AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Draft 4/5/16 BOCC Meeting Minutes

Action Requested: Motion

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

Attached are the draft 4/5/16 BOCC meeting minutes for consideration.

Fiscal Impact: None

Submitted by: Katherine Haase for Bobbie Lucero **Submitter's Email Address:** khaase@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ○ Required ◉ Not Required

Comments:

Reveiwed by: Discharge Date: Certificate of Insurance Required

Yes ○ No ○

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\khaase Discharge Date: 6/17/2016

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 1

Agenda Date: 6/21/2016

Revised April 2015

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING MINUTES
April 5, 2016

The April 5, 2016 meeting was held in the Board of County Commissioners' meeting room located at 200 E. Virginia Avenue, Gunnison, Colorado. Present were:

Paula Swenson, Chairperson
Phil Chamberland, Vice-Chairperson
Jonathan Houck, Commissioner
Matthew Birnie, County Manager
Bobbie Lucero, Clerk to the Board
Others Present as Listed in Text

GUNNISON COUNTY BOARD OF EQUALIZATION SPECIAL MEETING:

CALL TO ORDER: Chairperson Swenson called the meeting to order at 8:31 am. Senior Assessment Analyst William Spicer was present for the discussion

STIPULATION AS TO ABATEMENT/REFUND FOR TAX YEAR 2016; BOXER F2 LP: **Moved** by Commissioner Houck and seconded by Commissioner Swenson to approve the stipulation as to abatement/refund for tax year 2015. Motion carried unanimously.

ADJOURN: **Moved** by Commissioner Houck and seconded by Commissioner Swenson to adjourn the meeting. Motion carried. The Gunnison County Board of Equalization meeting adjourned at 8:34 am.

CALL TO ORDER: Chairperson Swenson called the Gunnison County Board of County Commissioners meeting to order at 8:34 am. Deputy County Attorney Gretchen Stuhr was present for the meeting.

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

MINUTES APPROVAL: **Moved** by Commissioner Chamberland and seconded by Commissioner Swenson to approve the 3/22/16 meeting minutes as presented. Motion carried. Commissioner Houck abstained because he was not present at the meeting.

CONSENT AGENDA: **Moved** by Commissioner Houck and seconded by Commissioner Chamberland to approve the Consent Agenda as presented. Motion carried unanimously.

1. Acknowledgement of County Manager Signature; Contract Agreement; Mark Lucas Construction, LLC; Extension of an Existing Water Main and Leak Repair on the Same Main; $62,982
2. Contract for Services; St. Mary's Hospital & Medical Center, Inc.; Women's Wellness Connection Program Support; 4/5/16 thru 6/29/16
3. Fourth Amendment to the Gunnison County, Colorado Flexible Benefit Plan Effective January 1, 2008
4. Pitney Bowes WSCA/NASPO FMV Lease Option C Agreement; Postage Meter/Scale/Printer Equipment in Courthouse and Blackstock Government Center
5. Contractor Agreement; Spallone Construction; Construction Services for Gunnison County at the Courthouse Site; 4/5/16 thru 12/31/16; $77,776

SCHEDULING: The Upcoming Meetings Schedule was discussed and updated.

COUNTY MANAGER'S REPORTS: County Manager Matthew Birnie was present for discussion.

1. Executive Summaries of the Water Plan and Colorado Climate Plan. County Manager Birnie informed the Board that City Council Member Bill Nesbit dropped off copies of the Executive Summaries of the Water Plan. He handed out the copies to the commissioners. He also informed the Board that Bill Nesbitt dropped off only one copy of the Colorado Climate Plan. That plan will be in the Administration office for review. There was discussion that no one needs to come update the Board on the Water Plan because they get good updates from Bill Trampe.
2. 2015 Performance Report. County Manager Birnie informed the Board that he spoke at the Gunnison Rotary on March 8th and used the Board's Performance Report as a demonstration. He also informed that he will be finishing the 2015 Performance Report shortly.
3. Health and Human Services Strategic Planning. County Manager Birnie informed the Board that Health and Human Services is undergoing an extensive strategic planning process with new leadership. He informed that the Health and Human Services plan was last updated five years ago.
4. Colorado City and County Management Association. County Manager Birnie informed the Board that his last duty as President of the Colorado City and County Management Association is he will be the Chair of the Nominating Committee for ICMA and he will be gone Wednesday through Saturday.
5. April 12th Work Session: County Manager Birnie informed the Board that Bill Trampe and Rufus Wilkerson are the only ones on the agenda next week. The Board agreed to cancel the meeting.

