

**GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING MINUTES
February 16, 2010**

The February 16, 2010 Gunnison County Board of County Commissioners meeting was held in the Gunnison County Board of County Commissioners' boardroom in the Gunnison County Courthouse located at 200 E. Virginia, Gunnison, Colorado. Present were:

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

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

CALL TO ORDER: Chairperson Starr called the meeting to order at 8:59 am.

AGENDA REVIEW: There were no changes to the agenda.

MINUTES APPROVAL: Moved by Commissioner Swenson, seconded by Commissioner Channell to approve the January 19, 2010 minutes as presented. Motion carried unanimously.

CONSENT AGENDA: Commissioner Channell requested that Consent Agenda Items #3, #4 and #5 be pulled for further discussion. Moved by Commissioner Swenson, seconded by Commissioner Channell to approve the Consent Agenda excluding Items #3, #4 and #5, and authorize signatures. Motion carried unanimously.

1. Acknowledgment of County Manager Signature; Continuing Grant Application; Colorado Division of Criminal Justice State Juvenile Diversion Program Funds; \$6,667
2. Acknowledgment of County Manager Signature; Provider Agreement; Voices for Children; Professional Services Regarding Supervised Visitation to Individuals and Families Referred from the Gunnison County Department of Health and Human Services; 2/20/10 thru 2/19/10
3. Pulled for Discussion and Separate Action: Petition for Abatement or Refund of Taxes; Account R003455, Parcel 325503102008
4. Pulled for Discussion and Separate Action: Petition for Abatement or Refund of Taxes; Account R002249, Parcel 3787-021-20-006
5. Pulled for Discussion and Separate Action: Petition for Abatement or Refund of Taxes; Roddy Williams, Mountain Bell Lode #4236, Forest King No. 2 #8067 Ruby MD Sec 35 13s 87W
6. Agreement; Housing Resources of Western Colorado; Professional Services Regarding USDA Rural Development Mutual Self Help Program
7. Certification of Compliance; Article 29 of Title 29 CRS, Immigration Status Arrestee Report - Cooperation with Federal Officials
8. Airport Improvement Project Award, Rehabilitation of Taxiway A1-A3; Jviation, Inc.
9. Correspondence; Congressman John Salazar; Support for the Rocky Mountain Biological Laboratory's Congressional Funding Requests
10. Planning Commission Handbook Endorsement
11. Grant of Easement for Public Highway; Corb S. Bedell

CONSENT AGENDA ITEMS #3, #4 and #5: Commissioner Channell asked that these be pulled from the Consent Agenda for further discussion because he thought that someone from the Assessor's Office would be present for discussion. He stated that he would often prefer to discuss the justification for abatements, particularly when a significant amount of money is involved, such as in Item #3. County Attorney David Baumgarten offered to arrange for an Assessor's representative, if the Board so desired. Commissioner Channell said he would appreciate that and the Board agreed. This discussion was tabled until later in the meeting.

SCHEDULING: The Upcoming Meetings Schedule was discussed and updated.

COUNTY MANAGER'S REPORT AND CORRESPONDENCE: County Manager Birnie and County Attorney Baumgarten were present for discussion.

1. Qualified Energy Conservation Bonds (QEBCs) Application. County Manager Birnie informed the Board that the County's application to the Governor's Energy Office (GEO) for QEBCs relative to construction projects was denied. Per the GEO, the County already has other means of financing the projects. County Manager Birnie explained that \$5.5 million dollars had been allocated to PACE programs, but that the distribution was not yet known.
2. Construction Projects Update. County Manager Birnie informed the Board that the architectural selection process had begun. A total of 16 applicants submitted information following an advertisement for qualifications; full proposals were requested of the narrowed pool of seven applicants. The majority of the applications originated from the front range with only two from Grand Junction, one from Aspen, and one from Crested Butte. Proposals will be due 3/11/10 with interview selection by 3/18/10 and interviews on 3/26/10. County Manager Birnie stated that he would be pleased to include a Board member on the selection committee that is staffed

by County Manager Birnie, Assistant County Manager Marlene Crosby, Fleet Manager Lee Partch, Sheriff Rick Murdie, Undersheriff Rick Besecker, and representatives from Project One, the firm selected to be the owner's representative on these projects. A Special Meeting was scheduled for 3/30/10 at 8:30 am for selection of an architectural firm which, by requirement, must be within a 300-mile radius of the project. The Board expressed confidence in the selection committee and declined to be involved until the recommendation and decision stage.

3. Law Enforcement Patrol Agreement with the Town of Mt. Crested Butte. County Manager Birnie informed the Board that he recently met with Mt. Crested Butte Town Manager Joe Fitzpatrick to discuss the patrol agreement for the north end of the valley and the level of service. Progress is being made and there will be future meetings between County Manager Birnie and Mr. Fitzpatrick.
4. Wilderness and Proposed Wilderness Bills; Telephone Call from John Whitney. County Manager Birnie informed the Board that he received a call from Mr. Whitney who inquired about the County's position on the Powderhorn Addition and the West Elks Addition of Representative Diana DeGette's bill. The Board agreed that Representative John Salazar's model for the San Juan Bill was the appropriate model. County Manager Birnie will follow up with Mr. Whitney to find out whether or not the proponents of the bill would like to visit with the Board during a work session. The Board stated that input was desired from all interest groups in this matter prior to the Board becoming involved.
5. Update on Internet Colorado's Plan to Create a Wireless Mesh Web System. There was discussion related to the Forest Service position that this project is highly unlikely unless it can be proven as the only method of achieving the result. Commissioner Channell felt that the Board should schedule a follow up discussion since they have already met with Internet Colorado owner Jason Swenson.

