

**GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING MINUTES  
June 1, 2010**

The June 1, 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 (Arrived at 8:08 am)  
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:** Commissioner Channell called the meeting to order at 8:02 am. Neither Chairperson Starr nor County Manager Birnie was present when the meeting was called to order. Both arrived later as noted in the minutes.

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

**MINUTES APPROVAL:** Moved by Commissioner Swenson, seconded by Commissioner Channell to approve the Regular Meeting minutes of May 18, 2010 and the Special Meeting minutes of May 20, 2010 and authorize signatures. Motion carried.

**CONSENT AGENDA:** Commissioner Channell requested that Consent Agenda Items #4, #5 and #8 be pulled for further discussion. Moved by Commissioner Swenson, seconded by Commissioner Channell to approve the Consent Agenda, excluding Items #4, #5 and #8. Motion carried.

1. Acknowledgment of County Manager Signature; Colorado Common Grant Application to the Community Foundation of the Gunnison Valley; Solar Thermal System for In-Floor Radiant Heat and a Domestic Hot Water System; \$1,200
2. Acknowledgment of County Manager Signature; Interagency Agreement; Delta County Health & Human Services Department; Gunnison/Hinsdale Human Services Department, Montrose County Health & Human Services Department, Ouray County Health & Human Services Department, San Miguel County Health & Human Services Department and Region 10 Area Agency on Aging; Coordinated Duties and Responsibilities of Adult Protective Services (APS) and Long-Term Care Ombudsman (LTCO) Programs, and Investigation of Reports of Mistreatment of At-Risk Adults in the Community and Residents of Long-Term Facilities
3. Acknowledgment of County Manager Signature; Exchange Agreement to Exchange the Budget and Grant Modules for the Import/Export Module to Interface with Managing for Results (MFR) Activities; Blackbaud Professional Services
4. **Pulled for Discussion and Separate Action:** Acknowledgment of County Manager Signature; Contract; Lambert and Associates; Geotechnical Engineering Study for the Gunnison County Jail and Public Works Project; \$7,950
5. **Pulled for Discussion and Separate Action:** Acknowledgment of County Manager Signature; Contract Amendment #3; Colorado Department of Public Health and Environment CCPD, FLA, Contract Routing Number 11-12866
6. Ratification of Correspondence; State Tobacco Education and Prevention Partnership Grant Program Review Committee
7. Ratification of Correspondence; Rural Development Rural Energy Coordinator; Support for Gunnison County Electric Association Proposal Regarding the Energy Efficiency Building Project
8. **Pulled for Discussion and Separate Action:** Six-Month Extension of Law Enforcement Agreement Between Gunnison County Board of Commissioners, Gunnison County Sheriff and the Town of Mt. Crested Butte
9. Memorandum of Understanding for the Colorado Works Program and the Colorado Child Care Assistance Program; July 1, 2010 - June 30, 2011
10. Emergency Management Performance Grant; 2010 Local Emergency Management Support (LEMS); \$54,000
11. Grant Award; Colorado Department of Public Safety; Gunnison County Juvenile Diversion Grant #11-DV-07-04; \$20,000
12. Provider Agreement Renewal; HB 1451 (FAST) Services to Youth and Families; Creative Solutions/Cheryl Coffey
13. Provider Agreement Renewal; HB 1451 (FAST) Services to Youth and Families; Eric Krawczyk
14. Provider Agreement Renewal; HB 1451 (FAST) Services to Youth and Families; Allison Schultheis
15. Provider Agreement Renewal; HB 1451 (FAST) Services to Youth and Families; Monica Bilow
16. Provider Agreement Renewal; HB 1451 (FAST) Services to Youth and Families; Stacey Pozner
17. Provider Agreement Renewal; HB 1451 (FAST) Services to Youth and Families; Gunnison Area Restorative Practices
18. Provider Agreement Renewal; HB 1451 (FAST) Services to Youth and Families; Lake City Community School

