

**GUNNISON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
August 18, 2009**

The August 18, 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 7:59 am.

AGENDA REVIEW: There were no changes to the agenda.

CONSENT AGENDA: **Moved** by Commissioner Starr, seconded by Commissioner Channell to approve the Consent Agenda items, except #9 through #15, and authorize signatures. Motion carried unanimously.

1. Acknowledgment of Treasurer Melody Marks Signature; Southwest Securities, Inc. New Account Application
2. Acknowledgment of County Manager Signature; ECHO-Web User Access Authorization and Certification, Web User Change/Modify Form, Recertification User Access for Treasurer Melody Marks and Accountant Darrin Eicher
3. Acknowledgment of County Manager Signature; Statement of Compliance and Grantee Registration; Early Childhood Health Integration Grant Guidelines; The Colorado Trust
4. Contract Agreement; Concrete Works of Colorado, Inc.; AIP Project No. 3-08-0030-42, Schedule 1
5. Airport Rental Car Operator Agreement; Gunnison Crested Butte Regional Airport; Hertz Corporation
6. Airport Rental Car Operator Agreement; Gunnison Crested Butte Regional Airport; MICAR, Inc. dba Budget Rent A Car of Gunnison
7. Grant Agreement; State of Colorado Department of Local Affairs Emergency Management Performance Grant (EMPG); Project/Award Number 9EM09L27; \$46,600
8. Perpetual Easement; Vasken Ajarian; Waterline Across Property
9. **Pulled for Discussion and Separate Action:** Intergovernmental Agreement; Gunnison River Valley Local Marketing District and Gunnison County Clerk and Recorder and Board of County Commissioners of Gunnison County; Administration of the November 3, 2009 Coordinated Election
10. **Pulled for Discussion and Separate Action:** Intergovernmental Agreement; Town of Marble, Gunnison County Clerk and Recorder, and Board of County Commissioners of Gunnison County; Administration of the November 3, 2009 Coordinated Election
11. **Pulled for Discussion and Separate Action:** Intergovernmental Agreement; Town of Crested Butte, Gunnison County Clerk and Recorder, and Board of County Commissioners of Gunnison County; Administration of the November 3, 2009 Coordinated Election
12. **Pulled for Discussion and Separate Action:** Intergovernmental Agreement; Delta County Joint School District No. 50, Gunnison County Clerk and Recorder, and Board of County Commissioners of Gunnison County; Administration of the November 3, 2009 Coordinated Election
13. **Pulled for Discussion and Separate Action:** Intergovernmental Agreement; Town of Mt. Crested Butte, Gunnison County Clerk and Recorder, and Board of County Commissioners of Gunnison County; Administration of the November 3, 2009 Coordinated Election
14. **Pulled for Discussion and Separate Action:** Intergovernmental Agreement; Gunnison Watershed School District RE1J, Gunnison County Clerk and Recorder, and Board of County Commissioners of Gunnison County; Administration of the November 3, 2009 Coordinated Election
15. **Pulled for Discussion and Separate Action:** Intergovernmental Agreement; Montrose County School District RE1J, Gunnison County Clerk and Recorder, and Board of County Commissioners of Gunnison County; Administration of the November 3, 2009 Coordinated Election
16. Resolution; Amending Resolution No: 07-57, a Resolution Establishing a Library District and Merging the Gunnison County Public Library into the Library District Pursuant to Colorado Library Law
17. Agreement Between the Board of County Commissioners of Gunnison County and Boeing Corporation for the Provision of ARFF Services; 8/1/09 thru 10/30/09
18. Correspondence; Gunnison Basin Sage-grouse Strategic Committee Appointments; Matt Vasquez and Roy Mask
19. Additional Provisions to Task Order Contract Dated 8/4/2009 - Contract Routing Number 10 FJA 2451; Approved Task Order Contract - Waiver #154; Colorado Department of Public Health and Environment; 9/1/09 thru 8/9/10

20. Agreement; Spallone Construction, Inc.; Supply and Install a 4" Water Line from the City of Gunnison's Water Main to Mountain View Apartments
21. Memorandum of Understanding; West Region Recipients of the 2008 State Homeland Security Grant Program; Delta County, Colorado

CONSENT AGENDA ITEMS #9, #10, #11, #12, #13, #14 and #15: Commissioner Starr asked that these items be pulled from the Consent Agenda for further discussion on the costs, particularly whether or not the County was included. County Manager Birnie noted that the County is not exempt and paid in excess of \$200,000 for costs incurred by the most recent election. Commissioner Starr expressed concern about whether or not small districts would be able to afford their portion of the costs. County Manager Birnie noted that the costs are dependent on the number of ballots cast. The Board requested that estimated costs be provided, based on previous elections. **Moved** by Commissioner Channell, seconded by Commissioner Starr to approve Consent Agenda Items #9 through #15 as submitted and authorize signatures. Motion carried unanimously.

SCHEDULING: The Upcoming Meetings Schedule was discussed and updated.

COUNTY MANAGER'S REPORT AND CORRESPONDENCE: County Manager Birnie and Assistant County Manager Marlene Crosby were present for discussion.