ASSISTANT COUNTY MANAGER'S REPORT AND PROJECT UPDATES: Assistant County Manager Crosby and County Attorney Baumgarten were present for discussion.

1. Department of Transportation Drug Policy Form. Assistant County Manager Crosby explained that the form needed to be updated since the providers had changed. She also noted that she preferred to parallel the drug policy as close as possible to the personnel policies, which would include changing the policy from one of zero-tolerance to one authorizing discipline up to termination. She explained that her main reason for wanting this changed was due to the inability to apply discretion to the Commercial Driver's License (CDL) zero-tolerance policy for a positive result relative to a drug that had not been legally dispensed to the employee. A DOT-regulated requirement mandates treatment including attending sessions with a substance abuse professional and increased testing after the first offense. **Moved** by Commissioner Swenson, seconded by Commissioner Channell to approve the Gunnison County DOT policy regarding drug and alcohol testing. Motion carried unanimously.
2. North Gunnison Sewer District Inclusion Agreement. Assistant County Manager Crosby informed the Board that she had been approached by a subdivision along the river with an above-ground septic system that is not currently served by the North Gunnison Sewer District. She previously discussed this issue with County Attorney Baumgarten and both are supportive of investigating methods of including this subdivision into the District. The Board agreed to allow her and County Attorney Baumgarten to work on this agreement.
3. White Water Park Master Plan. Assistant County Manager Crosby informed the Board that two grant applications for engineering and construction had been filed and that FAA restrictions may remove the pavilion from the project. Two public sessions have been held; adjacent property and ditch owners have been contacted. Commissioner Channell requested that arrangement of vendors and parking be considered.
4. Somerset Property Purchase. Assistant County Manager Crosby informed the Board that she responded to the bank and that the bottom line was \$26,500. Without the completion of engineering assessments, Assistant County Manager Crosby felt that she could not determine how much value the property would have to the County. The Board agreed that staff should move forward with the engineering study. If the property owner will not hold the property, County Manager Birnie felt that the County could make an offer that would be contingent upon the engineering study findings.
5. Federal Highway Administration (FHA) Meeting. Assistant County Manager Crosby informed the Board that the FHA agreed to put stimulus funding into projects that are ready to begin and then backfill with other funding sources. The top three priorities are the Guanella, Tarryall and Taylor projects. Assistant County Manager Crosby felt that the County could receive between \$4 million and \$12 million dollars and that, if this money is received, it would be a huge benefit for the County.

CONSENT AGENDA ITEMS #3, #4 AND #5: Assessing Coordinator William Spicer and Deputy County Attorney Tom Dill were present for discussion.

Assessing Coordinator Spicer explained that Consent Agenda Item #3 involved a Lot 22 on Block 2 in Crested Butte that had been purchased by Busy Corner. The rest of the block is owned by a single owner and is undeveloped. Assessing Coordinator Spicer agreed to find out how much Busy Corner paid for the lot, which he felt was in excess of the agricultural value of the land. Cows from the neighboring property

graze on this land, per the lease that was provided to the Assessor's Office, which proves agricultural use of the land. The lease value is \$12.00. **Moved** by Commissioner Channell, seconded by Commissioner Swenson to approve Consent Agenda Item #3, Petition for Abatement or Refund of Taxes for Busy Corner Property Management Trust. Motion carried unanimously.

Assessing Coordinator Spicer explained that Consent Agenda Item #4 involved a property owned by R&D Leasing that was reduced in value to \$480,000, justified because the assessment was not appealed in 2007. Income information was provided for 2004 through 2006 and the overall value was lowered based on this information. **Moved** by Commissioner Channell, seconded by Commissioner Swenson to approve Consent Agenda Item #4, Petition for Abatement or Refund of Taxes for R&D Leasing. Motion carried unanimously.

Deputy County Attorney Dill explained that Consent Agenda Item #5 related to a property without vehicular access which negated the validity of the previously completed sales comparison. Prior to arbitration, the owner and the Assessor's Office were able to stipulate an agreement. **Moved** by Commissioner Channell, seconded by Commissioner Swenson to approve Consent Agenda Item #5, Petition for Abatement or Refund of Taxes, Roddy Williams, Mountain Bell Lode #4236, Forest King No. 2 #8067 Ruby MD Sec 35 13S 87W. Motion carried unanimously.

LITIGATION UPDATE; POSSIBLE EXECUTIVE SESSION: County Attorney Baumgarten was present for discussion.

