGENDA ITEM #12:** Commissioner Channell questioned the financial notes related to landscaping on this item and Assistant County Manager Crosby explained that she had submitted the DOLA grant amendment request and that all funding was attainable. **Moved** by Commissioner Starr, seconded by Commissioner Channell to approve Consent Agenda Item #12 and authorize signatures. Motion carried unanimously.

**CONSENT AGENDA ITEM #17:** Commissioner Channell requested that this be pulled for discussion because he wanted to ensure that this had been budgeted for. County Manager Birnie explained that this grant would allow for inclusion of some of the County's indirect costs, which would be beneficial to the County. **Moved** by Commissioner Channell, seconded by Commissioner Starr to approve Item #17 on the Consent Agenda and authorize signatures. Motion carried unanimously.

**SCHEDULING:** The Upcoming Meetings Schedule was discussed and updated.

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

1. Van Tuyl Settlement; Division of Wildlife. County Manager Birnie explained that this discussion was not added to the agenda because settlement negotiations were ongoing.
2. Citizen Survey. County Manager Birnie informed the Board that the questions for the survey were being finalized.
3. Jail/Detention Facility Site Selection. County Manager Birnie informed the Board that a work session had been scheduled to occur in July in order to discuss possible jail locations. County Manager Birnie confirmed that he had met with the presiding judge, the Sheriff, and the City Manager to gather perspectives prior to scheduling the work session.
4. County Strategic Plan; ISDS Goals. County Manager Birnie informed the Board that he had requested that the Planning Commission schedule a discussion relative to ISDS issues so that the Planning Commission may provide a recommendation to the Board. The Planning Commission suggested that this discussion be held during the next joint meeting with the Board, so County Manager Birnie requested that this issue be pulled from the County Strategic Plan until the appropriate language had been agreed upon. The Board agreed with the request so long as a placeholder was kept for it to be included at a later date.
5. Planning Commission. County Manager Birnie informed the Board that he had received correspondence from the Planning Commission relative to inclusionary housing. A discussion will be necessary so that the Board can formulate a response. The Board agreed that this discussion could be added to the joint meeting agenda for 6/19/09. Correspondence will be sent to the Planning Commission to confirm receipt of the correspondence and the discussion scheduled for 6/19/09.
6. Jail/Detention Facility. Commissioner Channell felt that the County should move ahead purposefully since the citizens had failed this issue in two elections. He felt that the formation of a citizens' committee may assist with forward progress. County Manager Birnie stated his intention to meet with major stakeholders, including all those that sat on the previous committee. County Manager Birnie also expressed concern over Judge Patrick's opinion that new court facilities may not be necessary while, at the same time, Judge Patrick was supportive of technological advances and the addition of another courtroom in the future. County Manager Birnie felt that the upcoming work session would yield information and opinions that the Board could use to determine what the next steps should be.

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

1. Public Works Annual Safety Banquet. Assistant County Manager Crosby thanked the Board for attending the recent banquet. She also noted that today was John Morrell's last day of employment with the County.
2. Colorado Department of Transportation (CDOT) Meeting. Assistant County Manager Crosby informed the Board that she recently attended a meeting with CDOT to discuss the pedestrian bridge project. She will schedule the contract and trail license for approval on the Board's 5/26/09 agenda.
3. Kebler & Cottonwood Passes. Assistant County Manager Crosby informed the Board that both passes were open and that magnesium chloride applications would begin during the next week. She stated her intention to apply magnesium chloride to Kebler Pass later in the season since it worked well during the previous year.
4. Landfill Rates. Assistant County Manager Crosby informed the Board that she would soon be requesting a fee increase for tires.

5. Riverland Update. Assistant County Manager Crosby attended a meeting on 5/18/09 with members of CDOT and Riverland board members to discuss alternatives for the Riverland south entrance. All persons were interested in moving forward to choose an option and the Riverland board requested that the Board of County Commissioners submit a letter of support to CDOT. Assistant County Manager Crosby requested that the Board suspend drafting the correspondence until after an option had been decided upon. An option and a schedule for implementation will be agreed upon by the Riverland board by the end of July.
6. Hwy 135 Speed Limit Signage Change. Commissioner Starr felt that the Board should send a thank you letter to CDOT for the recent signage changes. Commissioner Channell felt that mention should be made of the 45 M.P.H speed limit on portions of Hwy 50. The Board agreed that these issues should be addressed in two separate pieces of correspondence.
7. Funding Request; Friends of Somerset. Assistant County Manager Crosby informed the Board that the Friends had recently requested \$6,452 to cover miscellaneous expenses related to the park. She reminded the Board that the County built the park with \$57,000 of DOLA funding and what was supposed to be \$10,000 of in-kind work provided by the County. However, she noted that the County put approximately \$30,000 of in-kind work into the project before it had been completed. She felt that the funding requested for fence repairs, linseed oil, and blower rent was legitimate since the park is owned by the County. The total cost to the County would be approximately \$700 and would be paid from the Board's discretionary budget.

