

2007 Board of County Commissioners
Minutes

JANUARY 8, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, January 8, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

COUNTY MANAGER UPDATE – ED GREEN

OPERATIONS - EMS AMBULANCE LICENSE – DALE HANCOCK

Dale Hancock submitted the Ambulance Licenses for Carbondale and Rural Fire Protection District License Numbers A20, A-21; A22; and A24; the Glenwood Springs Fire Department License Number A944, A945, and A946; Rifle Fire Protection District License Number 1, 2, and 3; Grand Valley Fire Protection District License Number A11; A12 and A13; the Town of Silt, DBA West Care Ambulance License Number 30, 32 and 33 and requested the Chair be authorized to sign.

This is an annual process for Carbondale, Glenwood Springs, New Castle and Silt, and the Rifle Fire Protection Districts.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the ambulance licenses for the operating the ambulances for Carbondale, Glenwood Springs, New Castle, Silt and Rifle for 2007.

In favor: Houpt – aye McCown – aye Martin - aye

OPERATIONS - NW RETAC APPOINTMENTS – DALE HANCOCK

At the November 1, 2006 Garfield EMTAC meeting the following roster of representatives to the NW

RETAC were elected:

3 representatives: Carl Smith, Carbondale and Rural Fire Protection District

Nancy Frizell, Valley View Hospital

Cleo Castle, Grand River Medical Center

3 alternates: Arron Taylor, Westcare Ambulance

Chad Harris, Glenwood Springs Fire Department

CJ Gredig, Burning Mountain Fire

Dale requested that these members be appointed and a letter of appointment addressed to NWRETAC to Danny Barela, Coordinator.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to appoint the aforementioned members to the Garfield EMTAC.

In favor: Houpt – aye McCown – aye Martin - aye

ROAD AND BRIDGE - CR 226 - EXCEL ENERGY POWER LINE CONSTRUCTION ALONG COUNTY ROAD 226 – JAKE MALL

Jake Mall presented. This is a request to install a new power line within the County ROW along CR 226 – Grass Valley Road that is 2,820 feet and will include installing 12 – 40-foot poles and 12-down guy wires with anchors. The power line will run from Highway 325 to a residence at 1335 CR 226.

Commissioner McCown clarified for the record that if at any time these poles need to be moved it will be at the expense of Excel.

Jake confirmed that this was in the permit.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Excel Energy Power line construction along County Road 226.

In favor: Houpt – aye McCown – aye Martin - aye

ADMINISTRATION - AWARD A PROFESSIONAL SERVICE AGREEMENT TO SANDY’S OFFICE SUPPLY FOR 2007 – TIM ARNETT

Tim submitted the bid for Sandy’s Office Supply for 2007 for a total amount not to exceed \$200,000.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the professional services agreement to Sandy’s Office Supply for 2007 in an amount not to exceed \$200,000.

In favor: Houpt – aye McCown – aye Martin - aye

OIL AND GAS - EQUIPMENT AUDIT – SEAN MCCOURT

Tim Arnett and Sean McCourt submitted the audit which was broken down into four tasks and Sean summarized them in a document presented to the Commissioners for a total cost of not to exceed amount of \$395,000 to Visual Lease Services. This is a highly specified audit. Visual Lease Services is out of the older oil and gas area in Oklahoma and have been doing this for a while and maybe they’ve set it up so they’ve cornered the market if you will. It’s specialized and you need a lot of people and a lot of contracts to keep your company going. This is the only response we’ve received. The presentation was given by Ron Sosbee to the BOCC and we’ve discussed the fact that Rio Blanco has them on board, Montezuma County signed on with them, Moffat is looking at them like we are, and in speaking with Renee, she hasn’t received anything back from them as it takes a while to get the information, but overall her consensus was she was pleased with what was going on.

They started working in Rio Blanco in the spring. They’re wrapping up their field work now and it’s a matter of getting all the data in the formats that are necessary. For our perspective for Garfield County obviously we are bigger than Rio Blanco for them. We really need them because there’s so much going on out there as far as pipelines, gas plants, that sort of thing and we need some expertise to help us analysis the information that they’re giving us every year and that information is not as detailed as we would like it be to be so it would be good to have someone else come up with it and then compare the two. It also helps put leverage on the companies to give us more detailed information. All of them know who VLS is and they deal with them in other states.

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Commissioner McCown noted that this will be a one-year contract, do we feel comfortable that they can complete all four tasks in one year or will there be a portion of this that renews and carries over into 2008. Sean stated that everybody that he's talked to, if you have a lot of activity, they have a renewal in place where they go back out and update because there is so much going on. They should be able to capture primarily what we're interested in and that is for the Assessor's office the pipelines and the gas plants, Bud has picked up a lot of our well sites and that's where they start, but I don't anticipate them spending a lot of time there. Commissioner Houpt said the tasks are broken into four tasks and that will be completed in this contract before us.

Sean has spoken with Rob and he has contacted their GIS person, obviously there's some benefits not only to the Assessor's office but also for the County to have the maps prepared for emergency preparedness and safety. He's indicated that they are using the latest software versions and that this is compatible with what we have.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the contract to Visual Lease Services for a County-wide assessment program for all of the various gas and oil field equipment, pipelines, etc. located in the County at a cost not to exceed \$395,000.

Don asked if they took any exception to our standard form of professional services agreement.

Sean – not at all. In favor: Houpt – aye McCown – aye Martin - aye

HUMAN SERVICES - DISCUSSION REGARDING CHILD ADVOCACY CENTER – DEBBIE QUINN AND LYNN RENICK

Debbie Quinn and Lynn Renick presented the draft that details the operations of the program that we are currently discussing and the general principals of what the program operations will look like. It also includes a scope of services demonstrating that no operational local or statutory responsibilities from either DHS or law enforcement are being given away. It also outlines a legal relationship that will need to be finalized relative to purchase of services agreements, MOU's with the various entities, specifically Child Help and also Valley View, law enforcement agencies and the DA's office.

Commissioner Houpt – comments

Don – there are legal issues intertwined with operations and policies.

Lynn – looking for the Board's review and general acceptance.

Commissioner Houpt – commented on some of the language in the contract.

Debbie reminded the Board that this is a draft.

Don – in other contracts we make them one-year but have a renewal process.

Commissioner Houpt stated that she reviewed the contract and made notations.

Don commented that because the operation of Lynn will be intertwined with the operation of this center, we need a services contract as well as a lease.

Naming Rights were discussed.

Joyce – River Bridge of Child Help Center.

Lynn – naming rights has to do with fundraising. The forensic room may have a plaque for someone that makes a large donation.

Commissioner McCown – why is this different than any other county owned building. We need to be careful as it is precedent setting.

Jesse stated that Universities are faced with this all the time – furnishing and equipment could be donated.

The Board generally agreed with the draft concept of the agreement. It will be finalized and brought back.

Debbie Quinn will work on this. January 23rd at 2:30 p.m. is the ground breaking ceremony.

Ed wants to get the agreement in place within the next month.

SHERIFF - ANNUAL VEHICLE REPLACEMENT FOR 2007 – LOU VALLARIO AND MARVIN STEPHENS

Tim Arnett, Lou Vallario and Marvin Stephens submitted the annual vehicle replacement list for 2007 recommending Glenwood Springs Ford for 17 vehicles including trades for a cost of \$391,199; and from Berthod Motors one GMC 15 passenger van for \$13,666.92.

The van was dropped from the list of vehicles. Tim stated the trade-in values are good. We have a new vendor that will set up all the sheriff's vehicles.

Marvin's crew will strip the old vehicles and the new vendor will put all the specialized equipment on the new vehicles. It will be a one stop installation and the turn around will be 5 cars in one week.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve from Glenwood Springs for 16 vehicles including trade for \$373,000.

Commissioner Houpt – approve Berthod Motors including and \$13,666.19 from Berthoud Motors.

Commissioner McCown seconded.

In favor: Houpt – aye McCown – aye Martin - aye

HUMAN RESOURCES - DIRECTION REGARDING SALARY SURVEY – MARK BELL

Drop dead date is next Monday to have this finalized. The meeting on Wednesday, January 10 will be the discussion of the Board.

COUNTY SHERIFF

Lou gave his report – hiring new staff. New World System training has begun today and anticipating a 6-month period to be up and running.

Radios have been purchased from the Homeland Security. New towers are also being installed and it will be a good system.

Lou appreciates the River Bridge project.

Jesse saw a news article that homeland security has opened up their grants for paying personnel overtime.

Lou said they will pay for training but not for a full time employee status.

Commissioner McCown – homeland security for local communities may change.

Lou reiterated that the dollars are shrinking and it will be harder to obtain funds. The funds will be re-prioritized and justification will be tougher to compete with the larger cities such as New York.

Traffic enforcement was discussed.

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COUNTY ATTORNEY UPDATE – DON DEFORD

Executive Session: Litigation Update; Legal Advice – update of personnel status in CA, public hearing, Amendment 41 opinion; and direction on meetings. Jesse – on-going deliberations on the socio-economic study.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken - None

COMMISSIONER REPORT

Commissioner Houpt –last Wed suicide prevention at the middle school in Parachute (Donna Gray was publicly thanked for writing a great article about this) - trainings were conducted and very worth while; it was the 7th and 8th graders; they identified people who they are now working with; it's one of those topics painful to address but important. Group moving forward to expand that educational opportunity; met and had an update with EnCana; Tuesday at 10 a.m. swearing in and Wed. meeting at 8 am on the Meadows

Development and Thursday I-70 and Friday – Governor's Inauguration

Commissioner McCown – Wed. oil shale at noon and Thursday oil and gas forum

Chairman Martin – road tour on Roan Plateau – met with Mesa County on the bridge replacement and they need to improve the delivery system; Shannon Hurst going away party on Friday; Eagle County reception ending of Tom Stone's political career as Commissioner, a big send off; Mildred's Retirement Party on Sunday the 7th, it was a genuine and home town send off. Jean will be coming on board and will attend the meetings for a while. On Tuesday next week, Community Corrections; Friday in Denver trying to get civics taught and back into education – attended by the different entities, such as the Board of Education – we are eroding the trust in government civics must come back to the schools.

Commissioner Houpt – noted this was Mildred's last time to take role and mentioned how much she has done for the Board. Thanked Mildred for all her wisdom and guidance and welcomed Jean.