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6. Black Canyon Land Trust. County Manager Birnie informed the Board that he emailed Black Canyon Land Trust and he has not heard back from the proponents.

DEPUTY COUNTY MANAGER'S REPORT AND PROJECT UPDATES: Deputy County Manager Marlene Crosby was present for discussion.

1. Right-of-Way Grant Renewal; Bureau of Land Management; Serial Number COC-41167; Materials Storage Yard in Delta County, CO. Deputy County Manager Crosby informed the Board that this is the storage area of the Somerset Public Works Shop. There was discussion that there is no disturbance policy from May to July. Deputy County Manager Crosby informed that this should be okay with the no disturbance policy. **Moved** by Commissioner Chamberland and seconded by Commissioner Houck to approve the Right-of-Way Grant Renewal. Motion carried unanimously.
2. Annual Operating Plan; Scope of Work; Ohio Pass National Forest System Road 730. Deputy County Manager Crosby informed the Board that this is the plan for cooperative work with the Forest Service for road surfacing on Ohio Creek Road. She asked for approval on the agreement and authorization for the County Manager to sign. **Moved** by Commissioner Chamberland and seconded by Commissioner Houck to approve the agreement and authorization for the County Manager to sign. Motion carried unanimously.
3. Gothic Road. Deputy County Manager Crosby informed the Board that they are working with the Forest Service to get the easement in place, and this is moving forward. She showed the Board a map of what she described as improvements at the parking area to park pickups and trailers. She informed that there may be some sites that they will have to work with Rocky Mountain Biological Laboratory on. She recommends that the easement be extended. The Board agreed that they are okay with her moving forward with this. They will make a formal motion with the official documentation.
4. Shavano Drive Project. Deputy County Manager Crosby informed the Board that the Shavano Drive Project is not proceeding as planned. There has been a change of plans because they did not know where a water line was. She informed that there has been a change of plans and they are repairing two significant leaks. She reported that they are moving in the right direction with the project.
5. Gold Basin Trail. Deputy County Manager Crosby informed the Board that she and Commissioner Houck attended a City Council meeting regarding a possible grant for a detached trail to Gold Basin from Highway 50 to Hartman Rocks. She informed the Board that Flap Grass Applications are due May 21st and these grants require a 17.21% match. It is estimated that this will be a $1.5 million project. She mentioned to the Board that she was not intending to apply because she did not have the budget to match 17%. County Manager Birnie mentioned that there is no money available and this is not identified in the Capital Improvement Plan, it is not included in the Strategic Plan, and repaving Cottonwood Pass is also within the timeline of this project. There was discussion that they should discuss this at the next strategic planning meeting and decide if this trail is a priority. This will be discussed at a future work session.

BREAK: The meeting recessed from 8:55 until 8:59 am in order to hold the below Public Hearings.

PUBLIC HEARING; STREET VACATION REQUEST; ROBERT NORTON; BLOCKS 26 AND 31, LAVETA PLACER ADDITION TO THE TOWN OF PITKIN, COLORADO: Deputy County Manager Marlene Crosby was present for the discussion.

1. Open Public Hearing. Chairperson Swenson opened the Public Hearing at 8:55 am.

2. Public Notice Confirmation. Deputy County Manager Crosby confirmed that the Public Hearing had been properly public noticed.

3. Identify Ex Parte Communications. There were no ex parte communications identified.

4. Staff Presentation. Deputy County Manager Crosby presented that there was a request, the lot cluster has already been done, and that this is within incorporated Gunnison County. She informed that they started the process and notified the utility companies. She also mentioned that Gunnison County Electric Association (GCEA) had concerns about fires in the area. GCEA also informed Deputy County Manager Crosby that the lines are currently overhead, but when they upgrade, they will put them underground. She reported that the Gunnison County Attorney's Office staff recommendation that the alley and Block 26 be vacated and no portion of 7th Street and no portion of the alley and Block 31. GCEA would like the option to use for access.

5. Applicant Presentation. No one from the public had comments.

6. Board Questions. Commissioner Chamberland inquired about the applicant requesting only a certain block be vacated but we are recommending more than requested. Deputy County Attorney Stuhr informed that this is because they need this vacated to do the work.

