

**GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING MINUTES
September 20, 2011**

The September 20, 2011 meeting was held in the Commissioners' boardroom in the Courthouse located at 200 E. Virginia, Gunnison, Colorado. Present were:

Hap Channell, Chairperson
Paula Swenson, Vice-Chairperson
Phil Chamberland, Commissioner

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

CALL TO ORDER: Chairperson Channell called the meeting to order at 8:33 am.

AGENDA REVIEW: There were no changes to the agenda.

CONSENT AGENDA: Commissioner Chamberland requested that Consent Agenda Item #7 be pulled for further discussion. Chairperson Channell requested that Consent Agenda Item #18 be pulled for further discussion. **Moved** by Commissioner Swenson, seconded by Commissioner Chamberland to approve the Consent Agenda excluding Items #7 and #18. Motion carried unanimously.

1. Acknowledgment of County Manager Signature; Protocol for Quality Care of At-Risk Adults with Mental Illness Between Gunnison County Department of Health & Human Services and the Midwestern Colorado Mental Health Center
2. Acknowledgment of County Manager Signature; Contract Change Order #14; \$3,991
3. Acknowledgment of County Manager Signature; State of Colorado, Department of Local Affairs, Division of Local Government; Certification of Eligibility to Receive Conservation Trust Funds for Period January 1, 2011 to December 31, 2012; \$35,000
4. Acknowledgment of County Manager Signature; Gunnison County Purchase of Service Agreement with Montrose County Department of Health and Human Services for Period January 1, 2012 to December 31, 2012; \$12,722.93
5. Acknowledgment of County Manager Signature; Memorandum of Understanding; Mesa County Health Department and Gunnison County Public Health; Memorandum of Understanding Regarding Preparing for and Responding to Potential Disasters
6. Amendment to Memorandum of Agreement Between the Board of the Gunnison River Valley Local Marketing District of Gunnison County, Colorado and Marble Crystal River Chamber of Commerce; \$300 for Event Funding
7. **Pulled for Discussion and Separate Action:** Acknowledgment of County Manager Signature; U.S. General Services Administration, Public Building Service, Supplemental Lease Agreement; County shall pay rent from April 16, 2011 to April 15, 2012 at the rate of \$2,301.23 per month in arrears; and from April 16, 2012 to April 15, 2013 at the rate if \$2,485.33 per month in arrears
8. Notice to Proceed; Concrete Works of Colorado, Inc. perimeter fence repair for the Gunnison-Crested Butte Regional Airport
9. Performance and Payment Bonds; Concrete Works of Colorado, Inc. perimeter fence repair for the Gunnison-Crested Butte Regional Airport. Estimate of \$67,700
10. Colorado Division of Criminal Justice, Justice Assistance Grant, Statement of Grant Award; High Fidelity Wraparound Services; Total Award Amount \$32,803.00
11. Provider Agreement; Growing, LLC; professional Services Regarding Child Care Services; \$12 per hour, not to exceed \$1,000; Term 9/15/2011 thru 6/30/2012
12. Updated Microsoft Volume Licensing Agreement; Microsoft Office Suite and Software Assurance
13. Colorado Department of Public Health and Environment; WIC Breastfeeding Peer Counseling Program Contract; Term 10/1/2011 thru 9/30/2012; \$15,000
14. ITT Corporation; ADS-B WAM Radio Site, Facility and Tower Sublease Agreement
15. Intergovernmental Agreement Regarding Undesirable Plant Management
16. Acknowledgment of Assistant County Manager Signature; Clean Harbors, Environmental Services; Waste Transportation and Disposal Agreement
17. Amendment to Agreement Between Board of County Commissioners of the County of Gunnison, Colorado and KS Fulton, LLC; Extend Terms of the Agreement to October 31, 2011
18. **Pulled for Discussion and Separate Action:** Memorandum of Agreement Between Board of County Commissioners of Gunnison County, Colorado and Young at Heart

CONSENT AGENDA ITEM #7: Commissioner Chamberland requested additional discussion to clarify the purpose of the contract. County Attorney David Baumgarten explained that the contract will memorialize current practices at the Gunnison-Crested Butte Regional Airport. **Moved** by Commissioner Chamberland, seconded by Commissioner Swenson to approve Consent Agenda Item #7. Motion carried unanimously.