**BID AWARD; COUNTY ROAD 730 INTERSECTION PROJECT:** Assistant County Manager Crosby and Project Manager Jim Kint were present.

Assistant County Manager Crosby explained that the County was ready to proceed with this staged project. A total of five bids were received, which she felt were competitive. There was a difference of \$30,000 between the highest and lowest bids, while two bids were eliminated because they were incomplete. Based on a review of the bids, she recommended that the Board award the bid of \$333,587.10 to Pavement Maintenance Services, Inc. from Salida.

Commissioner Starr wondered if there was any way to give preference to local vendors. County Manager Birnie informed the Board that he was working with Finance Director Linda Nienhueser to evaluate this possibility. **Moved** by Commissioner Starr, seconded by Commissioner Channell to accept the bid from Pavement Maintenance Services, Inc. for \$333,587.10 for the Highway 135 widening project at the Ohio Creek Intersection. Motion carried unanimously.

**RECLAMATION PERMITTING PROCESS; DISCUSSION AND POSSIBLE ACTION:** Assistant County Manager Crosby and Natural Resources Conservation Service (NRCS) representatives Liz With and Maeve Nevins were present for discussion.

Assistant County Manager Crosby explained to the Board that the Weed Commission is becoming more active than it had been in the past as it attempts to tackle the backlog of over 700 open reclamation permits. She stated that getting rid of the backlog was one of her goals for 2009.

Assistant County Manager Crosby explained that she would prefer that the County allow two years for revegetation, which should be sufficient as long as the project is not signed off on prior to providing proof of seeding. She indicated that she had spent \$4,000 of the Weed Commission's budget for a match with NRCS to provide a temporary employee to handle the backlog; Ms. Nevins was selected for the position. Assistant County Manager Crosby stated her desire to empower Ms. Nevins to perform the site visits with the property owners and, if they had regraded or revegetated, that the permit be signed off on. This would be a change from having to witness actual grass growing to only providing proof of seeding via seed labels.

Ms. Nevins stated that she had completed a sample site visit on 5/18/09 to identify the completed grading and plant species that had been seeded and growing. She provided photos to illustrate to the Board which types of properties she would fail and which she would pass, based on the types of vegetation growing.

Commissioner Starr indicated that the proposed regulation calls for between six and eight inches of topsoil; however, Ms. With explained that topsoil would not be required and that the only requirements would be for good soil and seed base.

Assistant County Manager Crosby felt that, in the future, the County could mandate digital pictures of properties upon application for a permit. This could make follow-up easier since digital pictures could be provided without having to do an in depth site visit to close a permit.

Commissioner Channell questioned how NRCS was involved in the process if the County was the entity providing the reclamation permit. Assistant County Manager Crosby explained that the County uses NRCS as an expert resource that can provide suggestions.

Commissioner Starr expressed concern related to signing off on permits if regrowth was not evident. Ms. With explained that property owners come to NRCS to obtain seeding mixes, so she could guarantee that the proper amounts and types of seeds were ordered. She also explained that Mother Nature controls these situations and that it could take more than two years for regrowth to occur. Chairperson Swenson felt that some seeds could take up to three years to take root. Commissioner Channell agreed that balance with practicality was important as there was over 10 years of outstanding permits needing resolution.

Ms. Nevins explained that she had first begun working with the oldest permits; however, she had changed to a geographical approach to save time and travel.

Assistant County Manager Crosby requested permission to move forward with Ms. Nevins working through the permits to evaluate them for compliance as having over 700 open permits damages the County's credibility. The Board agreed on the discussed approach and Commissioner Channell felt that the oldest permits should be evaluated first, while also following geographical practicality. Assistant County Manager Crosby and Assistant Public Works Director Allen Moores will also work to evaluate open permits when in the vicinity for other reasons.