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers - none
- c. Inter-fund Transfers
- d. Changes to Prior Warrant Lists
- e. Authorize the Chairman to sign a Resolution of approval for a Special Use Permit for an Accessory Dwelling Unit at 544 Cowen Drive, Carbondale, CO Applicant: Kent Jones - David Pesnichak
- f. Authorize the Chairman to sign the Acknowledgement of Partial Satisfaction of Subdivision Improvements Agreement for Phase C and D, Valley View Subdivision, Battlement Mesa PUD. Applicant. Darter, LLC. Fred Jarman
- g. Authorize the Chairman to sign the acknowledgement of satisfaction of Subdivision Improvements Agreement for Phase II, Springridge Reserve PUD. Applicant: Springridge at Glenwood Springs Development Corporation – Fred Jarman
- h. Liquor License renewal for Glenwood Tramway, LLC. - Mildred Alsdorf

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a – h, absent b; carried.

REGULAR AGENDA

WATER - COLORADO RIVER WATER ISSUES AND GARFIELD COUNTY – PETER FLEMING, CHRIS TREESE AND RICHARD STEPHENSON

Peter Fleming, Chris Treese and Dick Stephenson were present to give the report.

Dick thanked the Board for his appointment and it has been very interesting. The knowledge is unbelievable and feels the River District does have a handle on the river issues.

Chris mentioned this is a 15 county district and the largest in the State. The mission is the protection of the river. They represent western Colorado.

The Shoshone Agreements with Denver Water and Excel Energy correspondence was discussed. The concerns that Glenwood Springs has have still not been resolved. The local mayors had a meeting and Chris was part of that. A very fair set of negotiations provide against the worst outcomes of the water call, the senior one.

Peter Fleming, counsel for the River District – the agreement that resulted from Excel and Denver's negotiations ended up looking a fair amount like the conceptual thoughts that the river district had in some of our other western slope water allies had put together. That's not to say that it was the best outcome that the western slope had hoped for and would much rather have that water right be under much stricter control on the west slope but that wasn't in the cards at that time and at least for the foreseeable future, so we think it is a reasonable compromise. It could be a lot worse. Our voice has just been silenced and we need to have a strong commitment for the folks on the western slope.

Chairman Martin thinks it will become a front-range issue and less involvement of the western slope. Russell George was one of our greatest allies in that because he was there and now we don't have that anymore and not sure where it's going to go. We are going to rely on you guys.

The agreement is a 25 year term. To amend that it would take action between Excel and the City and County of Denver as they are the ones who entered into this agreement.

The other item for discussion is the Colorado River Basin Proposal – background was introduced and then to Peter to talk it over about what involvement Garfield County wants to have in this process. This goes back to a lot of negotiations and a lot of litigation and a lot of discussions with Denver Water over their facilities, their current facilities, the operations for the facilities and their future plans for those facilities including what they call their Moffat system firming project out of Grand County, Moffat tunnel system and that system. This election system really rings the upper Frazer basin going from Winter Park to Berthoud Pass and then past Frazer collecting the head waters of the Rockies right there and an impressive collection system and it has an impact on Grand County water quantity and quality. Because we have sort of had litigation on the horizon for a while now, in order to avoid litigation we've been talking to avoid litigation and there's been the

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Colorado Northwest COG and have let a process called the upper Colorado River study which became Summit and Grand County separate study and has been on-going for several years. We looked at a lot of proposals coming out of Summit, Eagle; Shoshone was on the table at one point and realized that there were a lot of pieces without much coordination. We were concerned that number one that if you pursued one piece it would have an impact on another piece and perhaps the sum in terms of impacts would be greater than anything we wanted to consider individually. We looked at it cumulatively and realistically. We sat down with Denver and said we'd like to put a proposal together that addressed water issues as far as Denver water and its operations from headwaters all the way to the state line. Here's what we said makes sense, we understand Denver's needs and interests and the western slope needs and interests, laid those out and that was just the beginning of an on-going dialogue that has not reached a point and Peter has been involved in this discussion. This discussion is primarily with Denver water and the impact of the main stem waters. Peter – as you can expect there has been a lot of discussion in meetings. They have agreed to a 3rd party to move the process along. One concept is to avoid litigation and realize an agreement can be reached to resolve the issues. 65% of the native flow in Grand County is diverted across the Continental Divide and with the current project that Denver and other municipal diverters from Grand County have to increase their diversions make it up to something like 85%. So they are very closely involved. Summit County has been involved with issues concerning Denver's operations at Dillion Reservoir and recreational lake levels. Eagle River water supply and Eagle County also had on-going discussions with Denver and have become more involved in the process.

Chairman Martin asked about the Arkansas River flow out of the Roaring Fork River because that is a major contributor to the Colorado River on this side and there's a movement to even take the higher percentage for Colorado Springs out of the Roaring Fork, have you guys talked about that?

Peter said the River District has been very involved with all the issues regarding the diversions out of the Roaring Fork however those issues have not been wrapped into this process.

Chairman Martin – we need to keep an eye on this because it is going to be very major.

Chris said they are mindful of the impacts are and that it is part of the Colorado River main stem basis so just by example in the Shoshone agreement we were able to get in conditions that protect water diverts in the Roaring Fork basin from what we call a rebound call that if Shoshone is taken off line because of a Denver water exercise of its agreement so that senior water right is no longer pulling that water down, if that were to trigger a cameo call that would impact the whole basin all the way upstream including the Roaring Fork, we have provided if that happens that Denver cannot exercise that agreement and take that call off. So and we also will come back to this, the proposals you referred to by Colorado Springs and others we are involved very closely and have been and have successfully negotiated some agreements that do not rely on the federal legislation that the proponents on the east slope are seeking, we were able a couple of years go to execute two or three different agreements that we are already benefiting from because they were entered into as MOU and MOA that did not rely on any activity in Congress so that some we were able to provide considerable protections against how they operate, the existing Frying Pan/Arkansas project as well as any plans for changes in that operation. Commissioner Houpt – there's a bill that's being discussed that would propose diversion from Ruedi entering into this discussion.

Chris – this is not part of the Colorado River basin proposal at the present time. To the extent that it is part of the basin, it could end up on the table.

The Commissioners want to be a part of this discussion and involved in the meetings.

Peter said the cost of participating will increase and the River District has carried the lion's share of the process. There is a consensus that everyone will share in the costs.

Don – asked if there is an IGA.

Peter felt there will be a confidential agreement due to the potential of litigation.

HB 1177 process – Chris said they have committed to keeping them informed and can provide them with an update until the attorney's say they can't go any farther. This process has official representations from the River District and additionally they have been involved in the metro and South Platte. Aspen has agreed to be an ex-officio in the Arkansas process. Last year a 4-Colorado joint meeting was formulated and how to keep the communication open among the 4 river districts.

Peter – in addition to the Roundtables,

Chris – Colorado roundtable joint meeting about 120 people attended Montrose last spring and we are looking at doing that again this year to talk just how we keep that line of communication open across the four Colorado River roundtables recognizing that we have a lot of issues that are relatively district but also some very core issues that are quite common.

Peter added that in addition to the individual basin roundtables that House Bill 1177 process set up this inter basin compact committee and we have representatives that serve on the IBCC. Our of that process there has been some technical committees one of which was the so-called Gap Committee – the committee to look at alternatives to bridging the gap between identified supply and future demand. Our of that Gap committee there are the annual water conservation board's construction fund authorization bill, legislature must authorize the expenditures from the construction fund. There is a proposal to have a study to look at the alternatives that have been identified by the Gap committee on which the River District has members as well. Included in that and in the media recently has been the fact that a Blue Mesa pump back has been included as well as a possible Yampah pump back, my understanding is that the study would be to bring those pump back alternatives to the same point that the big straw proposal was scoped and identified. Not aware that the Ruedi pump back which has been discussed in the past is part of that.

Commissioner Houpt was told this was a part along with Blue Mesa.

Chris – Representative Curry has been involved in the discussions of the pump backs generally the conditions that might be put on those to make them more acceptable for all the basins and all the basins in our district are involved. My proposal was that number one it had to go first to the roundtables before any expenditure would be authorized. The needs assessments that the basins roundtables are required conduct would be completed first so we had some idea of what the demands are in the basins before we start talking about where that water may go out of basin. The River District has been pushing the State to update what is now a 20-year old determination of how much Colorado River is available to Colorado under the compacts for development.

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How much undeveloped water remains given a lot of new issues and some new hydrology and new determinations by the Bureau of Reclamation as well as the risk of issues like global climate change and what can you responsibly develop without putting Colorado River users, east slope and west slope at risk of an interstate compact call. If we can get that language into the bill it will be a long time before a compact is actually studied but we will look at things in the proper order.

Commissioner Houpt – why would you even suggest a pump back in a bill until you have studied it and recognize that there is a need to make that a piece of legislation.

Chris – the Gap Committee has identified these pump backs as well as a lot of other alternatives and what the state is proposing is to get all these alternatives a sort of a common level of analysis, not a permit level of analysis but a common level of understanding of what's possible, what's impossible, what the trade offs are so that at some point we can have a proper policy discussion. Part of that discussion we're going to suggest if there is, whatever amount there is left to be developed, it is very likely that some or all of these pump backs are proposing to develop the remainder of Colorado's remaining entitlement for east slope use and that is something that's inappropriate statewide which we intend to have a significant and hopefully persuasive voice in.

Chairman Martin – you've allocated that pump back and what have you and you have a drought, you're in big trouble.

Dick Stephenson - the amazing thing is that all the records we have were during a very wet time and go back to the old tree ring thing, we had some terrible droughts in the way past but our recorded history was all very wet.

Chris – we don't see ignoring it is an alternative is pretending to ignore it or that it doesn't exist.

He has drafted a NO at this point on the pump backs to Curry and to the state water conservation board staff is something that says no at this point.

Commissioner Houpt – we will keep losing our water for the development on the east slope because we're not looking at conservation, not looking at other methods of storing or finding water – are we just going to keep losing our resource so that the front range can keep developing.

Chairman Martin – the overall fear we have going right now and that's our voice – we lost it and challenge and it's now gone to the eastern slope and that's the direction that I see it going through legislation and the present feelings supported by the constitution, it's not where it is, it's where it's needed and they will rely upon that to make sure it does go to the east slope.

Chris – The demand for that water is inevitable, the new proposals coming up all the time for ways to take that water to the eastern slope. The constitution does provide and protect that opportunity and our job at the River District is to make sure all the impacts are identified, water availability is assured and that the impact is mitigation – that's been our traditional position back from 1937 when we were created and saw the development of Green Mountain Reservoir for west slope use that we would have those resources, that the demands of faster growth and larger demands on the eastern slope did not preclude future west slope development.