CONSENT AGENDA ITEM #18: Chairperson Channell requested clarification on the term date. Commissioner Swenson explained that it will not expire until 2014, which was intentional so that it wouldn't have to be renewed each year. **Moved** by Chairperson Channell, seconded by Commissioner Chamberland to approve Consent Agenda Item #18. Motion carried unanimously.

SCHEDULING: The Upcoming Meetings Schedule was discussed and updated. County Attorney David Baumgarten was present for discussion.

1. Water Quality in Western Colorado Presentation; Montrose, CO; 10/3/11; 4:00 pm. Chairperson Channell and County Attorney Baumgarten will represent the County at this meeting.
2. Powderhorn Community Association; Powderhorn Post Office Meeting; 10/11/2011; 6:00 – 7:00 pm; Powderhorn Community Building. Commissioner Swenson and Commissioner Chamberland will represent the County at this meeting.
3. Proposed Amendments to the Land Use Regulations (LUR); Set Public Hearing. The Public Hearing was set for 11/1/11.

WARRANTS AND TRANSFERS: Finance Director Linda Nienhueser presented the Warrant Report dated September 20, 2011 and the Cash Transfer Authorization dated August 2011 for discussion and approval. **Moved** by Commissioner Swenson, seconded by Commissioner Chamberland to approve the Warrants for September 20, 2011 in the amount of \$1,156,381.66. Motion carried unanimously. **Moved** by Commissioner Swenson, seconded by Commissioner Chamberland to approve the Cash Transfer for August 2011 in the amount of \$2,178,838.51. Motion carried unanimously.

CORRESPONDENCE:

1. Powderhorn Community Association; Powderhorn Post Office Letter. Draft correspondence was discussed and agreed upon. **Moved** by Commissioner Swenson, seconded by Commissioner Chamberland to approve the letter regarding the closure of the Powderhorn Post Office, and authorize signatures, and have it sent to Senator Bennet, Senator Udall and Representative Tipton individually. Motion carried unanimously.

DRAFT MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE COLORADO OIL AND GAS CONSERVATION COMMISSION (COGCC) AND GUNNISON COUNTY: County Attorney Baumgarten informed the Board that he, Commissioner Swenson and County Manager Birnie are scheduled to continue discussions this week with the State. The draft MOU was discussed and modifications were agreed upon. County Attorney Baumgarten confirmed that the MOU is not a final document, just a discussion document. During the meeting, he hopes to address mutual beneficial items and those that benefit only one side. County Attorney Baumgarten believes that this discussion and the related document present a tremendous opportunity for the State and local government, and that the relationship will continue to evolve. Commissioner Swenson agreed that role clarification will accompany successes. Chairperson Channell stated his hope that general terms can be made to be more specific as discussions continue. Commissioner Chamberland agreed that a better relationship with the COGCC will benefit the County.

BREAK: The meeting recessed from 9:28 until 9:40 am.

RIVER GREEN SUBDIVISION; FIRST AMENDMENT TO AMENDED DECLARATION OF PROTECTIVE COVENANTS: County Attorney Baumgarten and attorney Rufus Wilderson, representing the applicant, were present for discussion.

Mr. Wilderson explained that the Board approved the original covenants, which mandates that all amendment approvals must also be by the Board. The purposes of this amendment are to memorialize the subdivision's use of the 2006 Augmentation Certificate, to ensure a reliable supply of water, and to provide requirements pertaining to the use of water. **Moved** by Commissioner Swenson, seconded by Commissioner Chamberland to approve the amended Declaration of Protective Covenants for River Green Subdivision and authorize signatures. Motion carried unanimously.

BREAK: The meeting recessed from 9:43 until 10:14 am for a short break, from 10:14 until 10:19 am to call to order as the Gunnison/Hinsdale Board of Human Services, and then again from 10:26 until 11:15 am to call to order as the Gunnison County Board of Health (see minutes below).