**TOMICHI CREEK PROPERTY ACQUISITION THROUGH HABITAT PROTECTION PROGRAM:** County Attorney Baumgarten, Gunnison County Wildlife Conservation Coordinator Jim Cochran, and Airport Administrative Director Kathie Lucas were present for discussion.

County Manager Birnie provided correspondence from the Division of Wildlife that requested the Board's concurrence. Gunnison County Wildlife Conservation Coordinator Cochran explained that a management plan will be important because of the sage-grouse populations. Rather than signature on the provided correspondence, Commissioner Channell felt that the County should draft a letter of support that would outline airport and wildlife habitat concerns, and the need for a wildlife management plan. **Moved** by Commissioner Channell, seconded by Commissioner Starr to craft a letter of support outlining concerns to have a wildlife management plan included in this property to address both sage-grouse habitat and to include practices that will limit the potential problems to aircraft. Motion carried unanimously. The Board agreed that this correspondence will take the place of the form provided by the DOW, unless both are needed.

**RESOLUTION AND REQUEST FOR SUPPORT; THOMPSON DIVIDE COALITION:** The Board chose to suspend evaluating this issue for support until those counties with a more major impact, such as Garfield, Pitkin, and Eagle, have had an opportunity to evaluate it. This was rescheduled for the 6/2/09 meeting agenda. In the meantime, correspondence will be sent to the Coalition to state the Board's desire to support this request, but not over other governmental entities.

**U.S. FOREST SERVICE AND BUREAU OF LAND MANAGEMENT (BLM) TRAVEL MANAGEMENT DRAFT ENVIRONMENTAL IMPACT STATEMENT (EIS); STAFF DIRECTION:**

County Manager Birnie informed the Board that another work session had been scheduled for the following week to provide direction to staff. Commissioner Channell felt that we can rely on the Trails Commission to provide the necessary input.

The Board felt that the following guiding principles would be useful in the direction to staff:

1. This would be multi-faceted because of the desire to protect wildlife and ranching, while also managing resources.
2. Limitations may be addressed for canine companions in order to protect wildlife.
3. There is a need to support urban access to the trails, while also enforcing closed trails.
4. Decreased or denied motorized access for certain areas may be addressed since many citizens have expressed concern related to overuse and misuse of motorized vehicles.
5. There should be sensitivity to the impact of some of the proposals on hunting via motorized use, because the motors drive elk into areas that are difficult to hunt in.
6. There is a need to recognize seasonal closures.

The Board felt that it may be helpful to receive comments related to which trails were thought to be important as opposed to which alternatives are preferable.

Trails Commission member Joellen Fonken provided an updated stance from the Trails Commission, as was based on their current mission statement, and informed the Board that the Trails Commission preferred alternative #4. She noted that the Trails Commission performed an exercise within the Trails Commission about individual trails and their importance, but that the results showed an obvious split between the north and south ends of the County.

Elk Mountain Hikers Club representative Maureen Hall stated that the Forest Service requested information relative to alternative preference and that information relative to each individual trail was not necessary.

High Country Citizens' Alliance (HCCA) representative Lawton Grinter informed the Board that HCCA preferred alternative #3 because it offered the best protection for sage grouse. If listed, HCCA felt that alternative #3 would remove the species from the endangered list faster than the other alternatives.

Gunnison Trails representative Dave Weins reminded all persons that the trails outlined in the plan are only potential trails and that each one would still have to be evaluated based on its own merit.

Chairperson Swenson requested that all comments be turned into the Board within one week.

Ms. Fonken confirmed that the Trails Commission had taken input from the motorized community, but not from the Elk Mountain Hikers Club, when evaluating each trail.

**BREAK:** The meeting recessed from 10:10 until 10:15 am.

**REQUEST FOR LETTER OF SUPPORT; OIL SHALE; CONSERVATION LEADERS NETWORK:** A draft letter of support was discussed and modified. **Moved** by Commissioner Starr, seconded by Commissioner Channell to authorize sending the letter, as amended, and authorize signatures from the Board; this is the letter to Nick Douglas of the Bureau of Land Management concerning oil shale. Motion carried unanimously.