Chairman Martin – sees the opportunity arising in reference to our conservation on the western slope and the conservation throughout which we conserve and conserve and cut back on our use only opens the door to more development and more use of that and more demand of it and at point we've cut our own throats as to the water and the availability if there should be anything happen due to a lack of storage, water available but it's been allocated to other parts instead of us. And so we watch it go by and do without simply because we have conserved and done such a good job of stewardship we have to watch out for the opportunists that will take advantage of it.

Commissioner Houpt – Colorado water laws have been set up for conservation, if we really look at it honestly. The type of growth we've always seen for the Front Range was always there and was done with different understandings of what water was available as well.

Chris – the Las Vegas meeting agreements – Chris said the river district is not just responsible for protection and development of the Colorado River with respect to Denver and the Front Range. We also have 6 state and an international partner in the Colorado River, the meeting is an annual meeting of the 7 basin states, Colorado River water users association and Chris had a part in putting the program together this last year. We had a large roundtable discussion of all 7 states as well as recreation, environment and other specific interests to talk about what is happening on the Colorado River. California is in a position where they have agreed that they will ratchet their historical overuse down to their legal entitlement as a state of 4.4 million acre feet, the way they are doing that is with trades and arrangements within the lower basin both with intra state as well as interstate but only involving the lower basin states and that's very important to Colorado. Previous Secretary Norton challenged the users to come up with an alternative a proposal for shortages, the term shortage and what to do during a shortage is provided for in the compacts however shortage is not defined. So one of the responsibilities she recognized was determination of what shortages and what to do in the case of a shortage on the Colorado River. To which she challenged the seven basin states – you come up with a proposal, I can tell you right now that at least corporately all seven states, you'll like better what you come up than what I decide unilaterally but it is my responsibility. The federal process is underway to define shortage criteria and shortage actions. The proposal that the seven basin states put on the table back in February 2006 calls for a difference in the coordinated operations of Lake Powell and Lake Mead and some responsibilities of each state and Colorado really bears little risk in significant benefit from this, Utah and Nevada as terms of recreation have some increased risks because of fluxions that are likely to occur during drought periods on the Colorado River.

Peter – from the River District perspective, the goal is to prevent a compact call by the lower basin states. 1922 River Compact. Rules and regulations are being developed on a compact call and they are very involved in protecting the western slope.

In the Yampah basin we partnered with the US Fish and Wildlife Service through the Colorado River recovery program for the endangered fish so that the federal government paid for roughly half of that enlargement and thereby owns essentially half of the water in the enlarged portion of the (Elk Creek) an old Division of Wildlife reservoir transferred to the City of Craig for municipal and industrial purposes. The west

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slope paid for the other half species – partners with Colorado River District. Mentioned this because it works very well and the State, water users, and Colorado River District has supported this recovery process. Chairman Martin – energy development folks haven’t been represented and they are left out of the equation. They own the water rights.

Chris stated they have had trouble getting the energy folks to participate.

Chris concluded that the River District is here for the Commissioners and would appreciate their involvement. They will continue to be involved.

Dick – staff is very diligent about answering questions.

Commissioner McCown – we’re starting this year to be active participants in the Tamarisk and the eradication of this weed. This is a project that has to be done.

Chris thanked the Board for their leadership on the DOLA Grant. Last year they were successful in getting the Congress to allocate funds for the Tamarisk problem.

Jesse – monthly meetings on a group of about 50 interested parties on the oil shale leases for BLM and asked if Chris was involved.

Chris – not part of it but discussions with Associated Governments and with the Club 20 special task force.

Jesse had been attending these meeting and hadn’t seen anyone from the River District.

Citizens not on the Agenda

Fred introduced Marv Ray, the new planner. Marv has been employed in Kansas and Minnesota in the past.

Fred said he has a great background in public service and the staff are thrilled he’s here.

PUBLIC HEALTH - CONSIDER THE SITE APPLICATION FOR THE CITY OF RIFLE WASTEWATER TREATMENT FACILITY AND MAKE A RECOMMENDATION TO THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT. APPLICANT: CITY OF RIFLE – CRAIG RICHARDSON

Bob Pennington and Chad Paulson from Schmueser, Gordon, Meyer, Craig Richardson, and Carolyn Dahlgren were present.

A motion to go into the Board of Health by Commissioner McCown and seconded by Commissioner Houpt to go into the Board of Health; motion carried.

Carolyn clarified that there were operating as both the Board of County Commissioners and the Board of Health.

Craig Richardson submitted the following Exhibits for the record: Exhibit A – Staff Report and Exhibit B – Comments from Jim Rada, Environmental Health Manager.

Craig stated the City of Rifle currently owns and operates two existing lagoon Wastewater Treatment Facilities. They are experiencing tremendous growth and plan to take a temporary step in alleviating the overloading problem.

State Statute C.R.S. 25-9-702(2)(a-c) and the “Regulations for Site Applications for Domestic Wastewater Treatment Works”, defines the parameters by which the Water Quality Control Division shall review and approve or deny a site application for a wastewater treatment works.

Garfield County’s involvement in the process is to determine whether or not the proposed wastewater treatment work is consistent with the “long-range comprehensive plan for the area as it affects water quality and any approved regional wastewater management plan for the area.”

Staff recommends approval of the proposed site application.

Commissioner McCown – ponds location was a concern.

Chad explained the various meetings held with the DOE and the depth and site location has been completed explained. They consider the site to be cleaned and the soils will not be removed from the site. The real concern is the vadium plumbs and the problem is in certain excavation areas. The location is on the north end of the site. A copy of the letter dated January 3, 2007 was submitted including a site plan and construction restrictions.

Chad said they were located further back on the property. They are beyond the 1000 feet and a total of 14 acres will be involved in the site.

Fred Jarman asked the applicant to explain how the construction wastewater would be handled.

Fred asked Chad to tell the Commissioners in dealing with the excavation to describe how this would work and how the disposal of ground water and also to describe how you can convey to the true subcontractors who will do this excavation work, how the control measures are in place so that they know that the last dirt out is the last dirt in and so on.

Chad said the first part was what to do with construction dewatering – the site that has been selected, the ground water is 7 feet below the grade surface and any excavation down to 15 feet means 8 feet of dewatering and much better than other options. The only restraints that the DOE and CDPHE asked are that we don’t direct discharge to the river. We can do evaporation ponds or overland discharge particularly with that discharge getting to one of their wetlands, they have many on the south and west and east sides and the plan is that it will be dewatered, surface discharge like flood irrigation that will go overland and consumed by plants and eventually make it to the wetlands. The second part of that was how to convey these we will convey these requirements to the contractor, part of our agreement with DOE is that we will have the same letter that you see in your packet plus one more clause and that is that the successful contractor will sign that same letter and send it back to DOE so that they are aware that the contractor is aware of the requirements. As part of the bid package plans and specifications these requirements will also be very clearly outlined meaning they have to meet these requirements and send the letter in and that their dewatering plan has to be suitable to DOE and this is the general guidelines.

Bob Pennington said they will have a pre-construction plan as well and they will be told informally and verbally.

Motion as Board of Health

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the site plan for the site application for a domestic waste water treatment works as presented by the applicant.

In favor: Houpt – aye McCown – aye Martin - aye

PUBLIC HEALTH - CONSIDER THE SITE APPLICATION FROM THE TOWN OF NEW CASTLE WASTEWATER TREATMENT PLANT AND MAKE A RECOMMENDATION TO THE

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COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT. APPLICANT: TOWN OF NEW CASTLE – CRAIG RICHARDSON

The Board stayed in the Board of Health and will ratify the action on both as the Board of County Commissioners at the end

Craig Richardson, Carolyn Dahlgren, Chad Paulson and Bob Pennington were present.

Craig Richardson submitted the following Exhibits for the record: Exhibit A – Staff Report and Exhibit B – Comments from Jim Rada, Environmental Health Manager.

New Castle submitted an application for a permit increase from 3,270 to 5,300 expected to occur sometime after 2015. No plant expansion or modification will be required.

Garfield County’s involvement in the process is to determine whether or not the proposed wastewater treatment work is consistent with the “long-range comprehensive plan for the area as it affects water quality and any approved regional wastewater management plan for the area.”

Garfield County Environmental Health Manager reviewed the application and had a comment regarding odor at the Wastewater Treatment Facility. The Department’s comments stated that this plant is experiencing significant odor issues and notes this application does not mention any strategies for odor control. It is his recommendation that Garfield County take this opportunity to request the Colorado Department of Public Health and Environment consider additional changes needed to reduce the odor generated by this plant.

Staff recommends approval of the proposed site application for the town of New Castle Wastewater

Treatment Plant and provide a comment concerning the odor issues not addressed in this application.

Chad explained the process for an increase in loads on an existing wastewater treatment plant. New Castle has all the basic capacity and they are asking the State to acknowledge this.

Odor issues – comment by the Board

A two-part answer – did have problems in the spring of 2006 when they lost their operator and some occurrences were documented. The plant is currently undergoing construction approved by CDOHE where new pumps are being installed and are addressing the odor problem.

Motion as Board of Health:

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the application for an increase in the original size of the New Castle Wastewater Treatment plant.

In favor: Houpt – aye McCown – aye Martin - aye

Motion to come out of Board of Health

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of the Board of Health; motion carried.

Motion as the Board of County Commissioners:

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve both the City of Rifle and the Town of New Castle wastewater treatment facilities.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT FOR “PROCESSING, STORAGE AND MATERIAL HANDLING OF NATURAL RESOURCES” TO THE PLANNING COMMISSION. APPLICANT IS PINE’S STONE COMPANY INC. – CRAIG RICHARDSON

Pam Pine, Carolyn Dahlgren, Davis Farrar, Planner with Western Slope Consulting, Mike Sawyer Attorney and Craig were present. Craig submitted the request for a referral of a Special Use Permit to the Planning Commission. The applicant currently operates under an existing Special Use Permit (Resolution #92-078) allowing the processing, storage and material handling of natural resources, 3P Properties LLC and Pine’s Stone Co. Inc. submitted this application to better define the terms and conditions of the operation. The applicant is requesting the following:

David Sawyer gave the background and request to have this reviewed by the Commissioners and not refer this to the Planning Commission. Pine Stone Company employee’s local residents and provides health benefits to all employees. The application is for a new SUP but actually seeking an amendment to an existing SUP. They would like to legitimize their business. In 1992 Pine Stone filed an application to process stone and subsequent to that Mark Bean stated they could operate a wholesale operation. The zero to 10 trips per day was referenced and Mike explained the Pines felt the 10 trips were for truck loaded with stone was what this referred to. The employee trips to and from the site was not taken into consideration. For the BOCC to decide this and not the Planning Commission, it is the statutory role of the Planning Commission to review the conformity of the permit and the Board of County Commissioners to determine the Special Use Permit. The Stone’s are seeking a continual use of the permit. Since this issue began a couple of years ago have listened to their neighbors.