1. Energy Action Plan. County Manager Birnie informed the Board that the Executive Staff will be reviewing the Green Team's recommendations that were recently adopted by the Board. Action plans will be formulated.
2. 2010 Gunnison County Budget. County Manager Birnie thanked Commissioner Channell and Chairperson Swenson for attending the recent kick-off meeting. He noted that a 1.5% cost-of-living increase is being planned for, but has not been finalized. While the actual increase appears to be 4%, he noted that Personnel Director Debbie Moore recommended only 1.5% after performing a market comparison. The Board agreed that the new budget process will benefit the County as strategies are linked directly to the budget process.
3. Personnel Policies. County Manager Birnie stated that Personnel Director Moore would be presenting a recommendation to modify the Personnel Policies in the near future.

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

1. Plow Route Modifications; County Roads #6 and #30. Assistant County Manager Crosby presented recommendations to modify or cease plowing of County Roads #6 and #30 for the winter of 2009-2010. **Moved** by Commissioner Channell, seconded by Commissioner Starr to delete, for the upcoming year, plowing on County Road #30, referred to as Goat Trail in the Powderhorn Valley, and on County Road #6, the OC Coal Mine Road, to reduce our plowing service there to coordinate with private property owners on the road and to eliminate County plowing of the road. Motion carried unanimously.
2. Request for Waiver of Fees at Fred R. Field Western Heritage Center. Assistant County Manager Crosby informed the Board that she had received a request for waiver of fees for use of the County's dance floor from a non-profit entity in the community. She stated that the floor takes considerable time to set up and take down. In addition, the County's fee is much cheaper than what is charged by other entities in the community. Assistant County Manager Crosby felt that the adopted fee schedule should be adhered to and, therefore, requested that the Board reiterate the County's fee policies of charging non-profit entities while also attempting to keep fees as low as possible. County Manager Birnie agreed with this stance. **Moved** by Commissioner Channell, seconded by Commissioner Starr to support our policy of charging for the amenities at the fairgrounds, that we keep our fees as low as we possibly can, but that we need to charge to cover as much of our expenses as possible and be consistent so that we are not making individual decisions on a case-by-case basis. Motion carried unanimously.
3. DOLA Grant #4654 Amendment; North Valley Sewer. Assistant County Manager Crosby informed the Board that the County must submit the DOLA application amendment since the County is now within two weeks of the bid date. **Moved** by Commissioner Starr, seconded by Commissioner Channell to authorize signature on the grant amendment for DOLA Grant #4654 for the North Valley Sewer. Motion carried unanimously. Assistant County Manager Crosby confirmed that the resolution in this matter would be presented to the Board on 8/25/09, as required by the loan documentation.
4. Coal Creek Watershed Coalition. Assistant County Manager Crosby informed the Board that the Coalition has funding to preserve Coal Creek, so she has begun working with the Coalition members on this project. The area affected will be between the chip seal at the trailhead and the top of the pass.
5. Beautification/Scenic Corridors Committee (BSCC). Assistant County Manager Crosby stated that she would be meeting with the BSCC on 8/19/09 at 3:00 pm in the BOCC boardroom to discuss the abatement of asbestos in dangerous buildings. She requested that any available commissioners attend the meeting.

KEBLER PASS PLOWING REQUEST; CRESTED BUTTE NORDIC COUNCIL: Assistant County Manager Crosby, County Attorney Baumgarten, Assistant Public Works Director Allen Moores, Trails

Commission member Joellen Fonken and CB Nordic Council Director Keith Bauer were present for discussion.

Assistant County Manager Crosby informed the Board that historically the Nordic Council had requested permission to groom Slate River Road from the trailhead at Nicholson Lake to the Townsite of Pittsburg. This year the Nordic Council is requesting that the County plow Kebler Pass to the forks of Irwin so that trails could be groomed in that area by the Nordic Council. Often there is much more early snow on Kebler than in the Slate River Valley. They would cease grooming when there was adequate snow in other areas. Mr. Bauer felt that knowing Kebler would be available would allow for better promotion of the Nordic Center's Thanksgiving Camp.

Assistant County Manager Crosby explained that she had used historic information in order to achieve her recommendation. She agreed that measures were needed relevant to Slate River Road. The closure either needs to be accomplished by plowing so much snow in the road that traffic is blocked, or by installing a gate. Crosby explained that Kebler could be plowed to the forks during that time frame, but that plowing could only be accomplished later in the day as the school bus routes would receive priority. Mr. Bauer did not feel that the time of day for plowing would be an issue.

John Biro, representing the Town of Irwin, expressed his opinion that the Town of Marble should have a definite plowing schedule. However, Assistant County Manager Crosby did not feel comfortable with setting a specific date for plowing to cease. Commissioner Starr felt that the County could accommodate the Nordic Council with plowing until Thanksgiving without a guarantee of plowing beyond that date. Assistant County Manager Crosby agreed that the County could try this for one year and then reevaluate the process depending on the findings. Trails Commission member Fonken felt that an end date should be clearly stated. Assistant County Manager Crosby felt that Thanksgiving should be the cut-off date. Citizen Mike Nolan felt that plows could be made available for the Irwin and Kebler Pass areas if they were not needed in the Gunnison area at the time. Assistant Public Works Director Moores felt that all arguments were valid, but that the Public Works Department should perform a site visit within the next week to further evaluate the possibilities to ensure that there would be ample plowing room within the Town of Irwin. Commissioner Starr felt that the County could potentially plow later than Thanksgiving, but did not want to commit the County without more information.