**COLORADO OIL AND GAS ASSOCIATION V. COLORADO OIL AND GAS CONSERVATION COMMISSION; POTENTIAL INTERVENTION BY GUNNISON COUNTY; POSSIBLE EXECUTIVE SESSION:** County Attorney Baumgarten was present for discussion and the Board agreed to let him proceed with this intervention.

**COUNTY ATTORNEY EMPLOYMENT CONTRACTS; POSSIBLE EXECUTIVE SESSION:** County Attorney Baumgarten was present for discussion.

County Attorney Baumgarten reminded the Board that he and Deputy County Attorney Tom Dill have tri-annual review clauses in their at-will employment contracts. The Board agreed that a review of County Attorney Baumgarten was appropriate prior to contract negotiation.

County Manager Birnie felt that June of any year was not an appropriate time for contracts to end and to negotiate financial terms since those resources would not have been budgeted for. He suggested that the effective date become January 1<sup>st</sup> of each year from this point forward.

The Board requested that County Attorney Baumgarten perform Deputy County Attorney Dill's review prior to the Board's review of County Attorney Baumgarten. Financial terms would be negotiated no later than 6/1/09.

Commissioner Channell felt that each commissioner should complete an evaluation and then meet with County Attorney Baumgarten. Commissioner Starr felt that the Board should be provided with a few questions specific to an evaluation of an attorney's office. County Attorney Baumgarten felt that the goals outlined within his department's Strategic Business Plan could be used; he will provide copies of the draft to the Board.

County Manager Birnie suggested that he and County Attorney Baumgarten discuss the matter of contracting Deputy County Attorney Dill in lieu of being a regular employee.

The Board will complete County Attorney Baumgarten's evaluation forms no later than 6/9/09 for the evaluation to occur on 6/16/09. Relative to County Manager Birnie's evaluation, he agreed to provide his feedback to Chairperson Swenson no later than 6/30/09 so that his evaluation could occur on 7/7/09.

**COMMISSIONERS MEETING REPORTS:** (This item began earlier than scheduled due to a gap in the meeting.)

**Commissioner Channell:**

1. Marble Charter School. Commissioner Channell recently attended the school's production of *The Jungle Book*. Commissioner Channell felt that the kids did a fantastic job.
2. Gunnison County Substance Abuse Prevention Project. Commissioner Channell attended the meeting held on 5/13/09. Funding for this program has been secured through September of 2010; however, sustainability may be an issue after that timeframe. There has been some reassurance from the State related to continued funding, but this is not certain. The group has been very active and Western State College is still considering a tobacco-free campus. An assistant was hired.

**Commissioner Starr:**

1. Gunnison Valley Rural Transportation Authority (RTA). Commissioner Starr reported that the RTA had made budget-reduction decisions, but that a \$150,000 shortfall remained. Additional revenues may be available to offset this shortfall, but the RTA does not want to count on receipt

of those additional funds. During the last meeting, an executive session with Crested Butte Mountain Resort went well.

2. **Mayors/Managers Meeting.** Commissioner Starr attended this recent meeting. Construction is anticipated to begin next year on an auditorium for the north end of the valley. He also learned that the Gunnison County Library District will suspend plans to build a new facility, based on community survey responses that were recently received.

**WARRANTS AND TRANSFERS:** Finance Director Linda Nienhueser presented the Cash Transfer Authorization report for April 2009 and the monthly Warrant Report for discussion and approval. Also provided was a County Taxable Sales report for the year ending 12/31/2008. **Moved** by Commissioner Starr, seconded by Commissioner Channell to approve the warrant reports and the included warrants dated through May 19, 2009 in the amount of \$1,348,249.25. Motion carried unanimously. **Moved** by Commissioner Channell, seconded by Commissioner Starr to authorize the Cash Transfers in the amount of \$1,545,806.75. Motion carried unanimously.

**TREASURER'S REPORT:** Treasurer Melody Marks presented the Treasurer's Monthly Report for April 2009 and an Investment Report dated April 30, 2009 for discussion and acceptance. **Moved** by Commissioner Starr, seconded by Commissioner Channell to accept the Treasurer's Monthly Report for April 2009. Motion carried unanimously.

**REQUEST FOR LETTER OF SUPPORT; BEAR RANCH LAND EXCHANGE:** Assistant County Manager Crosby, Trails Commission member Joellen Fonken, Western Land Group, Inc. representative Tom Glass, and Bear Ranch Manager Rob Gill were present for discussion.