Pine Stone has existed for almost 15 years.

Carolyn – a procedural issue today and the only issue today is whether or not to refer to this.

David Sawyer – other policy consideration to consider to the referral is that the planning commission is very busy and to hear this at the Board level will enable an earlier hearing. A referral will not add to the impacts on the site or create propose mitigation with surrounding land use issues.

Davis Farrar – confined his remarks to the staff comments. Nine points were identified in the staff report. Three of these are different – vehicle trips and they are essentially asking for clarification of those points as they are trying to legitimize the process and there are only 3 points to be clarified. Between the staff and the planner/attorney can work out these points. We think the application stands on its own. A traffic impact and a sound engineering study were submitted and hope that the Commissions, staff and applicant can work together.

Pam Pine – truly took to heart about being a good neighbor and has gone on their own violation to do a Cattle Creek traffic study and a sound mitigation study. They changed the decibel levels of their machines. It’s been time and money and time to get this finished and over to get a definition. A tremendous amount of material has been submitted.

This request is for consideration for referral of a Special Use Permit to the Planning Commission. The applicant currently operates under an existing Special Use Permit (Resolution #92-078) allowing the processing, storage and material handling of natural resources. 3P Properties LLC and Pine’s Stone Co. Inc.

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submitted this application to better define the terms and conditions of the operation. The applicant is requesting the following:

- 1) Processing, storage and material handling of natural resources
- 2) Use of site for an office, processing facilities, repair and maintenance of vehicles, and equipment associated with the business operation
- 3) Parking for wholesale customers, employees, and vehicles used in the operation of Pine's Stone
- 4) Wholesale sales of materials from the site
- 5) A maximum number of 100 daily vehicle roundtrips on weekdays to and from the site for all vehicles
- 6) A maximum number of 20 daily vehicle roundtrips on weekends to and from the site for all vehicles
- 7) Hours of operation between 6:30 a.m. and 7:00 p.m. on weekdays and limited use on weekends. Hours of indoor operations that do not involve outside activity would not be limited by this restriction
- 8) Operations would be permitted in more than one building on the site. Additional buildings would be subject to County staff building permit review and would be contained within the building envelope designated on the site plan.
- 9) The existing building on the property can be expanded, repaired or rebuilt in conformance with applicable building codes and zoning standards of Garfield Count

Resolution #92-078 Conditions of Approval

1. All proposals of the applicant shall be considered conditions of approval unless stated otherwise by the Board of County Commissioners.
2. That limited processing (cutting and shaping) of materials on the site will be limited to daylight hours.
3. All delivery and stacking shall occur Monday through Friday during daylight hours. Delivery of material on the site during weekends will be limited to minimize the impact of the use on adjacent residential uses.
4. All non-licensed or inoperable vehicles and assorted equipment will be removed from the site.
5. The applicants will construct a berm on the south side of the property, and will plant landscape screening along the property's frontage with Cattle Creek Road (CR 113)

As represented by the applicants in their 1992 SUP request letter, the regular business hours are limited to 8:00am – 5:30pm Monday through Friday and a half day on Saturday. The request letter also states that Vehicle use to this property would be 0 – 10 trips per day. According to an opinion letter dated February 4, 1993 from the Garfield County Building and Planning Director, "wholesale sales" is allowed under this Special Use Permit.

Site Information

The subject property is 4.0 acres located .6 miles east of Highway 82 on County Road 113, zoned ARRD. This parcel is located in Study Area one, of the Garfield County Comprehensive Plan, designated Residential Low Density.

Staff Recommendation

Staff recommends that the Board refer this item to the Planning Commission for a recommendation. The applicant is proposing an increase in a number of the conditions found under the current Special Use Permit. This application proposes a 1,000 % increase in daily vehicle roundtrips on weekdays, adding more traffic to the already dangerous intersection of SH 82 and CR 113. The proposed increase in the hours of operation including an unlimited time restriction on indoor activity and an increase in the number of buildings allowed for this operation will have an impact on this already contentious land use. The application does not specifically address what will be conducted within the proposed new buildings. Currently, the well permit issued for this site only allows for ordinary household purposes inside two single family dwellings and use inside one existing commercial building. The applicant has challenged the County's interpretation of the existing Special Use Permit in District Court and Staff feels that it is important that the County conduct a full fact inquiry of this new request.

Davis Farrar for Pine Stone presented his request to have this heard by the Commissioners and not referred to the Planning Commission. He submitted a two-page letter explaining their position.

Commissioner McCown agrees with the applicant regarding this application and made that in the form of a motion. Commissioner Houpt said it has been represented here today that a lot of material and the litigation and would decline having this go to the Planning Commission – she seconded.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING – SUB EX – LOW - CONSIDER AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION LOCATED APPROXIMATELY 1 MILE NORTH OF THE TOWN OF CARBONDALE ON COUNTY ROAD 107. APPLICANTS: HELEN AND STEPHEN LOW – DAVID PESNICHAK

David Pesnichak, Carolyn Dahlgren, Bob Emerson representing the applicant were present.

This needs to be rescheduled and renoticed.

BUILDING AND PLANNING – SUP - RAILSBACK CONSIDER A CONTINUED PUBLIC HEARING ON THE SPECIAL USE PERMIT FOR PROCESSING AND MATERIAL HANDLING OF NATURAL RESOURCES (SATELLITE WATER GATHERING FACILITY) APPLICANT: JOHN RAILSBACK – CRAIG RICHARDSON

Craig Richardson, Jimmy Smith and Carolyn Dahlgren were present.

Chairman Martin swore in the speakers.

Craig submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff memorandum; Exhibit E - Application; Exhibit F – Memo from the County Road and Bridge Department dated 11-14-06; Exhibit G – Memo and Email from the Garfield County Vegetation Management dated 11-30-06 and 12-01-2006; Exhibit H – Email from the Garfield County Environmental Health Manager dated 11-27-06; Exhibit I –Storm Water Management Plan; Exhibit J – Spill Prevention Control and Countermeasure Plan; Exhibit K – Reclamation

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and Integrated Vegetation and Noxious Weed Management Plan; and Exhibit L – letter from the landowner to from EnCana.

Chairman Martin entered Exhibits A – L into the record.

REQUEST

The Building and Planning Department received a Special Use Permit (SUP) for a “Satellite Water Gathering Facility” (*Processing and Material Handling of Natural Resource*) intended to gather produced water by trucking the water from the surrounding wells in the area. The location of the proposed facility is 5 miles southeast of the city of Rifle, adjacent to Garfield County Road 315. Specifically, the applicant is proposing to construct a facility consisting of two 500 barrel steel tanks, one 300 barrel steel tank and a pipeline. The water will be transferred via pipeline to the existing Hunter Mesa Water Treatment Facility for recycle or disposal. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, Shall be considered conditions of approval unless explicitly altered by Board.
2. That the operation of the facility be done in accordance with all applicable federal, stat, and local regulations governing the operation of this type of facility.
3. That the Applicant shall comply with the fire protection provisions included in the rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC) and the International Fire Code as the Code pertains to the operation of this facility.
4. All vehicles and equipment are to arrive at the work site clean, to prevent the importation of noxious weeds from a previous work site. Only after the Environmental Inspector has determined it to be free of soil, debris, or other potential sources noxious weeds will any equipment be allowed initial transport or access to the ROW.
5. The Applicant shall provide Garfield County with a revegetation security in the amount of \$1,300.
6. Volume and Sound generated shall comply with the standards set forth in the Colorado Revised Statutes at the time any new application is made.
7. Vibration generated: Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
8. Emissions of smoke and particulate matter: Every use shall be operated so as to comply with all Federal, State, and County air quality laws, regulations, and standards.
9. Emissions of heat, glare, radiation, or fumes: Every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard.
10. Water pollution: Installation of safeguards designed to comply with the regulations of the Environmental Protection Agency must be completed before operation of this facility may begin.
11. All proper building permits must be obtained for the structures associated with the operation of the compressor prior to the issuance of the Special Use Permit.

Industrial operations -

Jimmy Smith – applicant - most companies do have an inspector on site and this is doable. In the lease agreement the landowner has rights to leave it as is and/or to reclaim the site. It is perceived in most agreements. The landowner has not opted on what to do.

Craig – we had entered exhibit I previously so I would need to change – the letter from the property owners authorizing EnCana to pursue the Special Use Permit.

Commissioner McCown – we need J, K, and L as exhibits.

Commissioner Houpt – on the recommendation you have volume and sound generation, I’d like to see those standards as set forth in the Colorado Oil and Gas Commission Regulations and State Statutes because they recently worked on and adopted a new regulation that goes beyond the statute.

Commissioner McCown – this will be an electric motor. Are we governing this under the Oil and Gas standard or under our land use standards?

Carolyn - your actions are under your land use standards.

Commissioner McCown – which will refer to the statutes.

Commissioner Houpt – it would but it is oil and gas activity.

Commissioner McCown – the oil and gas rules apply to those things permitted by the Oil and Gas Commission.

Commissioner Houpt – well we can also say that they need to comply – this is an oil and gas activity.

Carolyn – it’s an oil and gas activity under the standards – I’m not seeing the issue – its okay to refer to another set of standards.

Commissioner McCown – so we’re going to apply Oil and Gas rules to this but yet we have to have site specific mitigation when under the Oil and Gas rules you don’t have to. Well, under our land use plans we required them go back and get site specific mitigations to their storm water management and other things, where under the oil and gas regulations it’s an area wide permit.

But now we are applying our regulations on the sound but we want the oil and gas regulations pulled in too for sound.

Carolyn – I’d have to look to see where the oil and gas regulations apply.

Commissioner McCown – I’m fine with the state statutes, I was just addressing a question Tresi had of applying the oil and gas regulations to this.

Commissioner Houpt – well I can’t imagine they wouldn’t apply on a facility hat has some kind of generation over a number of years that oil and gas activity.

Carolyn – there’s a lot of ambiguity about how operations are defined here – widely in the regulations but it’s often ambiguous as to what they apply. Carolyn looked up the sound regulations.

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Commissioner Houpt – I worked on them and I know that what triggered the rewrite of the noise regulation was the noise generated by compressor stations but it was my understanding that it went beyond compressor stations and went to oil and gas facilities.

Jimmy – under 1100 series – and it’s written in the new paragraph 4. I do know that the stormwater and SPCC reclamation is all covered 1003 and 1004.

Carolyn- the bottom line answer for me is that I don’t know.