19. Provider Agreement Renewal; HB 1451 (FAST) Services to Youth and Families; Midwestern Mental Health Center
20. Provider Agreement Renewal; HB 1451 (FAST) Services to Youth and Families; Darren Silver
21. General Immunization Core Service Contract; CDPHE Immunization Services; \$4,313.00
22. 2010 Memorandum of Agreement; Crested Butte / Mt. Crested Butte Bartenders and Servers Association; Community-Based Organization Funding; \$2,000
23. 2010 Memorandum of Agreement; Safe Ride of Gunnison, Inc.; Community-Based Organization Funding; \$2,500
24. 2010 Memorandum of Agreement; Rocky Mountain Biological Laboratory; Community-Based Organization Funding; \$2,000
25. 2010 Memorandum of Agreement; Crested Butte Wildflower Festival; Community-Based Organization Funding; \$500
26. 2010 Memorandum of Agreement; Midwestern Colorado Mental Health Center; Community-Based Organization Funding; \$12,000
27. 2010 Memorandum of Agreement; Crested Butte Mountain Heritage Museum; Community-Based Organization Funding; \$2,000
28. 2010 Memorandum of Agreement; Jubilee House of Gunnison County, Inc.; Community-Based Organization Funding; \$10,000

**CONSENT AGENDA ITEM #8:** Commissioner Channell requested further discussion regarding Finance Director Linda Nienhueser's comment on the routing sheet. It was determined that the contract was agreeable. **Moved** by Commissioner Swenson, seconded by Commissioner Channell to approve Consent Agenda Item #8. Motion carried.

Chairperson Starr arrived at 8:08 am.

**CONSENT AGENDA ITEM #5:** Commissioner Channell requested further discussion because Finance Director Nienhueser did not complete a sentence on the routing sheet. Senior Accountant Maureen Eden was present for discussion and explained that Public Health may need to reduce a staff member's hours in the future. **Moved** by Commissioner Swenson, seconded by Commissioner Channell to approve Consent Agenda Item #5 and authorize signatures. Motion carried unanimously.

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

**LITIGATION UPDATE:** County Attorney David Baumgarten was present. This discussion began earlier than scheduled due to a gap in the schedule.

County Attorney Baumgarten gave the following litigation updates to the Board:

1. Prairie Dogs. This is in Federal Court awaiting the judge's decision. The decision may not be known until October.
2. Colorado Oil and Gas Association vs. Colorado Oil and Gas Commission. An Open Records Request was submitted to the State, but it had not yet been complied with.
3. Grand Valley Citizens Alliance vs. Colorado Oil and Gas Commission. The County is working with the GVCA to argue the rights of citizens to take a stance during hearings.
4. Mile 200 LLC. All matters have been resolved except for the driveway issue and the easement.
5. Maestas. All matters were concluded via stipulation, but there will be a hearing to decide on the attorney's fee issues.
6. Shahan. A status conference is scheduled for 6/9/10.
7. Child Support Enforcement Case. In an ongoing case (not named during the meeting due to privacy issues), a stepparent is contending that he is no longer required to pay support.
8. Neglect and Dependency. There are 12 active cases.
9. Bankruptcies. There have been eight bankruptcies and the County is tracking approximately 13 judicial foreclosures.

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

1. Construction Manager / General Contractor Update. Responses to the formal Request for Proposals are due on 6/17/10. Interviews will be held 6/21/10 and 6/22/10.
2. Consent Agenda Item #4. Commissioner Channell asked for further discussion on this item, particularly whether or not a local entity could have performed this. County Manager Birnie explained that the local entities were given the opportunity to bid. Blythe + co. has contracted with SGM for the detention center's civil engineering needs and local surveyors have been hired for both capital projects. Commissioner Channell requested an updated list of all contractors. **Moved** by Commissioner Channell, seconded by Commissioner Swenson to approve Consent Agenda Item #4. Motion carried unanimously.
3. DOLA Direct Distribution Factor Weights. Commissioner Channell asked for an update. County Manager Birnie explained that he sent correspondence to Susan Kirkpatrick before the deadline and had not yet received a reply.
4. Blythe + co. Public Website for Capital Projects. County Manager Birnie noted that this website was not yet live, but that he would check with Blythe about it.