Mr. Glass explained that the exchange would include 911 acres of Sapinero Mesa property on the south side of the Blue Mesa Reservoir adjacent to Curecanti National Recreation Area. He requested support for the exchange and explained that unresolved access issues surrounding a right-of-way in the middle of the Bear Ranch did not need to be resolved in order to finalize the exchange. He stated that this exchange would permanently protect the property that Bear Ranch would acquire from the BLM via a conservation easement. He also stated that a travel management plan would be implemented, but was not necessary in order to support the exchange. He confirmed that this exchange would include the original dinosaur quarry.

Ms. Fonken stated that the proposal was presented to the Trails Commission. She expressed concern about existing hunting access being limited or unavailable as Assistant Public Works Director Moores felt that persons do not currently use the gated entry point. Mr. Glass stated that some hunters use ATVs to get to Deep Creek, but that they then park them at that point. He felt that the Forest Service would use a portion of the \$250,000 available funding from Bear Ranch to improve access at Erickson Springs because this would provide the same access.

Assistant County Manager Crosby questioned the appropriateness of building a trail along Kebler Pass. Mr. Gill confirmed that Bear Ranch would be willing to work with County on this issue.

Mr. Glass noted that the Crested Butte to Carbondale Trail is part of a scenic byway. Reportedly, the consultant agreed on a trail down as far as Spring Creek, which would provide three options to get to Kebler Pass. He proposed that Bear Ranch would make land available along CR 12.

Ms. Fonken relayed the Trails Commission member's frustration that they had not yet been on the land and, therefore, could not give a recommendation. She felt that the Trails Commission had not been involved in a timely manner. Assistant County Manager Crosby questioned the impact to Bear Ranch if the Board declined to write a letter of support until after the Trails Commission had the opportunity to perform a site visit. Mr. Glass felt that holding off on the letter for a few weeks would be agreeable and not cause any hardship to Bear Ranch. Ms. Fonken confirmed that the Trails Commission could perform a site visit within the next couple of weeks.

**PROPOSED AMENDMENTS TO SPECIAL COVENANTS AND AFFORDABLE HOUSING DEED RESTRICTIONS OF SKYLAND RIVER NEIGHBORHOOD:** Housing Authority Director KT Gazunis, County Attorney Baumgarten, Skyland River Neighborhood HOA President Kelly McGuire, Skyland Community Association HOA President William LaDuke, resident Robin Yost and attorney David Leinsdorf, representing both entities were present for discussion.

Ms. Yost explained that, during the process of selling her home last August, she began researching deed restrictions and found contradictions in terms. The buyers were not satisfied with the deed restrictions and did not pursue the property any further. Ms. Yost requested a solution that would provide a benefit to the community, while also being clear to owners and potential owners.

Attorney Leinsdorf explained that Article 6 in the deed restrictions was titled "Affordable Housing Guidelines", but that the document was not considered to be affordable housing covenants. He proposed an amendment to first offer for sale a residence to a current resident of the County or a person who is

establishing residence in the County. He also felt that the 12-month period should be shortened to only three months.

Housing Authority Director Gazunis stated that the Housing Advisory Board had discussed a process to bring this issue to the Board, and she confirmed that the process was followed. She stated that the Housing Advisory Board felt that this was the basis of the original approval of the deed restrictions and asked the Board to consider whether the County would be sacrificing deed restrictions simply because of an economic downturn. She also asked the Board to consider whether or not modifying deed restrictions would provide a benefit to the neighborhood and to the County.

Attorney Leinsdorf felt that the public would benefit from a more realistic and enforceable deed restriction application. He confirmed that 75% of the neighborhood's property owners supported the modification. He requested Board approval of the presented form.

Ms. McGuire stated her support of the modification since owners were experiencing difficulty selling their properties. She explained that the neighborhood includes 40 buildable units and that there were currently 32 property owners. Commissioner Channell questioned how many properties had been sold ignoring the covenants and attorney Leinsdorf explained that the objective of the covenants had been accomplished, even though the covenants have been ignored, because most of the property owners are locals. Only one sale has been to an out-of-state buyer.

Commissioner Starr informed the Board that he had met with Mr. LaDuke and some of the other board members prior to this meeting. He expressed confusion as to why title companies had not discovered the issue. He also felt that the 12-month timeframe was appropriate, which could help to avoid sellers placing higher sales prices on their properties for only a short period so that they could eventually sell the property to anyone, which would end the deed restriction on that unit forever.