Commissioner McCown – I am just a bit troubled by combining the regulations; using one set of regulations to require the applicant had to come back under our regulations for specific storm water management spill mitigation for this specific site but now all of this would have been allowed under the COGCC regulations. But now that we’re getting to the part of approving or denying this we want to add COGCC regulations to this land use application.

Commissioner Houpt – we certainly have the ability to add more stringent conditions to any application and I know that we’ve done this before.

Commissioner McCown – I don’t think we can supersede the state statutes with our conditions of approval.

Commissioner Houpt – it’s an oil and gas facility, that’s the only reason I suggested that – if it had been for some other business, you’re right.

Commissioner McCown – its water, produced water.

Carolyn – oil and gas operations includes the storage of E & P Waste.

Commissioner McCown – but we didn’t permit it under the oil and gas regulations, under the oil and gas regulations he wouldn’t have had to have a wastewater management site, he wouldn’t have had to have a storm water site – it is under their area wide plan.

Carolyn and Jimmy Smith - correct

Commissioner McCown – let’s decide which we want to be here

Commissioner Houpt – I don’t see a problem going over and using both. We’re talking about – I don’t know if EnCana’s going to be in charge of this facility forever, it may not be – there may be a reason for wanting to have a tighter sound regulation on there.

Commissioner McCown – how much tighter was the COGCC regulations in the statute? What changed – decibels?

Commissioner Houpt – I would have to read it again.

Chairman Martin – there was a zoning for agricultural use is what it amounts to.

Commissioner Houpt – Yes I worked on it but it actually, it comes down to location, mitigation and a great deal was talked about in terms of disturbing neighboring lands and making sure the noise is mitigated so it wouldn’t. It sounds as if that may not be an issue with the building that’s being built around the electric generator but at the same time, I don’t think it’s inappropriate when we’re talking about an oil and gas facility to refer back to the regulation that’s been put together to address oil and gas facilities.

Carolyn – there might be an easy way out of this, she asked Jimmy if he had to meet the state regulatory standards for noise on this facility?

Jimmy – of course.

Chairman Martin – what’s the closest residence for this facility?

Jimmy – approximately $\frac{3}{4}$ of a mile. But the thing that I want to make clear is given the standing from the board if where do we go to from here and I think that’s where Larry’s trying to get to. In our original application we had our storm water management plan for Mamm Creek, we had the SPCC plan for Mamm Creek, we had a reclamation plan that we’ve actually taken and amended to meet the staff’s request, but on an SPCC plan according to your permit through the state and federal, you’re not required to do a site specific SPCC plan until 180 days after construction of the facility. Staff has asked that we do a site specific so that’s out of the norm of what COGCC rules are telling us that we have to do.

Commissioner Houpt – and I’m not going across the Board with COGCC rules, I am fully supportive of what our Planning Department requested you do, if it’s confusing matters that I want to be put in there, I’ll take it out but I want our staff to really look at that because I don’t see a problem with pulling that regulation into our local land use process.

Jimmy – I can’t speak for all other companies, I can speak for EnCana of this issue, they’re not opposed to doing the site specific but we have know not quite another 30-days for a hearing where under the original standards we thought we had everything that was required permit wise and then the site specific is a new issue which was not governed by COGCC under that and now we’ve gone another step – so we just need to clear at the first submittal what is going to be required.

Carolyn – and the noise and the submittal are two different things and for the land use submittal indeed you have to follow the County regulations even if they’re more stringent. On noise you essentially you’re double permitted and under our regulations you have to meet the state standards; under COGCC you have to meet their regulations and then there’s the separate issue that Ms. Houpt is bring up as to whether we should include the oil and gas conservation commission’s by reference in this Special Use Permit. Totally at the Board’s discretion.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing.

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown to approve the Special Use Permit for a material handling process of natural resources, a satellite water gathering facility applicant John Railsback with the conditions of staff.

Commissioner Houpt – are you going to add the COGCC regulations?

Commissioner McCown – no, I think he has to meet that under his permitting through the Colorado Oil and Gas Conservation permission; we have to meet the ones under the State Statute that we enforce, so it’s there.

Chairman Martin – so you’re saying under recommendation No. 2, “that the operation of the facility be done in accordance to the applicable federal, state and local regulations governing the operation of this type of facility.”

Commissioner Houpt – it’s already in there under No. 2 – I’ll second the motion.

In favor: Houpt – aye McCown – aye Martin - aye

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Executive Session – Affordable Housing – legal advice

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

AFFORDABLE HOUSING - GLENWOOD MEADOWS DISCUSSION AND APPROVAL OF SPECIFIC LEVELS OF PARTICIPATION IN GLENWOOD MEADOWS AFFORDABLE HOUSING – TO BE CONTINUED 8:00 A.M. JANUARY 9, 2007 AT GLENWOOD SPRINGS COUNCIL CHAMBERS

Don DeFord, Ed Green, Geneva Powell, Arnie Poraff, general partner of the development entity – Glenwood Meadows Apartment Community, Mike Maple, partner with Arnie and representing the developer and Susan Shirley were present.

A memo was submitted by Geneva.

This is to discuss specific levels in the Glenwood Meadows Affordable Housing. The proposals, the risk factors and Glenwood Springs and then the final decision.

Commissioner Houpt – the City of Glenwood Springs they are loaning the money to this project and they they'll be reimbursed with interest for how many years down the road, in an amount around \$5 million dollars. And I'm wondering who then, the HA talked about being interested in purchasing these units and my question then is would the HA be responsible for that additional liability of \$5 million that I don't think was anticipated in the last meeting or will this be absorbed somewhere else?

Arnie Poraff – an expression of interest by the County sparked our interest to support affordable rental housing given the need of low vacancy, there's 200 people with vouchers on a waiting list, and the support was there was interest in a project more or less ready to go and we represented that project. Also at the time of the last hearing when there was an agreement for \$1.5 million in the form of a grant and also mentioned that this Board was interested whether or not the city would do something comparable and asked us to pursue the city in that regard. We have been doing this prior to even coming to this Board. The county and the \$1.5 million and then how we anticipated paying this back and then there was another bonus in addition to paying the money. In working with Geneva we conceived of a way to pay back the money through a payment to the HA providing them with an administrative fee for doing the work that that helps process those people with vouchers. We estimated in the first 15 years that this would amount to about \$400,000 and in addition they were to participate in the percentage of the cash flow. We estimated that to be about \$350,000 and that was conservative estimates using underwriting criteria that CHAFA allowed. The balance was to be paid back on the proceeds of the future sale and that sale could occur as early as 15 years. We have an obligation to CHAFA to be in compliance at least for the 15 years under the tax credit program and there's up top 40 years that deals with compliance issues, rent restricted issues but as far as CHAFA the tax credit program so we could remain and stay in that property and sell it after say the first 15 years. The bonus is that the Authority has the option to purchase that property at that time. And that if exercised would provide sustainable affordable housing for as long as the Authority wanted to have ownership for the County. We also spoke of the grant providing \$12,500 per apartment unit and that was a fairly low price per unit in helping to provide affordable housing in the community. Our analysis is given the payback scheduled that after seven years that \$12,500 would reduce down to \$10,000 and then as rents go up as cash flow increase, that amount would go down as well. Turning attention to the City – the need for participation from the State Division of Housing was born out of the cost to develop this property. A letter indicated they had to go to the City for a height variance and in addition the length of the blocks posed a problem for them. They agreed to the two variances and without those we would be required to construct two more buildings, change the configuration to satisfy the length of the block requirement and purchase additional land from the landowner. That estimate is in excess of \$1 million and we can identify that more exactly if the Board chooses. Back to the City and they agreed to defer certain fees in the amount of \$800,000 and an agreement to pay that back over 40 years possibly when the project goes to market rate. There is nothing to stop paying it back sooner. This gave rise the \$5 million. They also agreed that the requirement to build a one-acre park and deferred to a later phase, the second phase of the project. There is likely to be a Phase II, we would like there to be a Phase II. The burden realized from the expense of the infrastructure reduced our profit to almost zero.

Commissioner Houpt – would Phase II be free market.

Arnie - Free Market – projecting it would be impossible – the gap doesn't get any closer. They did a study the last time before the Board – taking market rates today and use conventional lending sources they would be \$15 million shortfall. No matter which way they worked it without the affordability concept this doesn't work.

Take the 1.5 million and compare that to the city, waivers, defers fees, if Phase II doesn't happen, close to \$3 million so from their perspective. The owner issue – they have no obligation to sell us the land right now – they have deferred their land price and have an obligation under the development – a right to build a 45 unit housing units and they only have to meet the 15% housing exclusion. The meetings with the city and county will determine whether or not AH will be built there. Developer/Owner has stayed in due to the cost. \$28 million structure.

Commissioner Houpt – appreciated the information. Should there be a concern from the Housing Authority on this commitment to the City or will they be tied to that commitment. If the HA decides to purchase the units.

Mike Maple – Partners with Arnie as well as representing the landowner – the HA has the right of first refusal to buy the property if we chose to sell it. A buyer will look at all the potential, the obligations and the future. The value that the County would pay to buy this would recognize that obligation whatever it is. When the County HA made the decision to buy they will look at rents.

Don – in 15 years will there be an obligation to the city? If Geneva for the Housing Authority chooses to purchase the property in 15 years, is there an obligation to repay the city that will be viable in 15 years?

Mike Maple – the nature of the right, it's not a you must, the owners will decide if they want to sell this project or not and if we say, we'd like to sell it then we'd float the idea out into the market place and we're going to talk to Geneva and say, do you want to buy it, yes or not and she's say yes or no.

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Commissioner Houpt – concern with this – the last time we met, we made a commitment, the City hadn't finalized their commitment but part of that was with Geneva knowing that she would have the 1st right of refusal to purchase this which we saw as a great long term asset for the AH region. But that was before a commitment made to the City that could increase the cost of that tremendously.

Mike Maple – based on our projections and made up the numbers, project cost \$28 million to build and the day its finished its worth \$12 or \$15 million that's because it cost what it costs to build and the rents will be a percentage of Garfield MI so while it cost \$28 million, it would look at for the revenues and what expenses and it's worth \$12 - \$15 the day it's finished. Now, we don't know what the obligation is to the City, but let's just say in 15 years its \$1 million. So in 15 years the project worth based on a reasonable cash flow, without the City's obligation which we're going to call it \$1 million, the project would sell to the County or someone else for \$15 million. But because of the \$1 million obligation out there it's going to be \$15 million minus \$1 million – that's what the County or any other buyer would pay for it.