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

1. Magnesium Chloride. Assistant County Manager Crosby reported that applications would begin on Kebler and Cottonwood passes during the following week. The County will include the Big Cimarron at a later date.
2. North Valley Sewer Update. The inspection has been completed. The next step will be to get the lift station on-line and the road repaired. A total of 17 property owners had not yet paid the tap fee; 12 had. The project will move forward to finalize the ARRA funding. The property owners of the seven vacant parcels will pay the tap fee when the parcels are ready to be tied into the system.
3. Cattleguard by Rocky Mountain Biological Laboratory. Chairperson Starr requested an update on this issue. Assistant County Manager Crosby will evaluate the cattleguard within the next couple of weeks.

**CONDOMINIUM APPLICATION; DARTMOOR, FOXTROT, CIMARRON AND BAVARIAN BUILDINGS; BROOKSIDE CUSTOM HOMES; STALLION PARK AT BUCKHORN RANCH:** County Planner Cathie Pagano and County Attorney Baumgarten were present for discussion.

County Planner Pagano stated that each building received a Certificate of Occupancy between 2006 and 2008. County Attorney Baumgarten agreed no enforcement issues exist to preclude this application from being approved and that the deed restrictions would remain the same. The financial lender signed off on the project. **Moved** by Commissioner Channell, seconded by Commissioner Swenson to approve the Land Use Change Permit to condominiumize four buildings in Stallion Park, specifically the Dartmoor, Foxtrot, Cimarron and Bavarian and authorize the Chairperson to sign the plat. Motion carried unanimously.

**BREAK:** The meeting recessed from 8:56 until 9:03 am.

**MEDICAL MARIJUANA LEGISLATION; POSSIBLE EXTENSION OF MORATORIUM; POSSIBLE EXECUTIVE SESSION:** County Attorney Baumgarten was present for discussion.

County Attorney Baumgarten informed the Board that the Governor had not yet approved the legislation; this legislation will become law on 6/11/10 unless the Governor vetoes it. County Attorney Baumgarten suggested extending the moratorium until the County decides whether or not dispensaries will be allowed within the county and drafts pertinent local regulations. The current moratorium will expire on 6/15/10.

Chairperson Starr wondered whether or not a person could operate for the next year, based on the moratorium, if an existing dispensary were not operational by 7/1/10. County Attorney Baumgarten, after exhaustive research, could not determine the answer.

The Board felt that it would be advantageous to determine what other counties around the state are doing once the Colorado Counties, Inc. conference concludes on 6/3/10. Commissioner Swenson will also address this at Mayors/Managers luncheon on 6/3/10. A work session and special meeting were scheduled for 6/8/10.

**COMMISSIONERS MEETING REPORTS:** This discussion began earlier than anticipated due to a gap in the schedule.

**Commissioner Swenson:**

1. Region 10. Representatives will be scheduling a visit with the Board in the near future as Commissioner Swenson sent the request.
2. Sage grouse Strategic Committee. The Planning Commission requested comments from Gunnison County Wildlife Conservation Coordinator Jim Cochran about upsizing the water line relevant to the extension to Antelope Hills. There will not be a meeting in July.
3. Chamber of Commerce. The Chamber will celebrate an anniversary this fall. Discussions relevant to working more effectively with Western State College have begun.
4. Gunnison Valley Rural Transportation Authority. It is likely that there will be flights to/from Houston and Dallas next winter. The local bus service may need to institute a user fee.

**PETITION FOR ABATEMENT OR REFUND OF TAXES FOR 2009; ACCOUNT R003455; LOT 22, BLOCK 2, CRESTED BUTTE; BUSY CORNER PROPERTY MANAGEMENT & TRUST:** Appraiser Analyst George Lickiss and County Attorney Baumgarten were present for discussion.