1. Gunnison Prairie Dog Litigation. The Earth Guardian group is contesting the fact that the US Fish and Wildlife Service separated the species into two groups, those being the montane range and the prairie range, as the Earth Guardian group seeks to have the Gunnison Prairie Dog listed as an endangered species throughout the entire range. Gunnison County is included in the montane range. County Attorney Baumgarten estimated that this matter could be decided by the court within three-to-six months.
2. Colorado Oil and Gas Association vs. Colorado Oil and Gas Conservation Commission. This is in the State District Court in Denver, CO. County Attorney Baumgarten explained that the County has been included in this case as an intervenor on behalf of the Colorado Oil and Gas Conservation Commission. This was supposed to be a records-review case, but motions are going back and forth on whether or not to supplement the record. A separate action has been filed regarding the Open Records Act to ensure that all applicable records have been included.
3. Grand Valley Citizens' Alliance vs. COGCC. This is in the Colorado State Court of Appeals. In this case, the GVCA has asked for a hearing on the permit to drill, but the request was denied because only three entities are currently allowed to request a hearing, those being the permittor, the surface owner, or citizens through the local government designee. The process leaves out the ability of an ordinary citizen to protest, which is the subject of the litigation. Garfield County is scheduled to reconsider this issue on 2/17/10.
4. LePore vs. Castro. County Attorney Baumgarten informed the Board that he filed an intervention because one party conveyed to another party a piece of land that was not formally approved for subdivision by the County. Documents for signature may be forthcoming in the next week or more.
5. Mile 200, LLC. County Attorney Baumgarten stated that Mile 200, LLC had made no progress on the driveway permit while insisting that permission to cross his land has been granted by a neighbor.
6. Maestes Action in Arrowhead. County Attorney Baumgarten explained that the second residence on the individual lot is forbidden and that the owner has volunteered to cap the pipes and then allow for annual inspections. The HOA is not in agreement with this proposal.
7. Equal Employment Opportunity Commission Complaint. County Attorney Baumgarten informed the Board that this complaint had been dismissed, while another complaint may or may not be dismissed.
8. Bankruptcies. County Attorney Baumgarten informed the Board that eight bankruptcies had been filed since January 1st and that his office was currently tracking 13 judicial foreclosures.
9. Property Tax Assessment Appeals. County Attorney Baumgarten informed the Board that 14 cases were appealed through the State Board of Assessments and Appeals. The hearing dates had not yet been set.
10. Dependency/Neglect Cases. County Attorney Baumgarten informed the board that there were 14 active cases, which he felt was a high number.

BOARDS AND COMMISSIONS APPLICATION DECISIONS: Administrative Assistant III Ruth Dukeman was present for discussion.

1. Library Board. **Moved** by Commissioner Swenson, seconded by Commissioner Channell to reappoint Jim Barron to the vacancy on the Library Board. Motion carried unanimously. This will be a regular term and two vacancies will be readvertised.
2. Beautification/Scenic Corridors Committee. Two vacancies will be readvertised.

3. Boards of Adjustment and Board of Appeals. **Moved** by Commissioner Channell, seconded by Commissioner Swenson to reappoint Don Crosby, Jerry Kowal and Bob Williams to full terms on each of the Board of Adjustments and the Board of Appeals. Motion carried unanimously.
4. Cemetery Board. **Moved** by Commissioner Channell, seconded by Commissioner Swenson to appoint Camile Besse to the vacancy on the Cemetery Board. Commissioner Swenson requested that staff send a special letter of appreciation to Robert Patterson for his efforts while serving on this board. Motion carried unanimously.
5. Environmental Health Board. **Moved** by Commissioner Swenson, seconded by Commissioner Channell to reappoint Lucinda Lull, Steve Glazer and Eddie Balch to the regular positions on this board and that we appoint Rodney Due as an alternate to the Environmental Health Board. Motion carried unanimously. Commissioner Channell requested that the member terms be staggered in future years. The alternate position vacancy will be readvertised.
6. Historical Preservation Commission. The terms for this board need to be staggered in future years. Administrative Assistant III Dukeman agreed to contact Laura Easley to determine whether or not she feels that she will be able to continue her service on this board when considering her personal life situation. **Moved** by Commissioner Swenson, seconded by Commissioner Channell to appoint Elinda Card to one of the positions on the Historical Preservation Commission and table the other one until we hear back from Laura (Easley), hopefully later today. Motion carried unanimously.
7. Hospital Board of Trustees. **Moved** by Commissioner Swenson, seconded by Commissioner Channell to appoint Robert Brickman and Ronda Connaway to the two vacant positions on the Hospital Board. These are full five-year terms. Motion carried unanimously.
8. Sage-grouse Strategic Committee. **Moved** by Commissioner Swenson, seconded by Commissioner Channell to appoint Erich Ferchau to the At-Large Development Community Regular Member, Joe Puchek to the At-Large Development Community Alternate and Jon Mugglestone to the alternate At-Large position and readvertise for the regular position; and confirm the appointments that were presented to us in our packet as listed. Motion carried unanimously.
9. County Medical Health Officer. **Moved** by Commissioner Channell, seconded by Commissioner Swenson to appoint John Tarr to the position of Medical Health Officer with a hearty thank you for his service and his willingness to continue his service. Motion carried unanimously.
10. 7th Judicial District Community Corrections Board. **Moved** by Commissioner Swenson, seconded by Commissioner Channell to reappoint Don Wills to that board. Motion carried unanimously.
11. Planning Commission. **Moved** by Commissioner Channell, seconded by Commissioner Swenson to appoint David Owen, Ramon Reed and Sam Lumb as regular members to the Planning Commission and Selma Eastman and Jim Seitz as alternates. Chairperson Starr noted that this board is comprised of five members from the lower valley and two members from the upper valley. Motion carried unanimously.
12. Gunnison Valley Observatory Board. **Moved** by Commissioner Channell, seconded by Commissioner Swenson to heartily appoint Neal Starkebaum to the Gunnison Valley Observatory Board. Motion carried unanimously.
13. Housing Administrative Board. **Moved** by Commissioner Swenson, seconded by Commissioner Channell to reappoint Kelly McKinnis to the Housing Administrative Board as one of our County regular members. Motion carried unanimously.
14. Trails Commission. **Moved** by Commissioner Swenson, seconded by Commissioner Channell to reappoint Kay Peterson-Cook and Joellen Fonken to the Trails Commission Board. Motion carried unanimously. The Board requested that staff send a thank you to Doug Bradbury and then readvertise the vacant position.