Arnie – practical way is that the debt would have to be retired. A lender would say how to you get out. The exact specifics from the City have not been worked out.

Commissioner McCown – if we're going to build a complex at \$28 million and only worth \$12.5 million – explain.

Mike - Take the rents and underwritten in the market place – based on restricted rents they would only underwrite \$12.5 million. \$8.6 GMAC – \$11 million from CHAFA awards, \$1.5 from County; \$1.5 from city. Add it all together you will have the 28 million.

HUD loan and tax credit available without Geneva's participation – may e per Arnie but you get tax credits when Geneva is involved.

Ed – the City could waive the fee requirement – this hasn't been raised, but it could be.

Arnie – who's contributing – project wouldn't work if we don't get the height restriction.

Commissioner Houpt – all the pieces must be worked together. Land, design, sources of debt. Very complex situation.

Arnie – tax credit awards – it is a statewide competition and a limited amount – a fed program administered by the HUD. Many projects are competing for the funds. This is where the housing criteria exist.

Commissioner McCown – apartments – 15 years being thrown around then keep hearing 40 years, are these apartments if build, dedicated as affordable housing or a period of 40 years, deed restricted for 40 years so that whoever buys them in 15 years knows this full well.

Mike Maple – correct. Clarified the difference between the 15 and 40, the tax credit buyer, he buys a bundle of goods and what he gets in return is that the project stays in compliance for 15 years. The 40 years comes from primarily from the Colorado Housing and Finance Authority who issues that award and they have said based on the competition factors, the income, based on the fact that we're doing 40, 60 and 80 percent of AMI, versus 20 – 30 percent of AMI, many factors, one of the ways we have checked off boxes and scored enough points to qualify for having a good shot of winning the contest is by saying that the feds require 15 years but we will do it for 40.

Commissioner McCown – how comfortable is Geneva to buy these units at \$12 million.

Mike - The control still goes to the Colorado Housing – if they sell it a 3rd party would still have the deed restricted guidelines.

Geneva – Back to Tresi's original question, the answer is yes, if the HA has the 1st right to purchase the units, we will purchase their entire complex with the debt attached to it whether that debt comes from what we owe the bank, CHAFA, the City of Glenwood springs, owe the County or whatever, the debt is there and whoever steps up to purchase the units at the end of 15 years will purchase it with the debt attached.

Arnie – There is no debt owed to CHAFA – this is referred to as free equity.

Geneva - But however million dollars left at the end of the 15 years if we purchase it or whoever purchases it. If the HA decides to walk away she's not attached to that debt. We have gone into this verbal agreement with the developer separate and apart from any request made to the county for funding so that's where it gets interesting because the HA board and Geneva sat down with the developers at the beginning of last year and went through the scenario of what the HA could to help this development be build, to help them with their scoring, to get higher points with CHAFA and a scenario that in the memo that the Board has and it clarifies the HA role. That was set and established and then later in the year they contacted us about coming to the City and the County for funding. The agreements we made with them for management is for services that we are providing for them and very much in support for the project being built. We see the need to have 120 units especially in Glenwood Springs. The unit rents will be controlled and if they want to set the limits it can't be done. The Division of Housing determines the rents.

Ed – frustration with the initial discussion about it and we said our goal was to have an essentially equal contributions with the City of Glenwood and what we bring to the table is \$1.5 million and the City is basically nothing at time period zero with a stream of income over the 40 years pay period that nets them \$5.6 million dollars at the end of 40 years. Even if we consider as Geneva indicated the participation by the HA and the receipt of income, that's roughly \$800,000 over the 15 year period and the present value of that stream would probably be \$400,000 - \$500,000 over that 15 year period. We still end up to time period zero, \$1 million versus nothing.

Arnie – you have to add to that a balance of the \$1.5 million due at that time of sale that's paid to the Authority. Our estimates are more than \$750,000 will be paid back in that period whatever is owed at the time the sale is also paid back. But then you have this purchase opportunity and you don't have \$11 million in equity to be repaid, so there's a deal to be made at some level that benefits the developer, the authority and sustainable affordable housing and so what's the social investment in that housing. We all try to make the best arrangement we can be it through the county, the city, the lender and you do the best we can.

Commissioner McCown – am I hearing the HA will have a \$1.5 million credit coming when this sells?

Arnie – probably something less because they've received back a portion of that \$1.5 over a period of years.

It would be whatever is left over.

Commissioner McCown – that is being paid for a service rendered.

Geneva – this is something that came to her attention shortly before the holidays started and she was not aware of this. The memo shows that the funding we have requested for services provided including the 5% of

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the net cash flow, because we're a partner, and in that memo at the top part of it what our partnership is giving to the development and so if we were going to be a partner and that we wanted to be like the other partners and this agreement settled, verbally, before they came to this Board for funding. In my conversations a few weeks before the holidays, that was when I was told and feel like the developers have made some assumptions on the HA's part and left us out of the loop on it which I wasn't real happy about but they're saying now that because we are sponsoring the Division of Housing grant for 1 million dollars that there has to be matching funds before we can get that grant. For our part in that and the funding they would give us for the management fee and whatever we receive from the 5% cash flow that we've asked for as being a partner, whatever is left of the \$1.5 if the County contributes that they would buy out the HA and that cash would come back to the HA if we did not purchase it. If we did purchase it we would go into it with a \$1.5 million equity position.

Commissioner Houpt – in reality it's more than we had anticipated from our last meeting.

Geneva agreed with Larry, the things on the memo to the Board were written and verbalized and decided on before they came to you and asked for any funding. So it is my belief and if it's not the contract would be re-negotiated that this will happen whether the City gave them money or whether the County gave any money at all. I did not obligate this Board of County Commissioners for any funding when we met in early spring of last year to come up with this agreement which is what you're making it sound like. This is services provided by the HA and is certainly within the realms of the perimeters of what HA's can do.

Commissioner Houpt – when we made the motion to contribute \$1.5 million I made a motion to give money to the HA and it was represented that then money would then go to the Meadows Project. The \$750,000 that they are saying will be granted to the HA upon sale of the project is new money to me.

Geneva – no, that's the money that we would get because of our 5% partnership and the management fee.

Commissioner Houpt – no I subtracted what you would get from the \$1.5 million.

Geneva – that was brought to my attention before the holidays and I was not sure about that and learning about that – this agreement was made before they ever came to the City or the county for the funding and if they are saying it was part of the agreement then it was an assumption on their part. When we talked to you guys in the fall about this funding to you they did talk about the HA having \$1 million back out of this and my understanding is that would be our equity position for sponsoring the Division of Housing Grant and that was my understanding by talking to Bill Whaley. So now they are saying that whatever they don't pay us for management, whatever we haven't collected for management in the 5% of being a partner, then they will buy us out up to \$1.5 million if we chose not to purchase at the end of 15 years. Then what will happen at the end of the 15 years if the \$1.5 million is not there. They may give me the balance due for that but I've also already earned so to speak the first half of that money because of the services I provided.

Ed – don't forget the time value of money. At the end of the 15 years, the \$750,000 is residual roughly half of that.

Don interjected that at some point I'm going to be anticipating that I'm going to have to write a contract with the HA for the \$1.5 million and it's going to specify the conditions that the Board is granting the \$1.5 million and it will be based on all the various representations that they have heard. It seems to me that we should receive a written document that delineates those representations because they have changed a great deal over time and in looking at Geneva's memo, I still have some questions as to where some of these funds are coming from, for instance on the management which you referred to as an annual subsidy, I don't know if that's a subsidy to the developer or to who but is that incorporated in what we're doing with this project?

Mike Maple – interjected that he doesn't have benefit of the memo and were not copied on it so he wasn't sure about answering questions.

Arnie clarified that if we don't have participation County and City, there is no project – it's not a question of the HA getting something without the County and City's participation - there's nothing to get including no houses.

Commissioner McCown – Did Geneva know that when we you talked to her initially?

Arnie – no, when we first chatting with Geneva we thought that we could built this project with four primary pieces – all we sought was some variances and incentives from the City; that was always in our application from day one we thought we had a good chance of getting all of those and for the sake of discussion we always pursued the million dollars worth of design variances that would save on construction costs, we always pursued the city improvement fee waivers as they were on their book and then some and first we thought we could get that. Before we made that application we very confident to win the contest with Colorado Housing and Finance Authority and thereby get the tax credit aware and we could do what was required to get the HUD financing and the fourth piece is we were always prepared to through money into the pot as a development and ownership group. That's how we went into this and the last piece was in order to win the contest with Colorado Housing and Finance Authority as well as we needed the intellectual and market knowledge of Geneva and her group and that was our initial project. Well that was a great idea but we didn't get everything we wanted from the City and cost went up and last March, nearly one year ago, this project was dead – completely and totally dead. It was a \$28 - \$29 million project and we were about \$6 million short of the financing. About that time, the County housing assessment was done and he approached the Commissioners in April and suggested the possibility of you guys thinking about apartment's maybe and the Commissioners revived this project and you still have its live in your hands as does the City as does the Division of Housing.

Arnie – clarification that Geneva referred to initially the program was \$1.5 million and then changed to \$1.5 million. That change was created because the \$1 million was more a reflection of the percentage of the units held to 40-unit rent restricted. Once we went to 100% rent restrictions it opened up other things for us and then we went to the \$1.5 million.

Commissioner Houpt – this is a complex issues – financing, market, like a zig saw puzzle. And agrees with Don to have on paper what we've talked about today and know the facts and have an understanding. Houpt is more concerned about getting the places in place.....important to see on paper - very confused with negotiations on what we've

Geneva is very supportive and whatever the County can do is very helpful. This was a good faith involvement under which the Housing Authority can do.

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Commissioner Hought – so it’s not connected to the \$1.5 million we are giving, it’s connected to the units. Commissioner Hought said she served on the Blue Panel Housing and it’s a complex issue that the financing is difficult, the market makes it very tough and it is like a zig saw puzzle and if you miss on piece the puzzle can’t be completed and I would agree with Don that at this point it would be very helpful for us to have on paper what we’ve talked about today so that we know how we’re entering into this and what these payments that Geneva has talked about are tied to and what the \$1.5 is tied to. When I see that HUD and CHAFA are giving a huge sum of money to this project and seeing what the City is contributing as well makes a difference.

Chairman Martin - Have to talk to the City on Wednesday morning.

Arnie – last fall, the discussion was what is the HA involvement. We had an agreement already with Geneva. Mike Maple –our hope and anticipation is that the project will start in April or May. A lot of puzzle pieces before they get started. Asked the BOCC to be pro-active.

Commissioner Hought – bring something on paper to define our partnership.