The Assessor recommended approval of the petition. Commissioner Channell asked for an explanation of the agricultural status and Appraiser Analyst Lickiss explained that the owner of the livestock has to be making a profit from the livestock on the property in order to receive the agricultural status. **Moved** by Commissioner Swenson, seconded by Commissioner Channell to approve the Petition for Abatement or Refund of Taxes for 2009 for the Crested Butte Busy Corner Management and Trust. Chairperson Starr asked Appraiser Analyst Lickiss to find out when the last physical look at the area was conducted because homes have recently been constructed. Motion carried unanimously.

**PETITION FOR ABATEMENT OR REFUND OF TAXES FOR 2009; ACCOUNT R033845; PART OF MULTI-FAMILY TRACT 4 (BETWEEN SKYLAND DRIVE AND ANDREWS CIRCLE), SKYLAND INITIAL FILING 1.10 AC #569390; JOHN GEIST:** Appraiser Analyst Lickiss and County Attorney Baumgarten were present for discussion. Mr. Geist, the property owner, was present for discussion via telephone.

Appraiser Analyst Lickiss stated that the Assessor's Office appraised this property at \$1,755,000 in 2009. Since it is raw land, and the Assessor's Office cannot legally go below the value for raw land, the Assessor's Office believes that no abatement is warranted. The raw-land value was based on the 9/21/06 sales price.

Mr. Geist questioned what would happen if the value of the land were to decrease. He stated that he is an investor in the property and one of the signers on the bank loan; he paid the bank loan because the other owners in the LLC went bankrupt. He had not had an offer to purchase the property within the last three years and it has been suggested to him that he not list the property at more than \$1,000,000.

Appraiser Analyst Lickiss stated that the Assessor's Office would be addressing the drop in value during the reassessment in June 2010. Currently, the Assessor's Office cannot use a sales price beyond June 2008 and Mr. Geist purchased the property on 12/30/09. The Assessor's Office will use comparable sales either in Skyland Filing or another area if there are no sales in Skyland Filing.

**Moved** by Commissioner Swenson, seconded by Commissioner Channell to deny the Petition for Abatement or Refund of Taxes for account #R033845. Motion carried unanimously.

**BREAK:** The meeting recessed from 9:51 until 10:07 am.

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

**COMMISSIONERS MEETING REPORTS (continued):**

**Commissioner Channell:**

1. Gunnison County Substance Abuse Prevention Project (GCSAPP). The recent meeting was very well attended by a variety of persons. Approximately 1,300 Western State College (WSC) students attended prevention events during the previous year. The WSC Drug and Alcohol Policy has been revised. Juvenile Services is utilizing work crews on Saturday and Gunnison Valley Partners has 167 mentor matches. Programs are continuing in the RE1J School District. GCSAPP is promoting a social hosting ordinance that will punish adults for hosting non-compliant parties in their residences, even if they are not aware that an attendee may be under age. Adoption of this ordinance by the City of Gunnison is imminent and GCSAPP is expected to request a similar adoption via ordinance or resolution by the other municipalities and the County.
2. WSC Presidents Advisory Committee Meeting. Joint marketing efforts were discussed that could benefit the entire valley. WSC is pleased that the facility fee was approved by the students.
3. Tobacco Coalition. The Coalition is evaluating the ability of youth to access tobacco at retail stores.

**Chairperson Starr:**

1. Mayors/Managers Meeting. Chairperson Starr attended the recent meeting where he was provided the following information.
  - a. Town of Crested Butte. The Town received a \$32,000 energy grant for Old Rock and a \$2,000,000 GOCO grant for the Kochevar purchase.
  - b. RE1J School District. The District suspended the position of Director of Curriculum due to budget concerns. The capital projects should be completed by August.
  - c. Mt. Crested Butte. March sales tax collections were down 15%, \$2,500,000 will be spent on road repairs, and the Performing Arts Center is moving forward.
  - d. Town of Pitkin. The Town is revising its zoning regulations.
  - e. Upper Gunnison River Water Conservancy District (UGRWCD). Blue Mesa Reservoir is 80% full, peak flows for the Taylor River will be half of what they have been, and the UGRWCD will be in its new building within the next 10 days. There is one opening on the Board of Directors since only three incumbents are running for the four openings. The UGRWCD will be raising the funds necessary to complete the second phase of the Taylor Hydrology project.
  - f. WSC. A total of 245 students graduated in May. Taylor Hall will be renovated in 15 months at a cost of \$22,000,000.
  - g. Library District. Visits to the library are higher than in 2009. The District is undergoing its first audit.
  - h. City of Gunnison. Sales tax collections are down 5.2% for the year to date. The City is saving \$30,000 annually via the use of solar panels.
2. Chamber Forecast Meeting. Fat Tire Bike Week will be much larger than it has historically been. Over 80 weddings are planned currently. Approximately 140 members of the Colorado Dental