COLORADO COUNTIES, INC. (CCI) REPORTS:

1. Public Land Committee. Commissioner Channell noted that there was nothing to report.
2. Agriculture, Wildlife and Rural Affairs.
 - a. Commissioner Channell informed the Board that CCI opposes HB 1124, an animal protection and enforcement bill, because it makes problematic the relationship that small counties have with their non-profit organizations.
 - b. Commissioner Channell informed the Board that all parties are in agreement to support SB 98, a bill dealing with conservation trust fund allocations, because weeds need to have a funding stream, and that the allocation is at the Board's discretion.
3. Land Use. Commissioner Channell noted that there was nothing to report.
4. Health and Human Services. Health and Human Services Director Renee Brown sits on this committee, so she will report on this during the afternoon meeting.
5. NACO/CCI Issues Survey Results. Commissioner Channell reported that transportation funding was the highest priority among all county commissioners. This was followed by renewable energy, public lands and full funding of PILT, the Clean Water Act, cap and trade, and unfunded mandates, in respective order.
6. Tourism, Resorts and Economic Development.
 - a. Commissioner Channell informed the Board that HB 1017, regarding designated privately developed deed restricted housing, is being pushed by resort communities. He explained that this has been problematic in Pitkin County and that this bill would establish the

- length and/or the transferability of the restriction. Commissioner Channell stated his support of transferability. This voluntary program would be between developers and counties.
- b. Commissioner Channell reported that HB 1188, the Right to Float Bill, was moving forward with support but that there are agricultural concerns.
7. General Government.
 - a. Commissioner Channell informed the Board that CCI voted to oppose HB 1047. While this involved new ballot language that may provide clarity, there is a fiscal note attached that would cost counties a great deal because of increased printing costs.
 - b. Commissioner Channell informed the Board that CCI will continue to monitor HB 1279, the Grocery Liquor Bill, and HB 1186, the Convenience Store Liquor Bill, to determine whether or not local licensing will be affected. County Manager Birnie will pen a letter to Representative McFadyen and the bills' sponsors.
 - c. Commissioner Channell explained to the Board that the medical-marijuana related bills, HB 1284 and SB 109, primarily focus on the ability of physicians to authorize cards for patients. Currently many providers authorizing cards do not have authority to write prescriptions, which will be a focus of the legislation. This legislation would also limit the number of patients per caregiver to five, and the number of plants per patient to six.
 8. Taxation and Finance.
 - a. Commissioner Channell informed the Board that CCI voted to remove from consideration all seven bills dealing with the elimination of tax exemptions.
 - b. Commissioner Channell informed the Board that SB 100 is moving forward with CCI support. This bill deals with energy smart loans and programs.
 - c. Commissioner Channell informed the Board that CCI supports HB 1293, the bill dealing with vacant to agricultural designation. Counties are affected because properties are purchased for large sums of money and then taxed at the agricultural level. This bill will call for a study on the assessment and classification of agricultural usage.
 9. Transportation and Communication.
 - a. Commissioner Channell informed the Board that the three bills regarding registration penalties have been tabled pending other bills.

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

HISTORICAL PRESERVATION COMMISSION APPOINTMENT: Moved by Commissioner Channell, seconded by Commissioner Swenson to appoint Jody Reeser to the full-time vacancy on the Historical Preservation Commission and that we (the Board) ask Administrative Assistant III Ruth Dukeman to pen a letter to Laura Easley thanking her for her service. Motion carried unanimously. (Earlier in the day, Administrative Assistant III Dukeman relayed to the Board that Ms. Easley's spouse recently passed away.)