Don – essentially what I need to go forward is the scope of services that I need to include in a contract with the Housing Authority. We’ll be requiring the Housing Authority to assure that the representations you’ve made are met, so I need to know.

Arnie – just the Housing Authority relationship.

A motion was made by Commissioner McCown and seconded by Commissioner Hought to continue this until Wednesday at 8:00 a.m. January 10, 2007.

Recess
ATTEST: CHAIRMAN OF THE BOARD

JANUARY 9, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

Swearing in of the elected officials for the term of office 2007 – 2011

Judge Daniel Petre officiating
The following elected officials were sworn in:
County Commissioner – Tresie Hought
County Clerk & Recorder – Jean Alberico
County Assessor – John Gorman
County Sheriff – Lou Vallario
County Coroner – Trey Holt
County Surveyor – Scott Aibner

A formal ceremony was held in recognition of retiring elected officials and the swearing in of the newly elected officials of Garfield County, Colorado.

Judge Petre commented saying this is a very special occasion and a celebration.

The first to be sworn in was Commissioner Tresie Hought for a second term.

Commissioner Hought stated it has been a tremendous honor to serve as the County Commissioner for the past four years and appreciates the respect for her leadership. She promises to continue to serve the public.

County Clerk Jean Alberico was sworn in and stated that she appreciates the support of the voters and it is a huge challenge. She has a great staff and also Mildred Alsdorf will be available to give her support. She expressed appreciation for the ones who helped with her campaign.

County Sheriff Lou Vallario was sworn in for a second term. Lou stated that he would like to thank all the voters for elected him. He attended a two-week training session after he was elected four years ago and someone asked what he was going to do now. Lou said he was going to start his own recall election. This is a huge undertaking and a great deal of responsibility.

County Assessor John Gorman was sworn in and stated that he would like to thank everyone for being here and supporting the process. I am here for the support of his family and friends and voters and extremely grateful for the entire process. He only gets two days of training. Each one is committing to fulfill the duties of the office for which he was elected. He said he is open to the public comment and will have an open door policy for anyone to come in and give feedback.

County Coroner William Cecil “Trey” Holt III was sworn in. He took the opportunity to thank the voters very much and said he took this office so he would not have to talk.

Chairman John Martin asked everyone to thank Judge Petre for the time and honor of swearing.

The County Clerk’s Office presented Jean with a bouquet of flowers.

The retirement of the following Garfield County Elected Officials were recognized:
County Clerk & Recorder – Mildred Alsdorf
County Assessor – Shannon Hurst

Antique Ballot Boxes were presented to each of the retiring officials.

Chairman Martin thanked Mildred Alsdorf and Shannon Hurst for their dedicated service.

Shannon stated it has been an honor to serve of the past 5 years and is supportive of the newly elected Assessor and is confident of the staff in continuing to do a great job.

Chairman Martin recognized Mildred Alsdorf and complimented her on the 35 years of service to this County. She has been the County Clerk for the past 28 years.

Mildred stated that Sunday was a marvelous party and thanked the staff for arranging the party. It has been an honor and a privilege to serve the people of Garfield County. She is very proud to have represented the citizens of Garfield County.

Cake, Cheese and Fruit was served to those attending the reception.

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Attest: Chairman of the Board

JANUARY 10, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The continued meeting of the Board of County Commissioners began at 10:00 A.M. on Wednesday, January 10, 2007 with Chairman John Martin and Commissioners Tresi Houpt present. Also present were County Manager Ed Green, County Attorney Don DeFord, Patsy Hernandez, Jean Alberico Clerk & Recorder and Mildred Alsdorf.

CALL TO ORDER

Chairman Martin called the meeting to order at 10:00 A.M.

HUMAN RESOURCES - SALARY SURVEY DISCUSSION AND MOTION TO MOVE AHEAD

A discussion was held with respect to the manner in which the Commissioners wanted to handle the Salary Survey and they agreed as long as it doesn't exceed 1 million four hundred thousand dollars.

Attest: Chairman of the Board

JANUARY 15, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, January 15, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

COUNTY MANAGER UPDATE – ED GREEN

OIL AND GAS - LIAISON AND THE SCOPE OF WORK – JESSE SMITH

Jesse Smith requested additional guidance from the Commissioners concerning the review of COGCC APD's (applications for permit for drilling) and Hearing Notices. At the present time Jesse said he is reviewing each APD received from an energy company the following specifics:

- Location of the surface pad and its proximity to residences, and sensitive areas
- Number of wells being applied for and their down hole spacing
- Any requests for variations to normal drilling protocols or operating procedures
- Size of the drill pad, its proximity to existing roads and structures
- Facilities and structures to be located on the drill pad

Jesse continued by saying that unless there is a variation or red flag that occurs in the above review he has not been bring APD's to the attention of either the BOCC or the County Attorney and this is consistent with the operating practices that Doug Dennison was following. As of February a monthly report of activities will be included in the BOCC packets and will include a summary of the activities for the month and an analysis of the telephone calls and issues surfaced during the month.

Jesse requested input from the Board on anything else they might want to hear from him.

Commissioner Houpt - Review of the APD's including structures and look beyond that and see what additional support facilities such as the review of applications and activities as they continue to grow, various facilities such as compressors stations, evaporation pits, anything built to support that activity. Also the cumulative impacts of more wells. Keep the BOCC up to date on the work plans, where the activities are and the impact on neighborhoods. If Jesse discovers there are a lot coming in bring this to the BOCC's attention. A report monthly as to the number of wells and general activity. When an application comes to us for a SUP Jesse receives this and like him to analysis the application and coordinate with building and planning.

Chairman Martin – monthly reports will be received in the Board's packet and we will have a much better review for the public.

Don added role changes in front of the OGCCG with advance notice to prepare; request for orders that come in – spacing orders included in the monthly reports; the oil and gas liaison involvement in water quality control – this will be referred to Jim Rada, the EIA officer; and oil shale – BLM Cooperative Agreements. The things important are under which circumstances would Jesse ask for an APD hearing and when he was to bring a request to the BOCC.

Commissioner Houpt – look at the unique quality of the areas where the request is being made and the level of impact that is certain to occur depending on how many APD's.

Chairman Martin – a red flag or if items arise, Jesse would notify Don and bring this to the Board – this is an open door policy.

Don gave an example – a request for individual drilling east of Divide Creek in the general vicinity of the Divide Creek seep – those might have been brought before the BOCC also north and west of Parachute is not something we would routinely bring to the Board. Jesse is looking for more direction on this.

BUILDING AND PLANNING – GIS – FEES PROPOSAL FOR THE ESTABLISHMENT OF FEES FOR THE PUBLIC DISTRIBUTION OF GIS BASED PARCEL DATA – ROB HYKYS

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Rob submitted the fees associated with the public distribution of the GIS parcel data suggesting for the Interim that the GIS digital parcel data would be made available for \$450.00 with exceptions of fees being waived to provide data to: Emergency Services, Law Enforcement and Dispatch; Municipal Governments within Garfield County; Local Governments adjacent to Garfield County; Public Service providers such as telephone, electric, etc.; Special Districts which contribute to Garfield County general fund; Private contractors providing services to Garfield County; State and Federal Government agencies such as BLM, USFS, CDOW, DOLA, Census Bureau, State Demographer, etc.; and non-profit organizations. The one-time fee of \$450.00 would entitle the subscriber to semi-annual updates at the cost of time and materials only. The fees for the long-term need to be determined however, the same exception of fees as listed in the interim period.

Rob explained how this data can be used.

Two proposals were submitted for the BOCC's review. Rob requested guidance on pricing.

- 1) Interim – release the information on a CD along with the current CAD data for \$450.00 and charged to anyone outside the listed exceptions: (this would be a one-time fee and a once a year update about \$50.00) and 2) following quality checks and verification by the Assessor and IT Departments, Garfield County GIS-based parcel data with the same exceptions at a cost of \$ _____.

Don suggested a short term agreement to limit the use of the data to others.

Non-profits – Aspen Valley Land Trust, Sierra Club as examples.

Don stated they should name those non-profits.

Jesse raised the concern if Rob only charges \$50 for the updates, then he would be cutting himself short and suggested an annual update for \$150.00 – a subscription price for renewal.

Don – a combination of raw data would be included in a different form and what we are charging is the formatting.

Rob agreed – this is all in one place.

Carolyn's concern is the underlying software he is using and are we conveying something that is part of our licensing agreement.

Rob – Access Data Base and can be read by GIS software – not selling anything associated with the software. They have to have their own software to be able to read it.

Carolyn agreed with Don to have an agreement in place.

Commissioner McCown – if someone chooses to subscribe to this they have to purchase software for GIS.

Rob says this benefits private business and governments – the larger non-profits would have the GIS system installed so they could use this material.

Commissioner McCown mentioned that we are already doing this and now we're just trying to set a fee for what we're already doing. I don't have a problem with the \$450 annual and renewal fee should be \$225 – discount at half price and give them the renewal and update.

Rob suggested to make this optional and not part of the deal. Make it a one-time cost and an additional to subscribe.

Commissioner McCown made that in the form of a motion.

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – aye

Rob submitted the long term – ***Proposal II***

This is a long term plan and asked to set a fee in the future for our data after it's gone through quality checking with a higher level of confidence in the data. To retire the CHAD data and just work with our GIS parcel data and that's where we'll need to determine a fee. An average county our size charges a fee of \$4,600 for the data. Otherwise it's the same list of exceptions and attached Eagle counties data distribution policies as an example or guideline/framework of what we might want to do as an agreement for these data Don referred to earlier. The service is not yet available and Rob stated it is a very slow process.

The Board wanted to wait and see how the first works out and then set a fee for part Proposal II based on the time spent the information that would be going out to the public.

GIS - HUTF - 2006 HIGHWAY USERS TAX FUND REPORT – ROY HYKYS

Rob Hykys submitted the 2006 Highway User's Tax Fund showing a total of 70 miles of County Roads improvements in the year 2006. The changes were relatively minor. Several minor corrections and the annexation in Silt included 3 very small roads.

The totals for HUTF eligible Centerline miles are 703; the lane miles – 1500.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the 2006 Highway Users tax fund road inventory report as presented and the Chair authorized to sign.

Ed said a little less than \$3,000,000 comes to us assuming the federal government continues this program.

Chairman Martin – they are still talking that in 2009 it will end but we'll see how well appropriations go.

Marvin commented that whatever segment of work the R&B works on is GPS'd and Rob plots it on the map and we haven't had this for a lot of year – makes it nice to see it with all the work that's been going on.

Chairman Martin – this is a big improvement for our citizens and thanked Rob for all his hard work.