GUNNISON COUNTY BOARD OF HEALTH: Public Health Director Carol Worrall, Environmental Health Specialist Richard Thompson, Environmental Health Specialist Katherine Shriner and County Medical Officer Dr. John Tarr were present for discussion.

CALL TO ORDER: Chairperson Channell called the meeting to order at 10:26 am.

ENVIRONMENTAL HEALTH PRESENTATION ON RESTAURANT INSPECTIONS; RICHARD THOMPSON: Mr. Thompson gave a PowerPoint presentation to the Board related to restaurant inspections. Inspection intervals vary from once every one-to-three years or two-to-three times per year, following a risk-based frequency. The results have started posting to the Montrose County website. After unfavorable inspections, facilities are allowed 30 days with which to correct the problem before receiving a follow-up inspection. Inspections are public information, so he requested permission to post the inspection results link on the Gunnison County website. He explained that there are currently 179 food establishments in Gunnison County, 205 in Montrose County, and 67 in Ouray County. **Moved** by Commissioner Swenson,

seconded by Commissioner Chamberland to post restaurant and food establishment inspections on our website. Motion carried unanimously.

Mr. Thompson stated that inspection fees are currently set by the State, but that they may be set locally in the future. Chairperson Channell voted in favor of advancing the legislation at CCI, because the costs of inspection vary in different localities. Mr. Thompson asked the Board to support this legislation through CCI.

FOLLOW-UP ON CAMP IN SOMMERSET: Public Health Director Worrall informed the Board that the Community Development Department is aggressively working with the camp to get all necessary inspections and certifications completed. The illness was not necessarily traced back to the camp, but the absence of inspections has raised concerns. The camp will not be allowed to operate as a child care facility until all inspections and licenses are in place. Since the water system isn't in compliance, bottled water is being used.

FLU CLINIC ON OCT 20, 2011: Public Health Director Worrall informed the Board that the community-wide clinic will be at the Public Health office. Afterwards, she will begin setting up mini-clinics at day care centers and at the Crested Butte Town Hall.

IMMUNIZATIONS; TEEN RATES; PROPOSED STATE BOARD OF HEALTH CHANGES: Public Health Director Worrall informed the Board that Colorado ranks second in the nation for tetanus, diphtheria and pertussis immunization coverage with an overall immunization rate of 86%. The national average is only 69%. Her office has been working with mothers of newborns to provide the shots immediately after giving birth. Colorado's immunization rate for human papillomavirus is 41%, while the national average is 32%. Colorado's immunization rate for meningitis is at 60%, while the national average is 63%. Upcoming legislative changes will ensure that physicians have to sign off before a parent can waive immunizations for their child.

UPDATE ON WEST CENTRAL PUBLIC HEALTH PARTNERSHIP HEALTH ASSESSMENT: Public Health Director Worrall informed the Board that the document is nearly final. Two stakeholders meetings have taken place and the next step will be to work on an improvement plan. The assessment will be distributed via the County website, hard copy and electronic copy.

ADJOURN: Moved by Commissioner Swenson, seconded by Commissioner Chamberland to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 11:15 am and the Board of County Commissioners meeting was immediately reconvened.

ROZMAN/RIVERLAND DEVELOPMENT IMPROVEMENTS AGREEMENT (DIA); PRESENTATION BY MARCUS LOCK AND COUNTY ATTORNEY DAVID BAUMGARTEN: Attorney Rufus Wilderson and County Attorney Baumgarten were present for discussion.

County Attorney Baumgarten informed the Board that all parties agree that the improvements need to be completed, so he recommended approval of the DIA. Moved by Commissioner Swenson, seconded by Commissioner Chamberland to approve the Rozman Development Improvements Agreement. Motion carried unanimously.

Mr. Wilderson, attending the meeting in place of Mr. Lock, informed the Board that the HOA President doesn't want to be accountable for the work that United is responsible for. The Board agreed that Riverland should only be responsible for the work performed by John Councilman. Modifications to the contract were agreed upon. Moved by Commissioner Swenson, seconded by Commissioner Chamberland to amend the previous motion to include the amendment. Motion carried unanimously.