Moved by Commissioner Starr, seconded by Commissioner Channell to request that staff keep the Kebler Road (Pass) open to the "Y" in the Irwin cut-off until at least the Sunday after Thanksgiving for this year. Motion carried unanimously. Assistant County Manager Crosby reconfirmed that plowing would occur later in the day for school bus days and the Board agreed.

REQUEST TO PURSUE QUIET TITLE ACTION FOR ACQUISITION OF PROPERTY ADJACENT TO BLUE MESA CEMETERY AND LOCATED ON SOAP CREEK ROAD: County Attorney Baumgarten, County Paralegal Rachel Magruder, Assistant County Manager Crosby and National Park Service Deputy Superintendent Dave Roberts were present for discussion.

County Attorney Baumgarten explained that this piece of property was supposed to be a relocated cemetery and that staff recommended obtaining ownership of the front half of the property to use for parking. The Cemetery District declined to assume ownership of the back half of the property. In order to obtain the property, the County would enter into a Quiet Title Action lawsuit because the current owner either does not exist or cannot be named. This process could take up to six months to accomplish, which would include approximately 40-50 hours of attorney staff time.

NPS Deputy Superintendent Roberts questioned what would happen to the cemetery if no one were to assume the responsibility of ownership. County Attorney Baumgarten felt that no more or no less would happen than what has historically taken place.

Assistant County Manager Crosby stated her desire to develop the parking area to require as minimal maintenance as possible. NPS Deputy Superintendent Roberts agreed on the location.

Moved by Commissioner Starr, seconded by Commissioner Channell to authorize the legal staff, in particular, to proceed with Quiet Title Action to acquire title to the County for the land that is next to the Blue Mesa Cemetery that we've been discussing. Motion carried unanimously.

HISTORIC STRUCTURE ASSESSMENT GRANT; OHIO CITY TOWN HALL; GRANT APPLICATION SCOPE OF WORK: Assistant County Manager Crosby, County Attorney David Baumgarten, County Paralegal Magruder and Facilities Maintenance Supervisor Rich Corbett were present for discussion.

Assistant County Manager Crosby stated that the structure has some deficiencies. Facilities Maintenance Supervisor Corbett further explained that the floor joists need to be raised and that a wall needs to be stabilized. Assistant County Manager Crosby confirmed that the lease would not be renewed until more detailed information related to the building could be obtained. **Moved** by Commissioner Channell, seconded by Commissioner Starr to ask staff to put together the Historic Structure Assessment Grant for the Ohio City Town Hall structure and naming the County as the grant recipient. Assistant County

Manager Crosby recommended that the RFP be written so that one firm can perform both the architectural and the engineering work. Facilities Maintenance Supervisor Corbett stated that the property line appears to be on the edge of the foundation. Motion carried unanimously.

BREAK: The meeting recessed from 9:39 until 9:44 am.

BUCKHORN RANCH, FILING 2B; STATUS OF IMPROVEMENTS AND AFFORDABLE HOUSING UNITS; POSSIBLE NOTICE OF DEFAULT; POSSIBLE EXECUTIVE SESSION: County Attorney Baumgarten, County Paralegal Magruder, Assistant Public Works Director Moores, Gunnison County Housing Authority Executive Director KT Gazunis and developer Dick Landy were present for discussion.

County Attorney David Baumgarten suggested an executive session to receive an update from the Attorney's Office in this matter before holding further open discussion. **Moved** by Commissioner Channell, seconded by Commissioner Starr to go into executive session for the purposes stated including the Board, the County Manager, the County Attorney, the County Paralegal, Allen Moores and KT Gazunis. Motion carried unanimously.

The board went into executive session at 9:45 am. *Executive sessions of the Board of County Commissioners are conducted as per C.R.S. 24-6-402(4). This specific session was conducted as per C.R.S. 24-6-402(4)d.*

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: _____

Paula Swenson, Chairperson
Gunnison County Board of Commissioners

The Board came out of executive session at 10:14 am. Chairperson Swenson confirmed that the discussion remained on-topic, that all parties stated to be in attendance were, in fact, in attendance and that no decisions were made.

Commissioner Starr outlined the following pending issues so that the Board could act on each item individually:

1. Housing Construction Deadline of 8/31/2009. **Moved** by Commissioner Starr, seconded by Commissioner Channell to extend the deadline to 9/30/2009. Motion carried unanimously. It was agreed that the security, currently due on 10/31/2009, would be agreed on at the 9/30/2009 deadline.
2. Infrastructure and Amenities; Roads. **Moved** by Commissioner Starr, seconded by Commissioner Channell to require the developer to have a contract and specifications for repairing those problems at our meeting which is scheduled on 9/1/2009 and that the work, if it is acceptable to us or not, be completed by 9/30 of this year, and that, at the very least, the cul-de-sacs would be changed to have rigid asphalt so that they don't continue the breakdown that has been happening. Motion carried unanimously.
3. Pond Liner; Large Pond. **Moved** by Commissioner Starr, seconded by Commissioner Channell that, by that meeting on 9/1/09, the developer bring to us a proposal for permanently repairing that problem, and that we would suggest, but not require, a one-way flapper/valve system so that if there are gasses in the ground underneath, that those gasses rise out and the rise then closes so that the water does not drain out of that valve area, and that we receive a plan for repairing that liner that gives us a level of assurance that it will be successful in dealing with that

problem in the future, and again we would like all of that laid out in writing for us by our meeting on 9/1/09 with completion by 9/30/09. Motion carried unanimously.