7. Public Comments. Chairperson Swenson opened the Public Hearing to comments at 8:58 am.

8. Acknowledge Correspondence Received. No additional correspondence was identified.

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9. Applicant Response. N/A.

10. Close Public Hearing. Chairperson Swenson closed the Public Hearing at 8:59 am and immediately reconvened the Gunnison County Board of County Commissioners meeting.

RESOLUTION; VACATING ANY INTEREST GUNNISON COUNTY MAY HAVE IN A CERTAIN ALLEY LYING WITHIN THE LAVETA ADDITION TO THE TOWN OF PITKIN, COUNTY OF GUNNISON, STATE OF COLORADO: Moved by Commissioner Chamberland and seconded by Commissioner Houck to approve Resolution 2016-14: Vacating Any Interest Gunnison County May Have in a Certain Alley Lying within the LaVeta Addition to the Town of Pitkin, County of Gunnison, State of Colorado. Motion carried unanimously. The Board signed the resolution, Deputy County Manager Crosby will hold onto the originals and will not record it until she has received payment.

BREAK: The meeting recessed from 9:00 am until 9:05 am in order to hold the below Public Hearing.

PUBLIC HEARING; PROPOSED AMENDMENTS TO THE GUNNISON COUNTY ONSITE WASTEWATER TREATMENT SYSTEM (OWTS) REGULATIONS: Community Development Direct Russ Forrest, Building and Environmental Health Specialist Crystal Lambert, and Town of Crested Butte Public Works Director Rodney Due were present for the discussion.

1. Open Public Hearing. Chairperson Swenson opened the Public Hearing at 9:04 am.

2. Public Notice Confirmation. Building and Environmental Health Specialist Crystal Lambert confirmed that the Public Hearing had been properly publicly noticed.

3. Identify Ex Parte Communications. There were no ex parte communications identified.

4. Staff Presentation. Building and Environmental Health Specialist Lambert informed the Board that there are two proposed revisions to the Gunnison County OWTS Regulations. The first revision is technical to correct inflated daily design flow values so that treatment can be reasonably sized. Currently they are bigger than they need to be and this will reduce costs of installation, yet still have adequate treatment of wastewater. The proposed revision is to reduce the provision of 100 gallons a day per person to the state provision of 75 gal per person.

   She informed the Board that the second proposed revision is a rewrite to the article in the Crested Butte Watershed Septic District in 1966, where treatment of wastewater would occur before disposal. This applies to the entire town site of Irwin, mining parcels above Irwin and some parcels in trappers crossing. She mentioned that they want to align the article with the rest of the Gunnison County OWTS Regulations, so that designers, installer and homeowners can receive septic because they are struggling to meet these requirements. This will streamline the process and requirements, while keeping higher level treatment occurring before disposal.

5. Applicant Presentation. N/A.

6. Board Questions. There were no questions from the Board.

7. Public Comments. Chairperson Swenson opened the Public Hearing to comments at 9:10 am. Ralph (Butch) Clark III commented that there is a lot of research on individual wastewater treatment. He mentioned that there are many studies out there about concerns that they should be thinking about, for example uranium tailings pollution.

8. Acknowledge Correspondence Received. No additional correspondence was identified.

9. Applicant Response. There was no applicant response. The Board did mention to audience member Ralph (Butch) Clark III that if there is any research to forward that to the Community Development Department.

10. Close Public Hearing. Chairperson Swenson closed the Public Hearing at 9:13 am and immediately reconvened the Gunnison County Board of County Commissioners Meeting.

RESOLUTION AMENDING THE GUNNISON COUNTY, COLORADO ONSITE WASTEWATER TREATMENT SYSTEM REGULATIONS, SPECIFICALLY SECTION 5-112: CALCULATION OF SEWAGE FLOW, C. SINGLE-FAMILY RESIDENCES AND MOBILE HOMES AND ARTICLE 19: CRESTED BUTTE WATERSHED OWTS DISTRICT: Moved by Commissioner Chamberland and seconded by Commissioner Houck to approve Resolution 2016-15: A Resolution Amending the Gunnison County, Colorado Onsite Wastewater Treatment System Regulations, Specifically Section 5-112: Calculation of Sewage Flow, C. Single-Family Residences and Mobile Homes and Article 19: Crested Butte Watershed OWTS District. **Moved** by Commissioner Houck and seconded by Commissioner Chamberland to approve Resolution 2016-15 as presented. Motion carried unanimously.