PARTY STATUS REGARDING COLORADO WATER QUALITY CONTROL COMMISSION PUBLIC RULEMAKING RE: WATER QUALITY LIMITED SEGMENTS REQUIRING TOTAL MAXIMUM DAILY LOADS; AND MONITORING AND EVALUATION LIST: County Attorney Baumgarten explained that when this issue was last brought to the Board, the Stockgrowers' Association, High Country Citizens' Alliance, the County and the community provided one joint statement. The group now requests direction from the County since the County will likely serve as the convener of the group. The County deadline for submitting a request to be a party is 9/27/11. As a party, the County can provide comment, protest evidence, and formally contest others' evidence. He suggested that the Board authorize him to become a party and then to assemble the group for the purpose of creating a joint position related to the Gunnison Basin. Costs will be limited to the use of staff time, unless experts are hired. The Town of Crested Butte, City of Gunnison, and the Upper Gunnison River Water Conservancy District will also be part of the larger group. Moved by Commissioner Swenson, seconded by Commissioner Chamberland to authorize the County Attorney to request party status for Gunnison County and to rally the troops to get a coalition put back together. Motion carried unanimously.

LUNCH BREAK: The meeting recessed from 11:29 am until 1:00 pm.

STALLION PARK AFFORDABLE HOUSING REQUIREMENTS; PROPOSAL BY DEVELOPER TO RESTRUCTURE; POTENTIAL CONVEYANCE TO COUNTY OF UNITS; RELEASE OF DEVELOPMENT IMPROVEMENT AGREEMENTS AND CERTAIN RESTRICTIONS; POSSIBLE EXECUTIVE SESSION: Developer Dr. Richard Landy, developer's attorney Mike Dawson, Buckhorn Ranch HOA attorney Beth Appleton, Community Banks representative Matthew Ruddy, County Attorney Baumgarten and County Paralegal Rachel Magruder were present for discussion.

County Attorney Baumgarten explained that the documents presented for discussion and approval provide the details of the proposed transaction. That being that 24 of the 32 required units have been constructed, while only foundations have been constructed for the remaining eight units. Additionally, the developer will convey four units to the County and the development ownership rights to the County, with no obligation to build the remaining eight units. In return, the County will release the affordable housing deed restrictions on certain units, amend the Stallion Park declaration to cap various affordable housing restrictions, and release the developer of any further obligations under the Development Improvements Agreement. Closing is expected to occur within the next 15 days.

Mr. Dawson noted that County Attorney Baumgarten previously requested that some of the exceptions on the title policy be deleted. He confirmed that the title company agreed with the request, so those exceptions circled on the title policy will be deleted from the final document.

Mr. Dawson also requested clarification on whether or not to include the tap fees in the agreement since they were prepaid. County Attorney Baumgarten stated that he and County Manager Birnie both recommend the inclusion of the taps, and the Board agreed with their recommendations. Dr. Landy believes that including the taps would not be fair, but he agreed to proceed with adoption of the documents.

Ms. Appleton requested that the Buckhorn Ranch HOA be an additional insured on Stallion Park's liability insurance policy with indemnification. The Board agreed that this issue remains between those two parties.

Moved by Commissioner Swenson, seconded by Commissioner Chamberland to approve the Agreement Regarding Affordable Housing between Brush Creek Airport, LLC, Brookside Custom Homes, Inc. and the Board of County Commissioners, and authorize the Chairperson's signature. Motion carried unanimously.

Moved by Commissioner Swenson, seconded by Commissioner Chamberland to adopt Resolution #2011-36, a Resolution Authorizing the Acceptance of Ownership of Unit 101, Apache Building, and Units 102, 201 and 202, Estonian Building, Stallion Park Condominiums, Crested Butte, Colorado and authorize signatures. County Attorney Baumgarten clarified that the signed document will not be effective and recorded until the date of closing. Motion carried unanimously.

Moved by Commissioner Swenson, seconded by Commissioner Chamberland to approve the Release of Development Improvements Agreement and Amendment and Addendums Thereto and authorize signatures of everyone. County Attorney Baumgarten clarified that the signed document will not be effective and recorded until the date of closing. Motion carried unanimously.