COMMISSIONERS MEETING REPORTS:

Commissioner Swenson:

1. Gunnison Valley Rural Transportation Authority (RTA).
 - a. Cement Creek Project. Commissioner Swenson informed the Board that the project may be more costly than originally projected because of additional issues that will need to be addressed. She noted that RTA Executive Director Scott Truex is hopeful that the project will be halted, yet the majority voted to move forward with the appraisal to evaluate the project for feasibility. This may be put to a vote to assess citizen support. Crested Butte South has contributed \$5,000, yet the check had not yet been cashed by the RTA.
 - b. Crested Butte Mountain Resort (CBMR) Initial Presentation. Commissioner Swenson reported that this presentation raised a lot of questions because the dollar figures were not clear. CBMR would prefer to include Chicago in the flight schedules. There was also discussion related to CBMR's marketing plan as the details were unknown during the meeting.
 - c. RTA Tax. Commissioner Swenson reported that there was discussion about possibility of either evening out the tax across the entire district, which would increase only the City of Gunnison's current tax, or increasing the tax up to 1% across the entire district. Increasing the tax across the board may generate as much as \$1,500,000 for projects. More information will be available after the RTA's next board meeting.

Chairperson Starr:

1. Gas Collaboration Meeting in Montrose. Chairperson Starr attended to hear the presentation given by Mercator Energy President John Harpole. He felt that the highlight of the presentation was the thought that there will need to be a closer monitoring of wind energy being supplemented by coal or gas energy.

BREAK: The meeting recessed from 12:00 until 2:02 pm for a lunch break and to call to order as the Gunnison/Hinsdale Board of Human Services (see separate minutes).

REQUEST FOR FUNDING; RURAL TRANSPORTATION AUTHORITY; CEMENT CREEK PROJECT:
RTA Executive Director Scott Truex and attorney David Leinsdorf were present for discussion.

RTA Executive Director Truex explained that the RTA is hesitant to move forward with this project due to the costs involved. Commissioner Swenson felt that there may be support to possibly suspend any decisions until after the appraisal is complete.

Attorney Leinsdorf presented correspondence from his clients, David and Rhonda McCay. He felt that the RTA is obligated to go through the County's Land Use Change (LUC) process. Chairperson Starr stated that the County had assumed from the start that this project would go through the appropriate LUC process, which prompted Attorney Leinsdorf to state that approval of funding at this point would be premature and against County policy. Attorney Leinsdorf also felt that the RTA should cancel the project since the park-n-ride is not consistent with the County's tourist-based society.

RTA Executive Director Truex stated that the RTA is using consultants to determine whether or not Federal funds will be available. He felt that the RTA could not go through the LUC process without knowing whether or not the RTA would be able to obtain the necessary land. The RTA would like to fund the consultants to investigate the possibility of a categorical exclusion.

Chairperson Starr stated that Crested Butte South is not the same as the County and that the park-n-ride would become part of the County's property. He felt that the County should proceed with allocating funding for this purpose so that the RTA could proceed with determining project feasibility.

Commissioner Swenson felt that, since this request was first presented as a grant match, the County should wait to make a decision on the requested funding allocation until after the RTA meets on 2/26/2010.

RTA Executive Director Truex stated that all monies spent by the RTA for this project would be reimbursable once the grant funding was received. The RTA had spent approximately \$20,000 thus far. When the RTA voted on this issue, two members wanted to move forward, two members did not want to move forward at all, two members wanted to move forward with caution, and two were not present for the vote.

Commissioner Channell stated that a \$30,000 appropriation from the County could be a total loss if the RTA eventually opted not to pursue the project. RTA Executive Director Truex stated his feeling that the RTA would not, in good conscience, keep the County's funds if the project were cancelled.

Attorney Leinsdorf stated his opinion that it would be in the County's best interest to go through the LUC process prior to allocating any funding to the RTA. He also felt that the County should evaluate community support prior to allocating funding. He questioned whether or not the RTA could go through the LUC process without owning the property and Attorney Leinsdorf stated his belief that his clients would sign a letter approving this, without endorsing the project, if it goes forward.

Chairperson Starr reminded the Board that it had previously given direction to the RTA via a verbal agreement to allocate this money and that, because of this, the RTA proceeded with the project. He felt that stalling the process could send a message to the RTA that the County does not support this project wholeheartedly, which would not be accurate.

Commissioner Swenson stated that a lot of red flags had presented themselves since the County originally and verbally agreed to the funding, including not knowing whether or not the land would be available since the landowner has expressed reservations.

Commissioner Channell stated his willingness to release or appropriate the requested \$30,000 so that the project could move forward with determining whether or not the project is feasible. Commissioner Swenson questioned his willingness in the event that the funding won't be returned to the County if the project does not move forward; Commissioner Channell affirmed his willingness. **Moved** by Commissioner Channell, seconded by Chairperson Starr to appropriate the \$30,000 that we (the Board) set aside for the Cement Creek Park-n-Ride project to be able to advance. Assistant Public Works Director Allen Moores informed the Board that he had studied the aerial imagery and determined that this project will require completion of a traffic study. Because of this, he felt that the County should consider all future costs before making a decision because this project may require an acceleration/deceleration lane and the County would be the entity that would have to apply for CDOT funding. Motion carried. Commissioner Swenson voted against the motion.