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FIRST AMENDMENT TO AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS OF MOUNTAIN MEADOWS SUBDIVISION: There was discussion that they changed the plat to reflect the legal changes in the covenants. **Moved** by Commissioner Chamberland and seconded by Commissioner Houck to approve and sign. Motion carried unanimously.

COVENANT FOR ROAD MAINTENANCE; HIGH CIMARRON, LLC: Community Development Director Russ Forrest was present for the discussion. He reminded the Board that there was a project approved last June regarding eight lots that had a road with debris flow. The condition to the project was Gunnison County would create covenants to keep an eye on maintenance of the road. He informed that Public Works has placed road markers to measure movement of the road. These covenants will help with enforceability, if needed, in the future. **Moved** by Commissioner Chamberland and seconded by Commissioner Houck to approve the Covenant for Road Maintenance. Motion carried unanimously.

VISTA BUSINESS PARK FINAL PLAN; LINK, LLC; LUC #11-00035: Community Development Senior Planner Cathie Pagano, Engineer Norman Whitehead, Applicant Hal Hearne, and Attorney Kendall Burgemeister were present for the discussion.

Community Development Senior Planner Pagano informed that preliminary approval was given from the Planning Commission. She also mentioned that the final plan will go straight to the Board of County Commissioners, not the Planning Commission, unless there are very large substantial changes. The Board received a Draft Decision document and Resolution. She mentioned that there should not be any substantial changes to the final plan. There was discussion that they may need to make one minor change to the covenants because the routing of power from the Industrial Park Road may need to be moved 100ft north. There were no questions from the Board.

RESOLUTION APPROVING FINAL PLAN APPLICATION FOR VISTA BUSINESS CENTER AND LINK, LLC FOR THE SUBDIVISION OF 13 LOTS AND THE DEVELOPMENT OF A COMMERCIAL AND INDUSTRIAL PARK. Moved by Commissioner Houck and seconded by Commissioner Chamberland to approve Resolution 2016-16: A Resolution Approving Final Plan Application for Vista Business Center and Link, LLC for the Subdivision of 13 Lots and the Development of a Commercial and Industrial Park, as presented today. Motion carried unanimously.

CORRESPONDENCE:

1. Bureau of Land Management; Request for Extension to Comment Period for Proposed Rule on Resource Management Planning 43 CFR 1600 RIN 1004-AE39. There was discussion that percentage on the letter should state that "BLM is more than 85% of federal land". **Moved** by Commissioner Chamberland and seconded by Commissioner Houck to approve. Motion carried unanimously.
2. Senator Michael Bennet; Proposed "Curecanti National Recreation Area Boundary Establishment Act of 2016". There was discussion that this was a project going on for almost a decade. **Moved** by Commissioner Houck and seconded by Commissioner Chamberland to acknowledge that this letter was sent. Motion carried unanimously.

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

COMMISSIONER ITEMS: This discussion began earlier than scheduled due to a gap in the meeting.

Commissioner Chamberland:

1. Upper Gunnison: He informed the Board that the Upper Gunnison is looking for two board members. These positions are appointed by Judge Patrick.
2. Club 20 Meeting: He informed the Board that there was a successful spring meeting and great presentations given. He informed that they testified for the healthcare rating and it is going to the Senate floor.
3. Crested Butte Council Meeting: He informed the Board that there was a presentation from Rocky Mountain Biological Laboratory (RMBL) scientists.

Commissioner Houck:

1. Relocation and Remodel of the Driver's License Office: He informed the Board that he received correspondence working on remodel of the Driver's License Office. They anticipate the transition will be the end of April. They are working on making sure it is transitioning smoothly.
2. County Coalition Meeting: He informed the Board that a good amount of counties attended.
3. Contractors Meeting for Community Development: He informed the Board that they discussed some changes that were made to land use resolutions (LUR).

Commissioner Swenson:

1. Region 10: Commissioner Swenson informed that Region 10 had a broadband meeting and the State Division of Local Affairs (DOLA) presented an award to Region 10. She informed that they are launching and building phase one in Montrose and Delta.