Mr. LaDuke stated that houses were on the market for a range of between \$489,000 and over \$800,000. He did not feel that the time period was relevant and that the market price should be of more concern.

Ms. Yost felt that, while the lots could be described as affordable, the construction materials could not. She felt that the structure of the neighborhood did not indicate affordable housing, per her personal definition of the term.

Commissioner Channell stated that he took stock in the Housing Advisory Board's input. He was concerned that the 12-month deed restriction could be lost in perpetuity. He also felt that the limitations should be part of every sale, not just the first generation because he did not want the County's citizens to lose the benefit of the deed restrictions that the County worked so hard to establish.

Attorney Leinsdorf felt that these deed restrictions were created to benefit first-generation homeowners, but that those homeowners are now having difficulty with equity issues.

Property owner Kristy McFarland stated that, as a second-generation homeowner, she did not feel the timeframes were pertinent because buyers and sellers could find a way around it. She noted that she has had a lot for sale for the past two and a half years.

Chairperson Swenson felt that, with the nature of the market, it could put a local into a financial bind with having to wait for a year before they could sell their property. She felt that option #2 was the best.

Commissioner Channell stated that this decision was difficult to make, but that he supported the modification of the deed restrictions.

Commissioner Starr agreed, but expressed dismay that so many units will be lost to the affordable housing efforts. He agreed that this was a problem with drafting the restrictions originally.

**Moved** by Commissioner Channell, seconded by Commissioner Starr to amend the Special Covenants to the Skyland River Neighborhood to include the presented modified option of deed restrictions. Commissioner Starr questioned how the neighborhood will now enforce the covenants and attorney Leinsdorf confirmed that he will handle the documentation. Motion carried unanimously.

**LOCAL MATCH FOR RURAL TRANSPORTATION AUTHORITY (RTA) GRANT:** Commissioner Starr explained that the RTA currently has money available for three projects and that \$120,000 in funding would be unavailable if not obligated by 10/1/09. This funding was originally projected for spending on the Ohio Creek park-n-ride project; however, that project is not scheduled to begin during 2009 as the RTA does not have the funding available for the required 25% local match. Because of this shortfall, the RTA members were to request 25% of the necessary funding from each of their four prospective jurisdictions to be allocated using 2010 funding; each jurisdiction was asked for \$7,500. County Manager Birnie reminded the Board that 2010 funds could not be allocated during 2009, but Commissioner Channell thought that a letter of intent would be sufficient. The Board agreed that budget cuts, possibly from the Community Based Organization program, would be necessary in order to accomplish this.

**UNSCHEDULED CITIZENS:** There were no Unscheduled Citizens available for discussion.

**BREAK:** The meeting recessed from 12:34 until 12:41 pm in order to call to order as the Gunnison/Hinsdale Board of Human Services (see separate minutes).

**COMMISSIONERS MEETING REPORTS** (continued from earlier in the meeting):

**Chairperson Swenson:**

1. County Animal Shelter Site. Chairperson Swenson recently attended a site visit. She noted that all members present from the Gunnison Valley Animal Welfare League (GVAWL) and the Paradise Animal Welfare Society were excited to begin construction at the site. Prior to moving ahead with any other processes, all pertinent wildlife and Public Works personnel will visit the site and provide input. The group also intends to gather opinions from the area property owners. The first phase of the project will cost approximately \$500,000. Sandy Guerrerri is serving as one of the new GVAWL board members. The City of Gunnison is in agreement that this facility should be the same facility utilized by the City; another facility is not intended to be built.
2. CityScape. Chairperson Swenson informed the Board that she participated in this City of Gunnison program that grants funding to property owners within the city limits who use the money to improve highly visible portions of the City.

**SPECIAL DEVELOPMENT PROJECTS RESOLUTION; PLANNING COMMISSION WRITTEN REQUEST FOR ADDITIONAL TIME FOR PLANNING COMMISSION REVIEW; ACTION BY BOARD:** County Attorney Baumgarten was present for discussion.

County Attorney Baumgarten informed the Board that the Planning Commission had formally requested an extension through 7/15/09. He attended the most recent Planning Commission meeting on this subject and felt that the meeting was focused and substantive, so he recommended granting the request for extension.