POTENTIAL PROPERTY ACQUISITION; POSSIBLE EXECUTIVE SESSION: County Attorney David Baumgarten and Gunnison County Housing Authority Executive Director KT Gazunis were present for discussion.

County Attorney David Baumgarten requested that the Board consider going into an executive session with County Manager Birnie, Gunnison County Housing Authority Executive Director Gazunis and himself

to consider the purchase of real property and to instruct negotiators. **Moved** by Commissioner Swenson, seconded by Commissioner Channell to go into an executive session for the reasons outlined by the County Attorney. Motion carried unanimously.

The board went into executive session at 2:35 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)(b)(d)(e).*

Attorney Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402(4), 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(4), 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: _____

Jim Starr, Chairperson
Gunnison County Board of Commissioners

The Board came out of executive session at 2:58 pm. Chairperson Starr 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.

RESOLUTION; PLANNING COMMISSION RECOMMENDATION; EDSTROM SUBDIVISION; RESUBDIVISION OF LOT 8, OHIO MEADOWS, FILING #1; KAREN EDSTROM: Assistant Community Development Director Neal Starkebaum was present for discussion.

Assistant Community Development Director Starkebaum presented the request. **Moved** by Commissioner Channell, seconded by Commissioner Swenson to approve Resolution #2010-4, a Resolution and Certificate of Minor Impact Approval Approving Edstrom Subdivision Resubdivision of Lot 8, Ohio Meadows F#1 Subdivision Gunnison County, Colorado LUC #2009-30 and authorize signatures. Assistant Community Development Director Starkebaum confirmed that both dogs and cats were addressed by the resolution. Motion carried unanimously.

RESOLUTION; ADOPTION OF ROAD NAME; COLUMBINE MEADOWS SUBDIVISION; SNOWFLAKE TRAIL: Assistant Community Development Director Starkebaum was present for discussion.

Assistant Community Development Director Starkebaum presented the request to correct this oversight. **Moved** by Commissioner Swenson, seconded by Commissioner Channell to adopt Resolution #2010-05, a Resolution Approving the Road Name of Snowflake Trail for the Access Road to Columbine Meadows Subdivision Gunnison County, Colorado and authorize signatures. Motion carried unanimously.

BREAK: The meeting recessed from 3:12 until 3:19 pm.

COMMERCIAL RAFTING VIABILITY ACT: County Attorney Baumgarten and Assistant Community Development Director Starkebaum were present for discussion along with citizens Mark Schumacher, Matt Brown, Ches Russell and Butch Clark.

Mr. Schumacher requested Board support of HB 1188. He explained that his business, Three Rivers Resort, was given notice a couple of years ago that a new owner planned on keeping commercial and private floaters off of the Taylor River. He stated that he had approached Representative Kathleen Curry to ask for her support in finding a resolve to this issue; Senator Gail Schwartz is a co-sponsor of the bill.

Mr. Schumacher explained that HB 1188 would apply to only commercial historical usage, not private boaters. He felt that the bill is straightforward and as conservative as possible while allowing him to remain in business. He stated that the bill would not allow the use of anchors as boaters would be mandated to be actively proceeding downstream at all times. He noted that the bill, as passed by the House earlier in the day, places more liability protection for landowners and doesn't affect any water rights. If the bill passes, private landowners will be capable of blocking the river which may cause future issues.

County Attorney Baumgarten stated that the County had been involved in this issue in one way or another during the last 15 years. He noted, though, that this was the first time that the issue had affected commercial business in the County. He felt that legislation was the only way to solve the situation.

Commissioner Swenson felt that this bill was a great step and that the Board should support the bill via correspondence to that fact. Commissioner Channell agreed.

Mr. Clark stated that he had followed this issue for a while because he owns property that a stream passes through. He hasn't determined whether Federal law preempts State law with regard to access to the streams, though a historic ordinance declares that navigable waters are available to the citizens of the United States in perpetuity. Chairperson Starr stated that the definition of "navigable" can be interpreted more than one way. **Moved** by Commissioner Swenson, seconded by Commissioner Channell that the Gunnison County Board of County Commissioners supports House Bill 1188 and that we (the Board) draft a letter of support to go out to all interested parties, particularly our senator and representative, and authorize signatures on the letter as soon as it is done. It was further agreed that this correspondence would be copied to all 35 members of the senate. Motion carried unanimously.

BUREAU OF LAND MANAGEMENT (BLM) COOPERATING AGENCY REQUEST FOR GEOTHERMAL LEASING: Bureau of Land Management (BLM) Field Manager of the Gunnison Field Office Brian St. George and BLM Gunnison Field Office NEPA Coordinator Marnie Medina were present for discussion.

County Manager Birnie explained that County staff had met with BLM and Forest Service (FS) representatives, both of whom have lands. The recommendation from staff is that the County becomes a cooperating agency. Elements of a possible memorandum of agreement have been discussed and he requested that the Board grant him signatory authority. He stated that it was not yet clear how much the FS will request from the County, and whether or not the County would have the formal status of cooperating agency with the FS.