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2. Ute Mountain Ute Tribe Meeting: She informed the Board she and County Manager Birnie met with the chairman of the Ute Mountain Ute Tribe. They discussed Pine Crest Ranch and how they are working on making the land a land trust. She mentioned that this is a long process with the government. She reported that there is a tentative meeting set for May 16th from 9-11 am, and that the Tribe representatives are not yet ready to meet with the whole Board.

ADJOURN: Moved by Commissioner Houck and seconded by Commissioner Chamberland to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 10:02 am.

_____
Paula Swenson, Chairperson

_____
Phil Chamberland, Vice-Chairperson

_____
Jonathan Houck, Commissioner

Minutes Prepared By:

_____
Bobbie Lucero, Deputy County Clerk

Attest:

_____
Kathy Simillion, County Clerk

GUNNISON COUNTY BOARD OF COMMISSIONERS TEXT INCLUSION INTO MINUTES

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO: 2016-14

A RESOLUTION VACATING ANY INTEREST GUNNISON COUNTY MAY HAVE IN A CERTAIN ALLEY LYING WITHIN THE LAVETA ADDITION TO THE TOWN OF PITKIN, COUNTY OF GUNNISON, STATE OF COLORADO

WHEREAS, the Board of County Commissioners of the County of Gunnison, Colorado ("Board"), by virtue of Colorado law, has authority to vacate any roadway within said county that is not within the limits of a city or town; and

WHEREAS, the LaVeta Addition, though referred to as an addition to the Town of Pitkin on the plat recorded with the Gunnison County Clerk and Recorder's Office, has never officially been accepted nor recognized as part of the Town of Pitkin and is located within the unincorporated area of Gunnison County; and

WHEREAS, the Board has determined that not all roadways and alleys are necessary for public access to the privately-owned property within the LaVeta Addition; and

WHEREAS, the Board has received a petition from property owners of lots within Blocks 26 and 31, LaVeta Addition to the Town of Pitkin, requesting to vacate the following:

> The entire alley lying within Block 26 located within the LaVeta Addition to the Town of Pitkin according to the official plat recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado, bearing Reception No: 258799, County of Gunnison, State of Colorado; and

WHEREAS, the notices required by Colorado law for such vacation have been given and a public hearing on such vacation has been conducted; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Gunnison, Colorado that any interest that Gunnison County may have in the following shall be and hereby is vacated:

> The entire alley lying within Block 26 located within the LaVeta Addition to the Town of Pitkin according to the official plat recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado, bearing Reception No: 258799, County of Gunnison, State of Colorado.

FURTHERMORE, this Resolution shall be effective and is contingent upon the following conditions:

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1. It is the specific intent of the Board that the above described vacated alley should accrue to and vest in the adjacent property owner(s) pursuant to the provisions of C.R.S. §43-2-302.
2. The vacation of the above described alley will become effective only upon the recording in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado of a Lot Cluster Agreement executed by Gunnison County and the owner(s) of Lots 1 through 32, inclusive, Block 26 and Lots 1 through 4, inclusive, Block 31, LaVeta Addition to the Town of Pitkin, according to the official plat recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado, bearing Reception No: 258799, County of Gunnison, State of Colorado, clustering said lots and alley vacated herein.
3. This resolution shall not be recorded until all the above conditions have been satisfied and this resolution shall not be effective until it has been recorded with the Gunnison County Clerk and Recorder's Office.

INTRODUCED by Commissioner Chamberland, seconded by Commissioner Houck, and adopted this 5th day of April, 2016.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

Chamberland – yes; Houck – yes; Swenson – yes.

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO: 16-15

A RESOLUTION AMENDING THE GUNNISON COUNTY, COLORADO ON-SITE WASTEWATER TREATMENT SYSTEM REGULATIONS, SPECIFICALLY SECTION 5-112: CALCULATION OF SEWAGE FLOW, C. SINGLE-FAMILY RESIDENCES AND MOBILE HOMES AND ARTICLE 19: CRESTED BUTTE WATERSHED OWTS DISTRICT

WHEREAS, on July 1, 2014 the Board of County Commissioners of the County of Gunnison, Colorado (herein the "Board") adopted the "Gunnison County On-site Wastewater Treatment System Regulations" through Resolution No: 14-17; and