4. **Ball Field.** **Moved** by Commissioner Starr, seconded by Commissioner Channell that we have plans for construction of the ball field and the contractor by our meeting on 9/1/09 and that we have a date for completion of that ball field by 9/30/09. Motion carried unanimously.
5. **Trail.** **Moved** by Commissioner Starr, seconded by Commissioner Channell to require that that (the overgrowth in the trail) be cleared out so that it is useful again; apparently it may need a replacement bridge and that replacement bridge be in place and all of that work completed by 9/30/09 so that the trail is useful on a regular basis. Motion carried unanimously.
6. **CB Fire Protection District.** **Moved** by Commissioner Starr, seconded by Commissioner Channell to require that the developer provide us with a Letter of Compliance regarding those issues from the Crested Butte Fire Protection District by 9/30/09. Motion carried unanimously.

Moved by Commissioner Starr, seconded by Commissioner Channell, regarding all issues, that if we don't have compliance by the 9/30/09 date, that at that point of time the Board consider withholding lots that are unsold and still owned by the developer, which as we understand is one of the enforcement mechanisms that we have within our DIA with the developer. Motion carried unanimously.

Moved by Commissioner Starr, seconded by Commissioner Channell that we have a plan for dealing with those reclamation items #1 through #4 outlined on the Attorney's Office memo (dated 7/27/09) and the weed control by 9/1/09 and that the reclamation and weed control work be completed by 9/30/09. Motion carried unanimously.

BREAK: The meeting recessed from 10:25 until 10:27 am.

LOT CLUSTER APPLICATION; LOTS 1 THRU 12, BLOCK 1, LaVETA ADDITION TO THE TOWN OF PITKIN; CLAUDE AND JIMMIE YOUNG; GENE AND ALICE DANIELS: Planning Services Manager Beth Baker was present for discussion.

Planning Services Manager Baker explained that clustering these 12 lots would result in a parcel of approximately .75 of an acre. The applicants have already gone through the Environmental Health Board process in order to receive a variance. **Moved** by Commissioner Channell, seconded by Commissioner Starr to approve the Lot Cluster Agreement for Lots 1 thru 12 of the LaVeta Addition to the Town of Pitkin. Motion carried unanimously.

RESOLUTION; AMENDING A PORTION OF RESOLUTION NO. 03-62, A RESOLUTION DESIGNATING THE NORTH FORK VALLEY COAL RESOURCE SPECIAL AREA AND ADOPTING THE COAL RESOURCE SPECIAL AREA COAL MINING REGULATIONS: County Attorney David Baumgarten was present for discussion.

County Manager Birnie informed the Board that Arch Coal had presented various suggestions and that Gunnison Energy was agreeable with the final language. If approved by the Board, he would request that a date be set for the Planning Commission to return this material to the Board with a recommendation. Arch Coal had requested that the County suspend adoption of the resolution until Arch Coal's study results are completed in the event that the results affect the language or the parameters of the planning process. As there was no timeline and a delay would have little impact, County Manager Birnie felt that Arch Coal's request was reasonable. When this issue comes before the Board again, it will also need to be routed to the Planning Commission; County Attorney Baumgarten requested that the Board obtain a date certain for response by the Planning Commission.

CERTIFICATION OF DELINQUENT SEWER AND WATER: Assistant Finance Director Ben Cowan and County Attorney Baumgarten were present for discussion.

Assistant Finance Director Cowan provided the list of delinquent accounts and confirmed that each person on the list had received two warning notices. One of the notices was sent via Certified mail with return receipt, and collection procedures prior to this certification resulted in collection of 66% of what was previously delinquent. He confirmed that Board certification would authorize these to go to tax sale on 10/22/09. **Moved** by Commissioner Starr, seconded by Commissioner Channell to certify as delinquent those taxes set forth under the County Clerk's letter, dated 8/18/09, and authorize the County Treasurer to collect the amounts as though they are part of the taxes.

CAPITAL IMPROVEMENT PLAN (CIP); ADOPTION: Assistant Finance Director Cowan was present for discussion.

Assistant Finance Director Cowan provided the CIP with the amendments that were requested by the Board during the presentation of the draft during a previous meeting.

County Manager Birnie informed the Board that he had spoken with CB South Manager Chris Behan who felt that the Rural Transportation Authority's (RTA) options should be evaluated prior to spending County funding on analysis of the CB South transportation issues. Commissioner Starr felt that the RTA would

minimally be five to ten years away from being able to afford additional bus service in CB South, so he felt that the County should proceed with this issue regardless of what maybe worked out with the RTA. Chairperson Swenson felt that this should be retained in the CIP with further evaluation before approving expenditures.

Moved by Commissioner Starr, seconded by Commissioner Channell to adopt the Capital Improvement Program for 2010-2014 as set forth in today's documents with the amendment that it will include the Cement Creek Road safety issue. Motion carried unanimously.

BREAK: The meeting recessed from 10:48 until 11:08 am.