Mr. St. George stated that this would be one process, although there may be two separate relationships. County Manager Birnie stated that the same staff members would be engaged in the entire process.

Ms. Medina explained that geothermal leasing has limited opportunities for directional drilling.

The Board agreed to work with the BLM as a cooperating agency and create memorandum of understanding to describe the responsibilities and procedures as agreed to by both parties. **Moved** by Commissioner Channell, seconded by Commissioner Swenson to reply to the invitation from the BLM as a cooperating agency for the geothermal lease environmental process. Motion carried unanimously.

ENFORCEMENT; ANTELOPE HILLS HOA; POSSIBLE EXECUTIVE SESSION: County Attorney Baumgarten, Assistant County Manager Crosby, Assistant Community Development Director Starkebaum and Building Inspector Rich Wojdakowski were present for discussion.

Building Inspector Wojdakowski explained that the mobile home and campers are still present on the land. The Stop Order was dated 4/7/2009 which prompted Ms. Shahan to apply for a 180-day temporary mobile home permit. During the summer of 2009, Building Inspector Wojdakowski received many telephone calls from concerned HOA members. Subsequent correspondence was sent to Ms. Shahan on 10/29/2009 from the County Attorney's Office; no response was received from Ms. Shahan. Ms. Shahan failed to apply for a 60-day extension.

Commissioner Swenson reported that she had also received many telephone calls from concerned landowners in the HOA.

County Attorney Baumgarten explained that the next step would be to initiate legal action, which he did not want to do without prior authorization from the Board. **Moved** by Commissioner Channell, seconded by Commissioner Swenson that there is no indication that she (Ms. Shahan) is not, nor should she not be, aware (of the issue); that we (the County) all are trying to be more consistent on our enforcement of code violations; and that we (the County) need to move forward with legal action. Motion carried unanimously.

COMMISSIONERS MEETING REPORTS (continued):

Chairperson Starr: (continued)

2. College Center Dinner. Chairperson Starr reported that he attended this event during the previous weekend, that the food was good, and that there were many people in attendance.
3. Meeting with Representative Kathleen Curry and Senator Gail Schwartz. Chairperson Starr informed the Board that he attended a meeting on the previous Saturday evening with Representative Curry and Senator Schwartz. He provided the following highlights of that meeting:
 - a. A bill is advancing that would provide greater flexibility to colleges with regard to tuition rates. Western State College (WSC) President Jay Helman attended meeting, but did not express a formal position for WSC.
 - b. Colorado is 46th in the nation as far as taxation.
 - c. In Colorado, only 20% of all 9th graders will eventually attend college.
 - d. Colorado is ranked 2nd in the nation for transparency in how stimulus funds are spent.
 - e. Senator Schwartz is working on a bill regarding gender equity in the arena of health insurance.
 - f. While 19.5% of Colorado children are considered to be obese, this is still better than any other state in the nation.
4. Building Safety; Blackstock Government Center. Chairperson Starr informed the Board that an employee from the Assessor's Office expressed concern about sidewalk icing around the Blackstock building. County Manager Birnie agreed to have Facilities Maintenance Supervisor Rich Corbett look into the situation. It was not clear which section of sidewalk may be problematic.
5. Marble Tourism Association (MTA) Update. Chairperson Starr asked for an update on this issue. County Manager Birnie explained that the MTA had not yet been able to provide a unified stance, which indicates that the MTA is not ready to receive tax monies from the County. County Manager Birnie also provided information relative to the tax collections in Marble. Commissioner Channell stated that he was having second thoughts about even funding the Marble Town Council, so he felt that this issue should be discussed in a greater detail during a scheduled work session. County Manager Birnie stated that it is not clear whether or not the MTA follows the MTA bylaws. He felt that a solution may be to provide funding to the Tourism Association for marketing of the Marble area. The Board agreed that correspondence should be sent to all known members of the MTA regarding the County's stance on the issue. That being that the County will not disperse funds until the MTA comes forward to formally and appropriately request funding from the County. County Manager Birnie will gather all pertinent information and get it to the Board.

Commissioner Channell:

1. City of Gunnison Street Vacation Hearing. Commissioner Channell informed the Board that he and Geographic Information Services Manager Mike Pelletier attended the recent meeting, during which the City Council approved the vacation.
2. Tourism Association Meeting. Commissioner Channell informed the Board that he attended a recent TA meeting. Most of the discussion surrounded the six open seats on the board. Nominations closed on 2/15/2010. This will be an electronic members-of-chambers-only vote. The vote closed on 3/12/2010.
3. Pandemic Meeting. Commissioner Channell attended this meeting during the previous week. He noted that the group is in transition from H1N1 planning to more of the pandemic response plan. It is thought that the County successfully handled the H1N1 timeframe as there were no emergencies or closures.

ADJOURN: Moved by Commissioner Swenson, seconded by Commissioner Channell to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 4:45 pm.