WHEREAS, Resolution No: 14-17 is recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado on July 7, 2014, bearing Reception No: 627610; and

WHEREAS, State of Colorado Water Quality Control Division has reviewed the proposed amendments to the Gunnison County, Colorado On-site Wastewater Treatment System Regulations (hereinafter the proposed amendments to the OWTS Regulations) pursuant to section 43.4(A)(2)(a) of Regulation 43 and found no inconsistencies or conflicts with regard to Regulation 43 and has no objections to the proposed OWTS Regulations; and

WHEREAS, the Gunnison County Environmental Health Board has reviewed and certified to the Board proposed amendments to the OWTS Regulations; and

WHEREAS, the Board has determined that the proposed amendments to the OWTS Regulations are in the best interest of public health, safety and welfare of the citizens of Gunnison County; and

WHEREAS, a public hearing on this matter was held by the Board on the 5th day of April, 2016; and

WHEREAS, notice of the public hearing was given at least once and at least 20 days in advance; and

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado that the following amendments to the Gunnison County 2 OWTS Regulations are hereby adopted for the unincorporated area of Gunnison County on or after the effective date below:

1. Section 5-112: CALCULATION OF SEWAGE FLOW, C. SINGLE-FAMILY RESIDENCES AND MOBILE HOMES. To calculate the sewage flow for single family residences and mobile homes, a figure of two people per bedroom or four people per residence shall be used, whichever is greater. The minimum design flow per person shall be 75 gallons per day. Where increased wastewater flow is anticipated, on-site wastewater treatment systems shall be sized to accommodate the wastewater flows generated so that the required treatment level of the wastewater is achieved; and
2. Article 19: CRESTED BUTTE WATERSHED OWTS DISTRICT, as set forth in Appendix "A" attached hereto and incorporated herein, consisting of two (2) pages

INTRODUCED by Commissioner Houck, seconded by Commissioner Chamberland, and adopted this 5th day of April, 2016.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

Chamberland – yes; Houck – yes; Swenson – yes.

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 16 SERIES 2016

A RESOLUTION APPROVING FINAL PLAN APPLICATION FOR VISTA BUSINESS CENTER AND LINK, LLC FOR THE SUBDIVISION OF 13 LOTS AND THE DEVELOPMENT OF A COMMERCIAL AND INDUSTRIAL PARK

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WHEREAS, Link, LLC has submitted a preliminary plan application to subdivide a 28.07-acre parcel into thirteen lots, each approximately 1.1 to 2.6 acres in size, to be developed into an industrial and commercial park, with ancillary residential use on specific lots. Lots 1- 5 will be permitted to have industrial and commercial uses as specified in the Protective Covenants. Lots 7-12 are intended to be light industrial and/or commercial uses with ancillary residential uses allowed. Lot 6 is intended to be a buffer lot between the lighter industrial and commercial uses on Lots 7-12 and the heavier industrial and commercial uses on Lots 1-5. Lot 6 is not permitted to have a residence, nor are Lots 1-5. Uses and operations on Lots 6-12 are proposed to be contained wholly indoors with the exception of nurseries, employee parking, loading, unloading and storage. The impacts must be contained to the Lot and not produce more than a de minimis amount of, and in no event exceed Gunnison County standards, for noise, vibration, electrical or magnetic interference, glare, fumes, odors, dust, smoke, heat or waste.

The parcel identified as "Outlot" on the Site Plan contains an existing residence and outbuildings. The "outlot" will be subject to a lifetime lease granted to the previous owner of the subject property. The developer will reserve a development right to add the outlot as the thirteenth lot upon the termination or expiration of the lifetime lease, in accordance with the Colorado Common Interest Ownership Act. The outlot will be subject to the same standards and restrictions as Lots 1-5. The existing residence may remain in place; at such time that the residence is removed no new residence shall be constructed or allowed on the Outlot, in compliance with the design and use standards for Lots 1-5 and Articles 5 and 6 of the Protective Covenants.

The applicant proposes that certain, defined uses be permitted without any additional Land Use Change permit. Section 3.1 of the draft Declaration of Protective Covenants ("Declaration") addresses the uses that can be developed on the lots, uses that can be made only after review and approval by the Association and the County, and uses that are expressly prohibited. It is the Applicant's desire to create a subdivision that will allow for a diverse mix of industrial and commercial activities. The applicant has not proposed an exhaustive list of permitted uses that are allowed on the lots but rather relies on the design standards of Article 5 of the Protective Covenants to create parameters for acceptable commercial and industrial uses.