WARRANTS AND TRANSFERS: Finance Director Linda Nienhueser presented the Cash Transfer Authorization report for July 2009 and the monthly Warrant Report for discussion and approval. **Moved** by Commissioner Channell, seconded by Commissioner Starr to approve the Warrant Approval in the amount of \$999,602.53. Motion carried unanimously. **Moved** by Commissioner Channell, seconded by Commissioner Starr to authorize the Cash Transfer in the amount of \$2,420,037.86. Motion carried unanimously.

CORRESPONDENCE; GOVERNOR'S ENERGY OFFICE; SUPPORT FOR WESTERN STATE COLLEGE'S (WSC) WOODY BIOMASS PROJECT: County Manager Birnie noted that WSC Director of Sponsored Programs and Grants Janice Wellborn requested that this correspondence be addressed to Jay Helman. **Moved** by Commissioner Channell, seconded by Commissioner Starr to approve the letter that is written endorsing Western State College's biomass project. Motion carried unanimously.

TREASURER'S MONTHLY REPORT: The Treasurer's Monthly Report for July 2009 and an Investment Report dated 7/31/09 were presented for discussion and acceptance, though County Treasurer Melody Marks was not available for discussion. **Moved** by Commissioner Channell, seconded by Commissioner Starr to approve the Treasurer's monthly report for July 2009 and authorize the Chair's signature. Motion carried unanimously.

UNSCHEDULED CITIZENS:

1. Don Koeltzow. Mr. Koeltzow, responsible for road repair and heavy equipment maintenance for the Arrowhead Ranch development and community, provided a copy of an email that his board previously sent to Assistant County Manager Crosby on 8/10/09 regarding Alpine Plateau Road. He appeared in person to express how pleased his board is with the recent work performed by the Public Works Department.

COMMISSIONERS MEETING REPORTS:

Commissioner Channell:

1. Western State College (WSC); Woody Biomass Project. Commissioner Channell reported that he attended a meeting with County Manager Birnie, WSC Associate Vice President for Finance and Administration Drew Jenkins, WSC Director of Sponsored Programs and Grants Janice Wellborn, and representatives from the State and Federal Forest Service. The architect for Taylor Hall was available for comment over the telephone. Mr. Jenkins reported that WSC is moving ahead with the design of the boiler room while incorporating woody biomass into the overall plan. WSC is moving forward with options to either supply the college with the fuel and use the area north of the football field for storage or procure the fuels from a third-party supplier. Due to the County's timing with building the new Public Works Department facility, Commissioner Channell did not feel that the County would be able to provide fuel to WSC in the early stages of the project as WSC will not suspend their plans while waiting for development of a fuel supply. County Manager Birnie noted that the WSC facility is not projected for completion until July 2011, which coincides with the County's plans with only a couple of months in variation. **Moved** by Commissioner Channell to direct staff that as we start to move forwards on this facility, that we want heating with woody biomass to be the high priority. Commissioner Channell withdrew his motion following County Manager Birnie's advice that the motion wait until Assistant County Manager Crosby could be included in the conversation.

Commissioner Starr:

1. Osprey Complaint. Commissioner Starr informed the Board that he had received a complaint from a citizen residing near the airport. While not being opposed to the testing procedures, the citizen requested that testing procedures be moved to the eastern end of the runway away from the majority of homes.
2. Gunnison Basin Industrial Park Grand Opening; Meeting with Gunnison Times Managing Editor Chris Dickey. Commissioner Jim Starr met with Mr. Dickey to discuss the recent news article related to the industrial park. Mr. Dickey stated that the article was not lengthier because additional details were not determined to be newsworthy. Assistant County Manager Crosby suggested that the County write a response letter to the editor; however, the Board disagreed and thought that the County should begin writing press releases for the Times, the Crested Butte News and the Gunnison Shopper. County Manager Birnie felt that the County could run a small

ad in the Gunnison Times for this issue with the plan to be more proactive in the future. The Board wanted to promote the economic development aspect of the park; County Manager Birnie and Assistant County Manager Crosby will work on the language of a letter or an ad. The Board agreed that the costs will be paid for by the Gunnison Basin Industrial Park Enterprise Fund, not with taxpayer's dollars.

3. Press Releases / Public Relations. The Board agreed that a work session should be scheduled to discuss development of a program. Commissioner Channell noted that the Gunnison Times Publisher Stephen Pierrotti has expressed interest in collaborating with the County on the technological methods of advancing public relations.

Commissioner Channell (continued):

2. Rocky Mountain Biological Laboratory (RMBL) Walkabout. Commissioner Channell stated that RMBL is increasing fundraising efforts and inviting people to various functions. Commissioner Channell attended one of those functions during the previous week. The Tourism Association is moving ahead with plans to publicize RMBL's fundraising efforts. Possible funding by Mt. CB will be discussed during a future joint meeting between the Board and the Mt. CB council.

LUNCH BREAK: The meeting recessed for lunch from 12:02 until 12:58 pm.

BREAK: The meeting recessed from 12:58 until 1:18 pm in order to call to order as the Gunnison/Hinsdale Board of Human Services (see separate minutes).

BREAK: The meeting remained recessed from 1:18 pm until 1:20 pm in order to call to order as the Gunnison River Valley Local Marketing District.

GUNNISON RIVER VALLEY LOCAL MARKETING DISTRICT:

CALL TO ORDER: Chairperson Swenson called the meeting to order at 1:18 pm.