Commissioner Channell expressed concern about holding up potential applicants in the process; however, County Attorney Baumgarten confirmed that no persons had made inquiries. Commissioner Channell also expressed concern regarding the cost of the process, particularly those costs associated with outside legal counselor Barbara Green. County Attorney Baumgarten explained that he would be working primarily with Ms. Green's paralegal on much of the remaining work that needed to be done.

**Moved** by Commissioner Channell, seconded by Commissioner Starr to grant the requested extension to the Planning Commission for their review of the Special Development Projects Resolution to July 15, 2009. Motion carried unanimously.

**ADJOURN:** **Moved** by Commissioner Channell, seconded by Commissioner Starr to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 12:57 pm.

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Paula Swenson, Chairperson

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Jim Starr, Vice-Chairperson

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Hap Channell, Commissioner

Minutes Prepared By:

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Katherine Haase, Deputy County Clerk

Attest:

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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: 2009-14**

A RESOLUTION GRANTING AN EXEMPTION FOR A DIVISION OF LAND FROM THE DEFINITION OF THE TERMS "SUBDIVISION" AND "SUBDIVIDED LAND"; FOR THE KAHNS, LOT 26, NORTH ELK MEADOWS, FILING II

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

WHEREAS, Timothy E. Kahn and Joanne K. Kahn (hereinafter the "Kahns") own Lot 26, North Elk Meadows, Filing II, according to the Amended Plat thereof recorded August 12, 1986 at Reception No: 395794 of the records of the Gunnison County Clerk and Records Office (hereinafter "Lot 26"); and

WHEREAS, there is a portion of Lot 26 adjacent to the intersection of Ohio Creek and Highway 135 as identified in Appendix "A" attached hereto and incorporated herein and as more specifically described in Appendix "B" attached hereto and incorporated herein (hereinafter "R.O.W. B"); and

WHEREAS, the Kahns and the Board have entered into a Purchase and Sale Agreement for Real Property, dated May 12, 2009, to provide for the acquisition of R.O.W. B for the purpose of realignment of the intersection and potentially a park and ride; and

WHEREAS, the Board believes that the division of R.O.W. B from Lot 26 is not within the purposes identified in C.R.S. §30-28-101(10); and

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Gunnison, Colorado that pursuant to §C.R.S. 30-28-101(10)(d) the division of R.O.W. B as identified in Appendix "A" and described in Appendix "B", attached hereto and incorporated herein, from Lot 26, North Elk Meadows, Filing II, according to the Amended Plat thereof recorded August 12, 1986 at Reception No: 395794 of the records of the Gunnison County Clerk and Records Office, is exempt from the terms "subdivision" and "subdivided land".

INTRODUCED by Commissioner Channell, seconded by Commissioner Starr, and adopted this 19<sup>th</sup> day of May, 2009.

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY  
OF GUNNISON, COLORADO

Channell – yes, Starr – yes, Swenson – yes.

**BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO  
RESOLUTION NO. 09-15**

RESOLUTION AUTHORIZING THE ACQUISITION OF REAL PROPERTY FROM THE KAHNS

WHEREAS, the Board of County Commissioners of the County of Gunnison, Colorado ("Board" herein) has reviewed current and potential property needs of Gunnison County; and

WHEREAS, pursuant to C.R.S. § 30-11-101 and § 30-11-103, the Board has the authority to acquire and own real property; and

WHEREAS, the Board has an opportunity to acquire certain real property as identified in Appendix "A" attached hereto and incorporated herein for realignment of the Ohio Creek and Highway 135 intersection and potentially a park and ride; and

WHEREAS, the Board believes that this acquisition would be in the best interests of the public.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Gunnison, Colorado that the Board acquire the real property identified in Appendix "A" attached hereto and incorporated herein pursuant to that Purchase and Sale Agreement for Real Property dated May 12, 2009 between the Board and Timothy E. Kahn and Joanne K. Kahn. The Board hereby ratifies any and all previous actions performed by its staff to accomplish that acquisition and directs its staff to take all appropriate action to accomplish that acquisition. County Manager, Matthew Birnie is authorized to execute all necessary documents to accomplish that acquisition.

INTRODUCED by Commissioner Channell, seconded by Commissioner Starr, and adopted this 19<sup>th</sup> day of May, 2009.

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY  
OF GUNNISON, COLORADO

Channell – yes, Starr – yes, Swenson – yes.