Moved by Commissioner Swenson, seconded by Commissioner Chamberland to authorize the County Attorney to sign the letters to Community Banks reducing the Letter of Credit. Mr. Ruddy asked for confirmation that there are two Letters of Credit. Commissioner Swenson amended her motion to pluralize the word "letter", and Commissioner Chamberland seconded the amended motion. Motion carried unanimously.

Moved by Commissioner Swenson, seconded by Commissioner Chamberland to adopt Resolution #2011-37, a Resolution Amending Resolution No. 22, Series 2004, a Resolution Approving the Final Plan for Filing 2B of Buckhorn Ranch (Formerly Avion). Motion carried unanimously.

Moved by Commissioner Swenson, seconded by Commissioner Chamberland to approve the Partial Release of Affordable Housing Deed Restrictions between Brush Creek Airport, LLC and the Board of County Commissioners and authorize the Chairperson's signature. Motion carried unanimously.

Moved by Commissioner Swenson, seconded by Commissioner Chamberland to approve the Assignment of Development Rights and authorize the Chairperson's signature. County Attorney Baumgarten clarified that the signed document will not be effective and recorded until the date of closing. Motion carried unanimously.

Moved by Commissioner Swenson, seconded by Commissioner Chamberland to authorize either Assistant County Manager Marlene Crosby, County Manager Matthew Birnie or County Attorney David Baumgarten to participate in the closing and to sign any necessary documents. Motion carried unanimously.

County Attorney Baumgarten explained that Ms. Appleton’s concern related to a Settlement Agreement regarding stop signs and runway fencing did not need to be settled during the meeting. He stated that the issue would be researched and brought to the Board at a future date.

SG INTERESTS LITIGATION; REPORT ON COURT ORDER ON CERTAIN CLAIMS; AUTHORIZATION OF COUNTY COUNSEL FEES; POSSIBLE EXECUTIVE SESSION: County Attorney Baumgarten was present for discussion. Attorney Barbara Green was present for discussion via teleconference.

Ms. Green informed the Board that the court order clarified that the temporary oil and gas regulations are valid. SG Interests challenged the validity because of the word “temporary” as SG Interests believes that the temporary regulations should only have been used for six months before becoming invalid since they were not then approved by the Board. The court also ordered that the regulations are valid on their face value. SG Interests argued that the rules had been amended from the last time the court ruled on them, but the court rejected that argument. The court sided with SG Interests by ruling that Condition #6 is not valid.

County Attorney Baumgarten informed the Board that a status conference will be held on 9/23/11. He suggested that he and the Board go into an executive session with Ms. Green to discuss the judge’s ruling on Condition #6, that Gunnison Energy paid to have inspections accomplished, the cap on attorney’s fees and costs relative to this litigation, and any other questions that the Board may have about the judge’s order. Because this conversation would be subject to attorney/client privilege, no contemporaneous recording would be kept. **Moved** by Commissioner Swenson, seconded by Commissioner Chamberland to go into executive session for the reasons and rationale outlined by the County Attorney with the Board, the County Attorney and the special counsel (Ms. Green). Motion carried unanimously.

The board went into executive session at 1:34 pm. *Executive sessions of the Board of County Commissioners are conducted as per C.R.S. 24-6-402(4). This specific session was conducted as per C.R.S. 24-6-402(4)(b).*

Attorney Statement Regarding Executive Session

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

Hap Channell, Chairperson
Gunnison County Board of Commissioners

The Board came out of executive session at 2:01 pm. Chairperson Channell confirmed that the discussion remained on-topic, that all parties stated to be in attendance were, in fact, in attendance and that no decisions were made.