INTERGOVERNMENTAL AGREEMENT; GUNNISON RIVER VALLEY LOCAL MARKETING DISTRICT AND GUNNISON COUNTY CLERK AND RECORDER AND BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY; ADMINISTRATION OF THE NOVEMBER 3, 2009 COORDINATED ELECTION: Moved by Commissioner Starr, seconded by Commissioner Channell to approve the IGA (Intergovernmental Agreement) with the Gunnison County Clerk and Recorder so that we may put a ballot issue before the voters this November as far as the 2009 Coordinated Election. Motion carried unanimously.

ADJOURN: Moved by Commissioner Starr, seconded by Commissioner Channell to adjourn the meeting. Motion carried unanimously. The Gunnison River Valley Local Marketing District meeting adjourned at 1:20 pm and the Gunnison County Board of County Commissioners Meeting was immediately reconvened.

COUNTY MANAGER CONTRACT NEGOTIATIONS; POSSIBLE EXECUTIVE SESSION: County Manager Birnie requested an executive session. Moved by Commissioner Channell, seconded by Commissioner Starr to go into executive session for County Manager contract negotiations that will include the County Manager and the Board. Motion carried unanimously.

The board went into executive session at 1:21 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)f.*

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: _____

Paula Swenson, Chairperson
Gunnison County Board of Commissioners

The Board came out of executive session at 1:28 pm. Chairperson Swenson confirmed that the discussion remained on-topic, that all parties stated to be in attendance were, in fact, in attendance and that no decisions were made.

COUNTY ATTORNEY DAVID BAUMGARTEN CONTRACT REVIEW AND NEGOTIATION; POSSIBLE EXECUTIVE SESSION: County Attorney David Baumgarten requested an executive session. Moved by Commissioner Starr, seconded by Commissioner Channell to go into executive

session with the Board and the County Attorney for contract review and negotiations. Motion carried unanimously.

The board went into executive session at 1:29 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)f.*

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: _____

Paula Swenson, Chairperson
Gunnison County Board of Commissioners

The Board came out of executive session at 1:34 pm. Chairperson Swenson 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.

DEPUTY COUNTY ATTORNEY TOM DILL CONTRACT REVIEW AND NEGOTIATION; POSSIBLE EXECUTIVE SESSION: Deputy County Attorney Dill requested an executive session. **Moved** by Commissioner Starr, seconded by Commissioner Channell to go into executive session with the Deputy County Attorney and the Board for contract review and negotiation. Motion carried unanimously.

The board went into executive session at 1:35 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)f.*

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: _____

Paula Swenson, Chairperson
Gunnison County Board of Commissioners

The Board came out of executive session at 2:06 pm. Chairperson Swenson 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.

WESTERN STATE COLLEGE (WSC) FOUNDATION BOND ISSUE REQUEST: County Attorney Baumgarten, Finance Director Linda Nienhueser, WSC President Jay Helman, WSC Foundation Executive Director Tom Burggraf and WSC legal counselor Frederick Marienthal were present for discussion.

Counselor Marienthal explained that the Board's involvement was limited as little is required by State law other than the Public Hearing. He also confirmed that the WSC Foundation will indemnify and hold harmless the purchaser of the bond.

Commissioner Channell stated that he sometimes feels as though enough cannot be done for WSC, so he appreciated this opportunity to provide assistance.

A Public Hearing has been advertised for 9/1/09 beginning at 8:00 am. Counselor Marienthal explained that this Public Hearing is required by the Federal Tax Law and he has published notice in the local newspapers. At the Public Hearing, the WSC Foundation will request a resolution approving the transaction and final documents. **Moved** by Commissioner Starr, seconded by Commissioner Channell to set a Public Hearing for 9/1/09 at 8:00 am to take testimony on the issue of assisting with the WSC Financing Agreement for the Foundation on issue requests. Motion carried unanimously.

PROPERTY PURCHASE NEGOTIATIONS; POSSIBLE EXECUTIVE SESSION: County Attorney David Baumgarten recommended that he and the Board enter into an executive session with County Manager Matthew Birnie to discuss property purchase negotiations. **Moved** by Commissioner Channell, seconded by Commissioner Starr to go into executive session including the Board, the County Manager

and the County Attorney for purposes of receiving legal advice around property purchase negotiations and to receive advice on instructing negotiators. Motion carried unanimously. The board went into executive session at 2:19 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)a and C.R.S. 24-6-402(4)e.*

Attorney Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402 (2)(d.5)(II)(B), I attest that I am the Gunnison County Attorney, that I represent the Gunnison County Board of County Commissioners, that I attended all of the above referenced executive session, that all of the executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4) and that, because in my opinion all of the discussion during the executive session constituted a privileged attorney-client communication, no record of the executive session was required to be kept and no such record was kept.

Date: _____

David Baumgarten
Gunnison County Attorney

Chairperson Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402(2)(d.5)(II)(B), I attest that I am the Chairperson of the Gunnison County Board of Commissioners, that I attended all of the above referenced executive session, and that all of that executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4).

Date: _____

Paula Swenson, Chairperson
Gunnison County Board of Commissioners

The Board came out of executive session at 2:34 pm. Chairperson Swenson 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.

CLEAN ENERGY FINANCING DISTRICT PROPOSAL: Office for Resource Efficiency representative Andris Zobs, Assistant Finance Director Cowan, County Attorney Baumgarten and Deputy County Attorney Dill were present for discussion.