Jim Starr, Chairperson

Hap Channell, Vice-Chairperson

Paula Swenson, Commissioner

Minutes Prepared By:

Katherine Haase, Deputy County Clerk

Attest:

Stella Dominguez, County Clerk

GUNNISON COUNTY BOARD OF COMMISSIONERS TEXT INCLUSION INTO MINUTES

**BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 2010 - 4**

A RESOLUTION AND CERTIFICATE OF MINOR IMPACT APPROVAL APPROVING EDSTROM SUBDIVISION RESUBDIVISION OF LOT 8, OHIO MEADOWS F#1 SUBDIVISION GUNNISON COUNTY, COLORADO LUC #2009-30

WHEREAS, Karen Edstrom has requested a Land Use Change permit to resubdivide Lot 8, Ohio Meadows, Filing 1; Lot 8 is approximately 7.454 acres. The applicant proposes to resubdivide Lot 8 into two parcels, Lot 8a (5.75-acres), on which there is an existing residence, and 8b (2.7-acres). The proposed development is shown on the *Replat of Lot 8, Ohio Meadows Filing No. 1*, dated August 14, 2009, prepared by Gunnison Valley Survey; and

WHEREAS, a joint public hearing was conducted by the Planning Commission and Board of County Commissioners on December 18, 2009; and

WHEREAS, the Gunnison County Planning Commission approved a Recommendation of conditional approval of the *Edstrom Subdivision* on December 18, 2009, and forwarded said Recommendation to the Board of County Commissioners for their review; and

WHEREAS, the Board of Commissioners did, on February 16, 2010, receive and review the Planning Commission's Recommendation and considered the Recommendation in evaluating the request and intends to approve the request by the adoption in full of the Planning Commission's December 16, 2009 Recommendation, with the following Findings and Conditions of Approval:

Findings:

1. This project, by definition, is classified as a Minor Impact Project.
2. There are existing improvements on the subject parcel that include, but are not limited to, a single-family residence, outbuildings, an individual sewage disposal system and two individual wells.
3. The applicant has proposed only one single-family residence on each lot.
4. There is an existing well (Permit No. 53659) on Lot 8a.
5. A well permit has been issued for Lot 8b (Permit No. 661446-F); the well has been constructed on the subject parcel.
6. The subject parcel is in occupied Sage-grouse habitat. Based upon the comments from the Sage-grouse Coordinator the Commission finds that the proposed subdivision will not have negative impacts on Sage-grouse, provided that the conditions regarding importation of gallinaceous game-birds to the subject parcel, and confinement of domestic cats and dogs are followed.
7. A subdivision plat has been submitted, dated December 17, 2009.
8. This application is consistent with the standards and requirements of the Gunnison County Land Use *Resolution*.
9. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application; including all exhibits, references and documents as included therein.

Conditions of Approval:

1. The applicant shall provide a subdivision plat in compliance with Section 6-105: L. *Specification for Subdivision Plats* prior to scheduling of this Planning Commission recommendation for review by the Gunnison County Board of Commissioners. The subdivision plat shall be recorded with the Gunnison County Clerk and Recorder, at the cost of the applicant.
2. Any importation of non-indigenous gallinaceous game-birds (including but not limited to pheasants, chukar, and quail) to these lots, shall be only from a source certified by the State of Colorado to be disease free. Prior to importation of any such species, the person proposing such action shall submit a list of species, with numbers proposed, and a disease certification, with a listing of diseases certified, from the source proposed. No importation of any wild birds, as defined above, shall occur without written approval by Gunnison County.
3. Per Section 11-106 G.3.d.1. of the *Gunnison County Land Use Resolution*, dogs and cats must be kept under appropriate control, by kenneling or other physically secure methods to ensure that negative effects to wildlife from pets do not occur. This includes construction workers' pets.
4. Only one residential unit is permitted on each lot.
5. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the Plan submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution*.
6. This recommendation is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.

7. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.
8. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.
9. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that the *Edstrom Subdivision* project is approved, subject to each and all conditions iterated within the Planning Commission's Recommendation.

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

INTRODUCED by Commissioner Channell, seconded by Commissioner Swenson, and passed on this 16th day of February, 2010.

GUNNISON COUNTY BOARD OF
COUNTY COMMISSIONERS

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

**BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 2010 - 5**

A RESOLUTION APPROVING THE ROAD NAME OF SNOWFLAKE TRAIL FOR THE ACCESS ROAD TO
COLUMBINE MEADOWS SUBDIVISION GUNNISON COUNTY, COLORADO

WHEREAS, Columbine Meadows Subdivision was approved by the Board of County Commissioners on December 23, 2008, and the plat of the subdivision is recorded at Reception No. 590525, May 7, 2009, in the records of the Office of the Gunnison County Clerk and Recorder; and

WHEREAS, the road name has been approved by Gunnison County Emergency Services; and

WHEREAS, the provision of a named road will provide for accurate emergency service addressing and timely response by emergency service personnel;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that the road name of Snowflake Trail is hereby approved.

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

INTRODUCED by Commissioner Swenson, seconded by Commissioner Channell, and passed on this 16th day of February, 2010.

GUNNISON COUNTY BOARD OF
COUNTY COMMISSIONERS

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