Association will be meeting in the valley in June. Wildflower Festival ticket sales have increased 100% compared to last year.

3. Crested Butte Temporary Animal Facility. Two site visits have been completed. Assistant County Manager Crosby requested additional space of 50 feet between the shop facility and the animal facility, so a reevaluation will be done.

**REQUEST FOR AUTHORIZATION TO INITIATE LEGAL PROCEEDINGS; LOT 6 AND 7, MITZEL GREEN ACRES; POSSIBLE EXECUTIVE SESSION:** County Attorney Baumgarten and property owner Brian Bell were present for discussion.

County Attorney Baumgarten explained that an August 2009 inspection revealed that an additional 462 square feet in the carport area was being constructed outside of the permit. On 12/4/09, a Stop Work Order was issued and documentation was requested from the property owner; to date the documentation has not been provided to the County Attorney's Office. Per County Attorney Baumgarten, Building Inspector Rich Wojdakowski asked that the County begin legal proceedings to achieve compliance.

Mr. Bell stated that he had worked with Assistant Building Inspector Crystal Lambert to receive the initial building permit. He stated that he later paid for the addendum for remodeling of the garage, which was completed by Building Inspector Wojdakowski. Following the addendum, he constructed three walls to enclose the carport due to issues with bears. He stopped all work on the project after he received the Stop Work Order.

The Board agreed to suspend further discussion until Building Inspector Wojdakowski was available for discussion.

**COMMISSIONERS MEETING REPORTS (continued):**

**Chairperson Starr (continued):**

4. Crested Butte Bartender's Association. In 2009, this organization was awarded County funding for the Late Night Taxi service, but the contract was never signed. The 2010 grant contract was approved by the Board as part of the Consent Agenda. The organization has requested the funds awarded in 2009 if still available. County Manager Birnie explained that the County cannot resurrect the 2009 budget and cannot grant funding without a contract. Chairperson Starr asked that the Board consider using discretionary funds.

**REPORT OF WATER COUNSEL; GUNNISON MUNICIPAL PIPELINE, HARTMAN #1 AND #2 DITCHES; POSSIBLE EXECUTIVE SESSION:** County Attorney Baumgarten was present for discussion. Water counselor Aaron Clay was available for discussion via telephone.

Mr. Clay explained that the Diligence Filing was due on the pipeline and that the County had until the end of July to file a new application.

Mr. Clay also explained that there was the potential for abandonment of the Hartman #1 and #2 ditches. The Hartman #1 ponds were created when the Airport put in lines, which disabled the ability to irrigate lands for several years and created the abandonment issue. The Hartman #1 and #2 ditches are on the list of ditches to be potentially abandoned; the final list will be made public on 7/1/10. For water right abandonment, it must be proven that the water hasn't been used in many years and that there was intent for the abandonment. Those items remaining on the abandonment list a year from now will proceed to the Water Court. The County has the option of filling in the gravel pits and planting grass to return the Hartman #1 ditch to its historical use and avoid abandonment.

County Attorney Baumgarten believed that Mr. Clay should meet with staff from Public Works, the County Attorney's Office and the Airport to evaluate the priority of the issue. This meeting will be scheduled concurrent with the water workshop during 7/20/10 and 7/21/10. County Attorney Baumgarten thanked Mr. Clay for his quick and professional response to this issue.