Mr. Zobs requested the continued exploration of this proposal. County Manager Birnie noted that the County would need to adopt a resolution.

County Attorney Baumgarten stated that an agreement would be necessary between the Board and the Clerk and Recorder before 9/1/09 if this issue is to be put on the ballot in November. The agreement would allow for the opportunity to place this on the ballot, if desired. County Attorney Baumgarten drafted the agreement. County Attorney Baumgarten felt that the County could either access Boulder County's bonding capacity or create our own. County Manager Birnie stated that Boulder County had passed a resolution to request funding on the November ballot.

Mr. Zobs was not aware of fixed costs with bond issuance and legal fees, but he felt that the per-household revenue would be sufficient in covering ongoing costs. County Manager Birnie noted that the entities in the State that currently have these types of programs do not feel that the fees cover the costs of the programs. County Attorney Baumgarten felt that we should be careful not to commit the County to something that has not been fully explored by the County.

Chairperson Swenson felt that the program could be beneficial, but she questioned how the County could begin educating the public about the program. She also wanted to know which entity would be paying for the cost of the election, including attorney's fees incurred for creation of the ballot language. She felt that the County should hold off until more information is collected so as not to run the risk of the issue failing in the election.

Mr. Zobs stated that Boulder County didn't begin their education campaign until the August before the election. Chairperson Swenson acknowledged that, but added that Boulder County had been discussing this program for a couple of years.

Commissioner Starr agreed that the education element would be vital since failing in the election could put the program in jeopardy in the future. He also felt that the construction industry could be assisted with the immediate success of the program as stimulus funding is not guaranteed for the future. He

opined that the County would need to help the public to understand that this program would not be a tax increase.

Chairperson Swenson agreed, but again questioned the logistics of the election. County Manager Birnie explained that the County would have to pay for this issue to be included on the ballot. He also confirmed that the Governor's Energy Office cannot pay for campaigns, so it might also not be able to pay for costs associated with an election.

County Manager Birnie felt that the larger cost would be in the issuance of the debt as stimulus funding is not available for this program right now. He questioned whether or not the County was ready to place this issue on the ballot as there may not be ample time to do it correctly. Given another year of work may yield more answers, but placing this on the November 2009 ballot would require the County to make this decision with only a couple of weeks.

Commissioner Channell stated that Boulder County instituted a \$75 non-refundable application fee, while also collecting finance charges, which he felt would be enough to cover administration of the program. However, County Manager Birnie indicated that the associated costs are too high and have frightened people away from the program.

Assistant Finance Director Cowan stated that the County has not had enough time to fully investigate the issue, and that it appears as though Boulder County does not want to increase the \$75 application fee. It also appears as though applicants in Boulder County attended the required workshops and then contracted private contractors to perform the work at a cheaper rate than what the County could offer.

Commissioner Channell questioned whether or not our community has the critical mass to run this program and keep it viable. Mr. Zobs indicated that this program would require 200 homes across three counties to participate. He also explained that the three-county consortium would have each county voting on a cap with the administration responsibilities being overseen by a regional position that coordinates with local entities.

County Manager Birnie questioned the reasoning behind creating a three-county consortium instead of aligning with Boulder County since Boulder County has the experience, is seeking partners, and is likely to get the bonding capacity. Mr. Zobs felt that legislation would be necessary in order to align with Boulder County; however County Attorney Baumgarten confirmed that legislation would not be necessary.

Assistant Finance Director Cowan stated that Boulder County would like to spread this program out over multiple jurisdictions in order to benefit from cost sharing and better bond ratings.

Commissioner Channell questioned whether or not the mechanisms were in place to piggyback on Boulder County and County Attorney Baumgarten confirmed that they were, should the language pass in the November election. He also explained that the County would have to go to the ballot for the authority to take on a multi-year fiscal obligation. County Manager Birnie added that the County would then need to finalize an Intergovernmental Agreement with Boulder County.

Commissioner Channell requested information related to the local municipalities' thoughts on this issue. Mr. Zobs stated that Crested Butte is interested, but is waiting for the County to take the lead. He also confirmed that the City of Gunnison is not willing participate with ORE in this or any other project. County Attorney Baumgarten explained that municipalities have the opportunity to create their own districts; however, County Manager Birnie felt that all City of Gunnison residents would be included since they are residents of the County.

Mr. Zobs has received positive preliminary feedback from homeowners and contractors, so he believes that there is strong enthusiasm about this program.

Commissioner Channell requested information related to any opposition that may exist. Mr. Zobs noted that a competitive banking entity in Boulder County expressed opposition.

Mr. Zobs felt that aligning with Boulder County could result in a better interest rate on the loans.

County Manager Birnie explained that, either way, a ballot issue would be needed while legislative changes would not be needed. He also felt that Boulder County's bond issue language would pass this November. He would like to move forward with a program, as long as it does not include local administration. The Board agreed that the legwork should be done to draft potential resolutions for possible adoption on 9/1.

Moved by Commissioner Channell, seconded by Commissioner Starr to enter into the Intergovernmental Agreement with the Gunnison County Clerk for potential ballot language and to direct staff to work with bond counsel to draft some language. Motion carried unanimously.