Chairperson Channell restated that the status conference will be held on 9/23/11. **Moved** by Commissioner Swenson, seconded by Commissioner Chamberland to direct the County Attorney and special counsel to request at that status conference from Judge Patrick to remand back the decision made by the Board of County Commissioners as reflected in Resolution #2011-26 regarding the pits for SG Interests so that we can relook and readdress Condition #6 in that decision document. Motion carried unanimously. **Moved** by Commissioner Swenson, seconded by Commissioner Chamberland to authorize staff to reimburse Gunnison Energy for the fee that they paid for the inspections that they agreed to in the approval of their pits. Commissioner Swenson clarified that this amount is \$20,000. Chairperson Channell noted that Gunnison Energy has been an excellent partner in this issue and that this refund shows good faith in the County’s relationship with a good player. Motion carried unanimously.

GUNNISON COUNTY BOARDS AND COMMISSIONS INTERVIEW; CEMETERY BOARD: The Board interviewed County Coroner Frank Vader for potential appointment to the Cemetery Board.

GUNNISON COUNTY BOARDS AND COMMISSIONS APPOINTMENT; CEMETERY BOARD: **Moved** by Commissioner Swenson, seconded by Commissioner Chamberland to appoint Frank Vader to fill the term vacated. Motion carried unanimously.

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

COMMISSIONER ITEMS:

Commissioner Swenson:

1. Rural Transportation Authority. Commissioner Swenson informed the Board that the RTA approved its winter budget. The bus will resume making eight trips per day at no charge.

Chairperson Channell:

1. Town of Marble. Chairperson Channell informed the Board that he had called Karen Mulhall to request a status update. She informed him that the local politics are a mess and that the recall petition may have been successful against the mayor. She stated that civility is gone and that Sheriff's Office deputies had to be present for the meetings in order to maintain peace.
2. CCI Committee Meetings. Chairperson Channell stated that he would prepare a final report for distribution to the other commissioners.

ADJOURN: **Moved** by Commissioner Swenson, seconded by Commissioner Chamberland to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 2:36 pm.

Hap Channell, Chairperson

Paula Swenson, Vice-Chairperson

Phil Chamberland, 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 THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO: 11-36**

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF OWNERSHIP OF UNIT 101, APACHE BUILDING, AND UNITS 102, 201 AND 202, ESTONIAN BUILDING, STALLION PARK CONDOMINIUMS, CRESTED BUTTE, COLORADO

WHEREAS, the Board of County Commissioners of the County of Gunnison, Colorado (hereinafter the "Board") has reviewed current and potential needs of Gunnison County and has determined that, acquiring additional real property for affordable housing is in the best interests of the public; and

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

WHEREAS, as identified in the "Agreement Regarding Affordable Housing" entered into on _____, 2011 among the Board, Brush Creek Airport, L.L.C., a Colorado limited liability company and Brookside Custom Homes, Inc., a Colorado corporation, the Board will acquire the following:

1. Unit 101, Apache Building, Stallion Park Condominiums, according to the Condominium Map thereof recorded August 3, 2006 at Reception No: 567653 and according to the Condominium Declaration pertaining thereto recorded August 3, 2006 at Reception No: 567654, and according to the Condominium Declaration pertaining thereto recorded September 6, 2006 at Reception No: 568786 of the records of Gunnison County, Colorado, and
2. Units 102, 201 and 202, Estonian Building, Stallion Park Condominiums, according to the Condominium Map thereof recorded September 6, 2006 at Reception No: 568785, to the Condominium Declaration pertaining thereto recorded August 3, 2006 at Reception No: 567654 and according to the Condominium Declaration pertaining thereto recorded September 6, 2006 at Reception No: 568786, of the records of Gunnison County, Colorado; and
3. Those areas designated as "Reserved for Future Development" on the Condominium Map of Stallion Park Condominiums Bavarian, Cimarron, Dartmoor and Foxtrot Buildings, recorded December 28, 2010 at Reception No: 602908, County of Gunnison, State of Colorado; and

WHEREAS, it is in the best interest of the public that the Board receive ownership of the four affordable housing units and the development rights and infrastructure for the remaining eight affordable housing; and

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Gunnison, Colorado that the Board shall and hereby is authorized to acquire ownership of the following real property, development rights and infrastructure:

1. Unit 101, Apache Building, Stallion Park Condominiums, according to the Condominium Map thereof recorded August 3, 2006 at Reception No: 567653 and according to the Condominium Declaration pertaining thereto recorded August 3, 2006 at Reception No: 567654, and according to the Condominium Declaration pertaining thereto recorded September 6, 2006 at Reception No: 568786 of the records of Gunnison County, Colorado, and
2. Units 102, 201 and 202, Estonian Building, Stallion Park Condominiums, according to the Condominium Map thereof recorded September 6, 2006 at Reception No: 568785, to the Condominium Declaration pertaining thereto recorded August 3, 2006 at Reception No: 567654 and according to the Condominium Declaration pertaining thereto recorded September 6, 2006 at Reception No: 568786, of the records of Gunnison County, Colorado; and
3. Those areas designated as "Reserved for Future Development" on the Condominium Map of Stallion Park Condominiums Bavarian, Cimarron, Dartmoor and Foxtrot Buildings, recorded December 28, 2010 at Reception No: 602908, County of Gunnison, State of Colorado.

INTRODUCED by Commissioner Swenson, seconded by Commissioner Channell, and adopted this 20th day of September, 2011.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

Chamberland – yes; Channell – yes; Swenson – yes.

**BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO: 11-37**

A RESOLUTION AMENDING RESOLUTION NO. 22, SERIES 2004, A RESOLUTION APPROVING THE FINAL PLAN FOR FILING 2B OF BUCKHORN RANCH (FORMERLY AVION)

WHEREAS, the Board of County Commissioners of the County of Gunnison, Colorado (hereinafter the "Board") approved Land Use Change No: 1978-02 for Buckhorn Ranch, Filing 2b on April 7, 2004 through Resolution No: 22, Series 2004 recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado on April 26, 2004, bearing Reception No: 541321; and

WHEREAS, one of the conditions of approval for Land Use Change No: 1978-02 was that Brush Creek Airport, L.L.C., a Colorado limited liability company, (hereinafter the "Developer") was to construct 32 affordable housing units within the Buckhorn Ranch, Filing 2b, as identified in paragraph 1(g) of Resolution No: 22, Series 2004; and

WHEREAS, the Developer has constructed 24 affordable housing units leaving eight affordable housing units to be constructed; and

WHEREAS, the Board, the Developer and Brookside Custom Homes, Inc., a Colorado corporation (hereinafter "Brookside"), have executed the "Agreement Regarding Affordable Housing", dated _____, 2011 (hereinafter the "Agreement"); and

WHEREAS, the Agreement:

1. Requires that Brookside convey to the Board four affordable housing units and the development rights and infrastructure for the remaining eight affordable housing units to be constructed; and
2. Waives Developer's obligation to construct the remaining eight affordable housing units;
3. Releases the Affordable Housing Deed Restrictions for the nineteen (19) affordable housing units in Stallion Park not conveyed to the Board; and

WHEREAS, it is in the best interest of the public that the Board receive the four affordable housing units and the development rights and infrastructure for the remaining eight affordable housing units to be constructed; and

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Gunnison, Colorado that the approval of Land Use Change No: 1978-02 for Buckhorn Ranch, Filing 2b through Resolution No: 22, Series 2004, recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado on April 26, 2004, bearing Reception No: 541321, shall be and hereby is amended to reflect that the condition to construct 32 affordable housing units within Buckhorn Ranch, Filing 2b, as identified in paragraph 1(g) of Resolution No: 22, Series 2004, is hereby waived in consideration of the Developer having completed the construction of 24 affordable housing units and Brookside conveying to the Board, four affordable housing units and the development rights and infrastructure for the remaining eight affordable housing units to be constructed.

FURTHERMORE, this Resolution Amending Resolution No: 22, Series 2004, A Resolution Approving the Final Plan for Filing 2B of Buckhorn Ranch (Formerly Avion) shall not be effective until such time as it is recorded in the Office of the Clerk and Recorder of Gunnison County, Colorado.

INTRODUCED by Commissioner Swenson, seconded by Commissioner Channell, and adopted this 20th day of September, 2011.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

Chamberland – yes; Channell – yes; Swenson – yes.