**BOARD OF COUNTY COMMISSIONERS INITIATION OF AMENDMENTS TO GUNNISON COUNTY TEMPORARY REGULATIONS FOR OIL AND GAS OPERATIONS; SG INTERESTS I, LTD. 'PETITION FOR RULEMAKING;' POSSIBLE MOTION BY BOARD; POSSIBLE EXECUTIVE SESSION:** County Attorney Baumgarten and Assistant Community Development Director Neal Starkebaum were present for discussion.

County Attorney Baumgarten informed the Board that the County had been asked to initiate amendments to our temporary regulations for oil and gas operations. He proposed that it might be appropriate timing to begin an overarching review of the regulations as well, beginning with the issue of setbacks from bodies of water. He explained that the process could only begin with initiation by either the Planning Commission or the Board. He also proposed that the amendments be accomplished in phases so that the most urgent issues could be addressed expeditiously.

The Board agreed that the County should proceed with the immediate issues. County Attorney Baumgarten suggested that an update be given to the Board in approximately one month. **Moved** by Commissioner Channell, seconded by Commissioner Swenson to instruct staff to move ahead with the joint effort with Planning Commission to review specifically the set back requirements and the lack of fee structure in our Oil and Gas Regulations and return to us with a report/recommendation by July 6<sup>th</sup>, pursuant to Section 1-112-C of the temporary Oil and Gas Regulations. Motion carried unanimously.

**ROCK CREEK PROPERTY FORECLOSURE; POSSIBLE EXECUTIVE SESSION:** County Attorney Baumgarten, Gunnison County Housing Authority Executive Director KT Gazunis and Administrative Assistant II Bobbie Sloan were present for discussion.

Gunnison County Housing Authority Executive Director Gazunis provided copies of the foreclosure notice relevant to the deed-restricted property. The foreclosure occurred on 5/26/10 and the County has 30 days in which to give the intent to exercise the right of first refusal. She suggested that the Board use funds from the Workforce Linkage Fee Fund to purchase the property, if a purchase were desired. Rock Creek currently has five properties for sale and there are three different sets of deed restrictions enforced at Rock Creek; she is working to consolidate deed restrictions. The relevant deed restrictions would allow for renting the property during the first year and then with limitations during the second year. The appraisal is being completed. The Board asked her to estimate the potential for leasing the property. **Moved** by Commissioner Channell, seconded by Commissioner Swenson to instruct staff to write a letter to Aurora Loan Services indicating our intention to exercise our right of first refusal. Motion carried unanimously.

**COMMISSIONERS MEETING REPORTS (continued):**

**Commissioner Channell (continued):**

4. Gunnison Valley Health Hospital Concern. Commissioner Channell reported that he had been contacted by a local physician with a procedural concern related to the hospital. Chairperson Starr noted that he had also been contacted, and that there are legal implications to the Board. Because of this, the Board agreed that the County Attorney's Office should evaluate the situation. Commissioner Swenson agreed that the Board would need a fuller evaluation that would go beyond the comments and opinions of one person. The issue of physician privileges and polices was scheduled for further discussion on 6/15/10.

**THOMPSON DIVIDE COALITION:** The Board was recently invited to a Coalition meeting. County Manager Birnie acknowledged that there was another request approximately one year ago, but that recent communications had been purely informational. Commissioner Channell felt that the Board would learn more about this issue through CCI since lobbyists address CCI.

**CRESTED BUTTE BARTENDERS ASSOCIATION; LATE NIGHT TAXI:** The Board agreed that it should review the Association's budget before voting on whether or not to grant additional dollars. Chairperson Starr will ask the Association for budget information along with information relative to what had been received from other funding sources.

**ADJOURN:** **Moved** by Commissioner Channell, seconded by Commissioner Swenson to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 11:58 am.

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Jim Starr, Chairperson

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Hap Channell, Vice-Chairperson

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Paula Swenson, Commissioner

Minutes Prepared By:

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Katherine Haase, Deputy County Clerk

Attest:

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Stella Dominguez, County Clerk