BRIEFING ON THE GUNNISON BASIN INDUSTRIAL PARK; LEASING AND LEGAL ISSUES; POSSIBLE EXECUTIVE SESSION: Assistant County Manager Crosby and County Attorney Baumgarten were present for discussion.

County Attorney Baumgarten requested an executive session during which he could provide, under the framework of an attorney-client privileged communication, negotiation instructions to Assistant County Manager Crosby, County Manager Birnie, and the Board. **Moved** by Commissioner Channell, seconded by Commissioner Starr to go into executive session for those reasons described by County Attorney Baumgarten. Motion carried unanimously.

The board went into executive session at 3:35 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)(a)(e).*

Attorney Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402 (2)(d.5)(II)(B), I attest that I am the Gunnison County Attorney, that I represent the Gunnison County Board of County Commissioners, that I attended all of the above referenced executive session, that all of the executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4) and that, because in my opinion all of the discussion during the executive session constituted a privileged attorney-client communication, no record of the executive session was required to be kept and no such record was kept.

Date: _____

David Baumgarten
Gunnison County Attorney

Chairperson Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402(2)(d.5)(II)(B), I attest that I am the Chairperson of the Gunnison County Board of Commissioners, that I attended all of the above referenced executive session, and that all of that executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4).

Date: _____

Paula Swenson, Chairperson
Gunnison County Board of Commissioners

The Board came out of executive session at 3:44 pm. Chairperson Swenson confirmed that the discussion remained on-topic, that all parties stated to be in attendance were, in fact, in attendance and that no decisions were made.

COUNTY ATTORNEY PERSONNEL AGREEMENT: County Attorney David Baumgarten was present for discussion and requested that he and the Board enter into an executive session to discuss his employment contract. **Moved** by Commissioner Starr, seconded by Commissioner Channell to go into executive session for the purposes of discussing the County Attorney’s employment contract with the Board and the County Attorney. Motion carried unanimously.

The board went into executive session at 3:48 pm. *Executive sessions of the Board of County Commissioners are conducted as per C.R.S. 24-6-402(4). This specific session was conducted as per C.R.S. 24-6-402(4)f.*

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: _____

Paula Swenson, Chairperson
Gunnison County Board of Commissioners

The Board came out of executive session at 3:57 pm. Chairperson Swenson confirmed that the discussion remained on-topic, that all parties stated to be in attendance were, in fact, in attendance and that no decisions were made.

COUNTY MANAGER PERSONNEL CONTRACT: County Manager Birnie was present for discussion. **Moved** by Commissioner Starr, seconded by Commissioner Channell to authorize the Chairperson’s signature on the contract for the County Manager, which is the same contract as signed the last time with the changes reflected in the (County) Manager’s letter to the Chairperson, dated July 7, 2009. Motion carried unanimously.

COUNTY ATTORNEY AND DEPUTY COUNTY ATTORNEY PERSONNEL CONTRACTS: **Moved** by Commissioner Channell, seconded by Commissioner Starr to approve the County Attorney’s contract as presented. Motion carried unanimously. **Moved** by Commissioner Starr, seconded by Commissioner Channell to authorize signatures of the employment contract with the Deputy County Attorney as submitted. Motion carried unanimously.

ADJOURN: **Moved** by Commissioner Starr, seconded by Commissioner Channell to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 4:07 pm.

Paula Swenson, Chairperson

Jim Starr, Vice-Chairperson

Hap Channell, Commissioner

Minutes Prepared By:

Katherine Haase, Deputy County Clerk

Attest:

Stella Dominguez, County Clerk

GUNNISON COUNTY BOARD OF COMMISSIONERS TEXT INCLUSION INTO MINUTES

**THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO: 2009-31**

A RESOLUTION AMENDING RESOLUTION NO: 07-57 A RESOLUTION ESTABLISHING A LIBRARY DISTRICT AND MERGING THE GUNNISON COUNTY PUBLIC LIBRARY INTO THE LIBRARY DISTRICT PURSUANT TO COLORADO LIBRARY LAW

WHEREAS, on December 18, 2007 through Resolution No: 07-57, The Board of County Commissioners of the County of Gunnison, Colorado established the Gunnison County Library District pursuant to Colorado Library Law, § 24-90-101, et seq., C.R.S., as amended; and

WHEREAS, Resolution No: 07-57 was recorded with the Gunnison County Clerk and Recorder's Office on December 19, 2007, bearing Reception No: 581113; and

WHEREAS, pursuant to § 24-90-103(12) C.R.S. and §24-90-107(2)(a) C.R.S., as amended, notice was given of the public hearing held on December 4, 2007 by publication in the Gunnison Country Times; and

WHEREAS, the affidavit of publication that was referenced in Resolution No: 07-57 as Exhibit "A", demonstrating that public notice was given, was not attached to the recorded resolution; and

WHEREAS, it would be best if Resolution No: 07-57 included the affidavit of publication that was referenced in Resolution No: 07-57 as Exhibit "A".

NOW THEREFORE, BE IT RESOLVED by The Board of County Commissioners of the County of Gunnison, Colorado, that Resolution No: 07-57 shall be and hereby is amended to include the affidavit of publication attached hereto and incorporated herein by this reference as Exhibit "A".

INTRODUCED by Commissioner Starr, seconded by Commissioner Channell, and adopted this 18th day of August, 2009.

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

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