The applicant has identified (Section 3.1.1.3 of the draft Protective Covenants) that the following uses are prohibited in the Vista Business Park development: asphalt or concrete batch plants, adult oriented uses (as defined in the Gunnison County *Land Use Resolution*); mining operations, except for concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation, which shall be uses permitted after review; and, veterinary clinics and animal shelters.

The applicant has identified specific uses that are allowed after review by the Property Owner's Association and Gunnison County (i.e. an additional land use change permit is required):

- The following mining operations: concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation, upon compliance with *LUR* Division 9-400: *Exploration, Extraction and Processing of Minerals and Construction Materials*.
- Recreational vehicle parks and campgrounds, upon compliance with *LUR* Section 9-305: *Seasonal* Recreational *Vehicle Parks and Campgrounds*.
- Uses that require a variance from any provision of Article 5 or 6 of the Protective Covenants.

The covenants restrict retail sales in the development in Section 6.16 of the Covenants. No more than 33% of the floor area of any building shall be used for the retail sale of goods.

Marijuana cultivation, manufacturing, and/or testing facilities are expressly permitted so long as the same remain legal under Colorado law and Gunnison County regulations. Section 9-104: *Marijuana Cultivation, Manufacturing or Testing Facility* of the Gunnison County *Land Use Resolution* allows marijuana manufacturing and testing facilities in Gold Basin, Riverland or Signal Peak Industrial Parks. The location of marijuana manufacturing, testing, and/or cultivation facilities outside of those specific industrial parks requires a Minor Impact Land Use Change permit, as identified in Section 9-104: G.2. Section 9-104: H. states that marijuana facilities and residential facilities cannot be collocated in the same structure. Any proposed marijuana facility in the Vista Business Park development shall be required to obtain a Minor Impact Land Use Change permit unless and until such time that the Gunnison County *Land Use Resolution* is amended. Any person may initiate an amendment to the *Land Use Resolution (LUR)*.

The Covenants require that, "merchandise, supplies, equipment, or materials of any kind, shall be stored within a building, shed or screened area." Vehicles used as part of a commercial and/or industrial use shall also be parked indoors or in a screened parking area. The subdivision will also include dedicated open space (common property), as illustrated on the site plan included in the Preliminary Plan. Some of the open space will remain undisturbed. Other portions of the open space will be utilized for the construction of augmentation ponds necessary for the operation of the Water Court-approved plan for augmentation serving the subdivision. A portion of the open space along Highway 50 will be landscaped to provide a visual buffer. The open space may be utilized for snow storage and the installation of utilities, as needed.

The parcel is located approximately two miles east of the City of Gunnison within the City's Three Mile Plan area. The parcel is legally described as 28.07 acres in the NW1/4SW1/4 and SW1/4NW1/4, Section 3, Township 49 North, Range 1 East, N.M.P.M., also known as 43950 Highway 50.

WHEREAS, the applicant has submitted a Final Plan application, in compliance with Section 7-401: *Final Plan Application for Major Impact Projects* of the Gunnison County *Land Use Resolution*. The application has not been referred to the Planning Commission for review in compliance with Section 7-402: C. because the Board of County Commissioners did not place any such condition in the Preliminary Plan approval nor was significant new information submitted nor was there a substantive alteration to the plan.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that the Final Plan for Land Use Change Permit No. 11-00035, for Link LLC, is approved, subject to

each and all conditions of Final Plan decision document, as identified above, and the following findings and conditions:

Findings:

1. This application, by definition, is classified as a Major Impact.
2. The Gunnison County Board of Commissioners identified the subject parcel as an area appropriate for industrial development in the 2012 Land Use Analysis, Resolution No. 15, 2014.
3. The proposed development is not located adjacent to a municipality but is within the City of Gunnison Three Mile Plan area.
4. Gunnison County and the City of Gunnison have an Intergovernmental Agreement for the Three Mile Plan area.
5. Lots 1, 2, 3, 4, and 5 shall be permitted to have industrial and commercial uses as identified in the Protective Covenants. Lots 6, 7, 8, 9, 10, 11, and 12 are subject to additional restrictions in Section 6.17 of the Covenants to ensure compatibility with residential land uses. Residential uses are allowed only on Lots 7-12.
6. The parcel identified as "Outlot" contains an existing residence and outbuildings. The developer reserves a development right to add the outlot as the thirteenth lot upon the termination or expiration of the lifetime lease. The Outlot shall be permitted to have the same uses and restrictions as Lots 1-5. In addition, the existing residence may remain in place, provided that at such time as that the residence is removed, no new residence shall be constructed or allowed on the Outlot.
7. The Protective Covenants identifies that the following uses are prohibited in the development: asphalt or concrete batch plants; adult oriented uses; mining operations; and veterinary clinics and animal shelters.
8. The Protective Covenants allow the following uses after the approval of a site specific Land use Change permit for the proposed use: concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation; recreational vehicles parks and campgrounds; any use that requires a variance from any provision of Article 5 or 6 of the Protective Covenants.
9. Marijuana cultivation, manufacturing and/or testing facilities are permitted by the Protective Covenants. Section 9-104 of the Gunnison County *Land Use Resolution* only allows the development of those facilities after a Minor Impact Land Use Change permit unless the use is in Gold Basin, Signal Peak or Riverland Industrial Parks.
10. The subject parcel is within the 100-year floodplain.
11. Gunnison County Wildlife Coordinator and the Colorado Parks and Wildlife have reviewed the application relative to Gunnison Sage-grouse impacts and found that there will be no additional impacts to the bird from the proposed development.
12. CDOT requires a right turn deceleration lane be installed on Highway 50 into Vader Lane after the sale of the eight lot in the development.
13. Gunnison County Fire Protection District has requested that a dry hydrant be installed at the development.
14. The landscaping plan is in compliance with Gunnison County standards and also mitigates visual impacts from the proposed development to Highway 50 traffic.
15. The applicant has requested a variance to Section 13-109: Signs relative to the size and height of the proposed sign. The request is attached as Exhibit A.
16. The proposed sign in Exhibit A is 138 square feet and 22 feet high. The applicant has not demonstrated that the hardship is not self-imposed, nor that there is a need nor that it is consistent with the neighborhood, relative to the proposed area of the sign. With respect to the height the applicant has demonstrated that there is a hardship due to the topography at the site.
17. 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:

1. Any property owner that submits a building permit application shall be required to submit a detailed narrative to Gunnison County Community Development describing how they comply with Article 5 and 6 of the Protective Covenants and are a permitted use (use that does not require an additional Land Use Change permit).
2. A Land Use Change permit shall be required for any use that includes the concentration of ores, milling, evaporation and other processing.
3. A Land Use Change permit shall be required if a proposed use in the development requires a variance from any provision of Article 5 or 6.
4. No specific uses are contemplated or approved for extraction, exploration and/or processing of minerals and construction materials.
5. Any proposed marijuana facility in Vista Business Park shall be subject to the standards of Section 9-104 of the Gunnison County *Land Use Resolution* and shall be required to obtain a Minor Impact Land Use Change permit unless and until such time that an amendment is made to the Gunnison county Land Use Resolution allowing the development of marijuana facilities with an Administrative Review Land Use Change permit.
6. Retail sales, in compliance with Section 6.16 of the Protective Covenants are allowed in the proposed development.

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7. The Development Improvements Agreement shall include a provision requiring bonding for the right turn deceleration lane.
8. A dry hydrant, in compliance with the standards of Gunnison County Fire Protection District shall be installed.
9. The landscaping shall be installed as described in the Landscaping Plan. It shall also be included as part of the Development Improvements Agreement.
10. The variance request for a sign area greater than 70 square feet is denied. A sign 70 square feet or less, consistent with the design submitted is approved.
11. The variance request for a sign greater than 16 feet tall (approximately 22 feet in height) is approved.
12. 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*.
13. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
14. 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.
15. 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.
16. 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.

WHEREAS, 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.

THIS APPROVAL is affected noting that decision documentation includes, but is not limited to, the application and the entire Community Development Department Land Use Change Permit application file relative to this application. This approval is founded on each individual finding and requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.

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 Houck, seconded by Commissioner Chamberland, and adopted this 5th day of April, 2016.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

Chamberland – yes; Houck – yes; Swenson – yes.

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