In favor: Houpt – aye McCown – aye Martin - aye

SOCIO-ECONOMIC STUDY - DISCUSSION OF THE FINAL DRAFT– JESSE SMITH

Jesse Smith presented saying the in October 2005, Garfield County retained BBC Research & Consulting (BBC) to study the local economy and develop an economic and demographic model specific to the County's circumstances. The purposes of this effort were to help the County understand the implications of current and projected trends and to provide a flexible tool that the County can use to examine alternative future scenarios. Simply put – to develop a tool that can help answer the "what if" questions.

In summary, Garfield County is a physically and economically diverse region. A large share of the County is held in remote public lands, although current and future gas development on these public properties has shaped and will continue to influence local employment and commuting patterns. A large share of the unincorporated County remains in agricultural use.

Garfield County's economy is tied to tourism, regional services, natural gas development and jobs in Eagle and Pitkin Counties as well as what may be termed quality of life migrants who are drawn to the area by local recreation opportunities, climate and the attractive landscape.

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Home and land values have increased substantially in recent years and the focus of population growth is shifting westward towards the New Castle, Silt, Rifle and Parachute areas in response to both recent employment opportunities spawned by gas development and the diminishing affordability of homes in the Glenwood Springs and Carbondale areas as those areas being to approach their build out capacities. The population includes relatively larger shares of very young residents and smaller proportions of elderly residents and residents in their twenties than Colorado as a whole. Labor force participation rates in Garfield County are higher than those typically found in Colorado of the U.S. as a whole. The County has significant and growing population with limited English skills that may well be substantially undercounted and underestimated in official statistics.

The projected future economic and demographic conditions from 2005 through 2030 were offered in two scenarios. This was designed as a tool for developing internally consistent long-range planning scenarios or evaluating the big picture effects from substantial changes in the County's economy or demographics.

In 2005 the County was home to approximately 18,700 households and by 2030 the baseline scenario anticipates there will be over 50,000 households in the County.

Jesse is getting several requests for this information and asked for direction.

Commissioner Houpt – terms – page 4 of Section II – reference the pie chart – employment by sector and tourism is not shown on the pie chart.

Jesse said tourism is an activity and is related in the restaurants, hotels, food, etc. Tourism doesn't have a specific dollar. It is spread under all of the sectors. This is tied to sales tax revenue.

Commissioner Houpt – Northwest COG is doing some of this and encouraged us to become a part of this organization.

Commissioner McCown – disagreed with some of the conclusions found in the study and not sure all of the outcome is going to happen and Pitkin; and Eagle County will be housing their own employees and may not see the out-commuting of jobs. There are so many factors when you talk about 25 years out.

Jesse – this is an interactive model and they have taken a snapshot in time.

Commissioner McCown made a motion to release this as a public document.

Commissioner Houpt seconded.

Fred Jarman – asked how this will be released.

Jesse said it will be on the Garfield County website so we can provide electronic copies.

In favor: Houpt – aye McCown – aye Martin - aye

FAIRBOARD - CONFIRMATION OF PAM SZEDELYI AS FAIR BOARD MEMBER – JESSE SMITH

Jesse Smith submitted the list of Fairboard members for 2007 and requested confirmation for Pam Szedelyi as the latest fair Board member.

Jim Sheets, Kate Foster, Caley Gredig, Jacque Burris, Lee Roy Chelewski, and Mindy Castle are the current members. He also listed the important contacts as Robert Flohr, Ame Longwell, Carol McNeal, Renelle Lott, Michelle Pike, Gabe Chenoweth, Leon Kuhn, and Jesse Smith

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to appoint Pam Szedelyi as the Fair Board member.

In favor: Houpt – aye McCown – aye Martin - aye

WEED MANAGEMENT - OUT OF STATE TRAVEL REQUEST FOR STEVE ANTHONY

A memorandum requesting out of state travel for Steve Anthony to attend the National Invasive weed Awareness Week in Washington, D.C. from February 25 – March 2, 2007 was submitted. Justification for this travel is based on the fact that in December 2006, Steve was elected President-elect to NIWAW and they will pay all expenses with the exception of the plane ticket and meals totaling \$750.00.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the out of state travel expense not to exceed \$750.00 for Steve Anthony.

In favor: Houpt – aye McCown – aye Martin - aye

COUNTY ATTORNEY UPDATE – DON DEFORD

Executive Session: Litigation Update; Legal Advice - Pay and Compensation Plan, airport land acquisition and strategy related to operating agreements and an update on Personnel.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken:

None

TRAILS AND TRANSPORTATION - CONSIDERATION/APPROVAL OF BIKE /PEDESTRIAN TRAIL LICENSE – SOUTH CANYON TRAIL PROJECT

Don submitted the agreement with CDOT for the Board's consideration. The alterations were discussed. Jeff Nelson was present.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to authorize the Chair to sign the Bike Pedestrian Trail License Project Agreement for the South Canyon Trail as amended.

In favor: Houpt – aye McCown – aye Martin - aye

COMMISSIONER REPORT

Commissioner Houpt – Meeting with Glenwood Springs on Wednesday on AH and Meadows and between the discussion with the developer and the discussion with Glenwood Springs I certainly had my questions answered and its moving forward; Thursday I-70 coalition – CDOT keeps changing the date for the Programmatic EIS which is a moving target; Tuesday, EnCana and a NACO committee meeting for Energy, Environment and Land Use; and CCI meetings on Friday.

Commissioner McCown –Tuesday – Swearing in elected officials; Rio Blanco, Mesa, Shell, Chevron, Utah folks, EIA, Steve Smith sent a letter and basically asked to advise the Energy Committee of Club 20 on whether or not we felt comfortable with legislation changing the percentage of distribution back to the local government or back to the state from 50% to 75% and establishing a fee on the lands that would be transferred from RD & D projects (160 acres) to commercial projects. If transferred back to 5,021 acre

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commercial developments, the maximums that BLM Could lease, they wanted that money to be distributed 75/25% rate and they set a fee of \$2500 per acre which is well above what most leases would be, but the purpose of the legislation, this is what they set. It would generate for the 5 in Colorado excluding the one in Utah, it would generate about \$68 million. There was a consensus among the task force that we would support that type of legislation, so it will be going to the federal level. We had some suggestions on changing some shalls to may, may to shalls on how it would be distributed once it got to the state and was to be distributed to the impacted areas and the terminology was may in the existing legislation and one of the things we wanted. All of the RD & D leases have been approved. They are currently moving forward – the Programmatic EIS that is looking at the possible commercial leases in 2008 is underway and the schedule for that is slipping and even though they were directed under the Energy Act that they had to be ready by December 31, 2007 they are probably going to slip at least one quarter on their schedule and I think it was the first – January 2008 they were going to be ready to lease commercial leases and because of the extent of information they’re getting and the completion of that it’s going to be at least into the 1st quarter to have all the information in theoretically into August 2008 for any leases. Thursday Assoc Governments of Northwest Colorado and Tuesday I’m leaving for 2 weeks to Mexico.

Chairman Martin – last week – Denver, City Summit 450 people showed up - good turnout; CCI public lands on Friday.

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-fund Transfers
- d. Changes to Prior Warrant Lists
- e. Authorize the Chairman to sign the Special Use Permit for Temporary Employee Housing on Parcel Number 2137153200009. Applicant: Chevron USA, Inc. – David Pesnichak
- f. Authorize the Chairman to release the Letter of Credit in the amount of \$2,500.00 for vegetation security for a property owned by Garfield County adjacent to Valley View Village Subdivision. Applicant: Darter, LLC – Craig Richardson
- g. Resolution establishing office hours and work weeks and schedule of regular meeting days of the Board of County Commissioners and related matters – Jean Alberico
- h. Approval of Minutes for 2006 (August 21, 2006; September 5, 2006; September 11, 2006; September 25, 2006; October 2, 2006; October 16, 2006; November 6, 2006; November 13, 2006; November 20, 2006; December 1, 2006; December 4, 2006; December 11, 2006 and December 18, 2006) – Jean Alberico
- i. Authorize the Chairman to sign a Partial Release for Subdivision Improvements Agreement for Phases C and D – Valley View Village Subdivision in Battlement Mesa PUD – Applicant: Darter, LLC. – Fred Jarman

A motion was made by Commissioner McCown and seconded by Commissioner Hought to approve the Consent Agenda Items a – i absent b & c; carried.

HUMAN SERVICES COMMISSION

COMMITTEE OFFICERS

Jackie Skramstad Chair of Human, Jane Collar – Laurel Little Public Health and Secretary of Human Services Commission here today – same committee officers as last year. Membership items:

Current membership list was submitted – open for VVH.

Jane went over the listing of members and will advertise the positions. Two applications for the shared positions at Housing and Columbine Home Health to be presented at the next meeting.

Conversation about where they are headed as a Commission. By-Laws, Mission and Goals and how best to serve the BOCC for the growth occurring in the communities. How to restructure what we are doing to give the BOCC more information. The Big Picture – common threads as to what is happening in the services, gaps and if some possible ways to fill these. Better information and feedback to the BOCC. Asked for ideas on the monthly meetings.

Commissioner Hought – get a sense of how we’re progressing through the County with the work and individual organizations and what we’re doing. On-going communications on issues so they could better be served.

Purpose statement of the Commission was handed out.

Get a list of the membership – Laurel Little

Ed – Dr. McKee and Ed met and Dr. McKee is concerned about the linkage between the students and the families and trying to congeal several of the organizations to better help the kids. See where there are problems and intercept before they are problems. Parachute and Battlement Mesa are needing services. Chairman Martin – advisory board – and he wants to make sure there is no duplication of services that they do within this board. Ongoing education for everybody, advocating the duties of the Human Services Commission; concerns of citizens and bring this to our attention recognizing people as well as informing the public on public health services needs and resources and again working with other folks on providing services.

Jackie – we want to do much more but is there a way to provide information to the Board that is most helpful for county commissioners.

Commissioner Hought – anticipated going dialogue makes more sense than expecting a presentation from you guys – it would be very helpful to have discussion about how things are progressing in the County, Ed sharing the meeting that they had in the Battlement Mesa Parachute area. We receive comments and concerns from individuals and it would be very helpful to have this dialogue.

Chairman Martin – what you can say is that the monies distributed on your recommendations are serving these purposes and there is a gap here and duplication here, maybe we should consider not giving that much money and this will be discussed with you guys – let’s have a success report as well as a gap report. That’s what’s I’m looking for. This is an advisory board – help us make decisions.

They are recommending an addendum to their By-Laws and will recommending adding – approval to change past chair person to present chair person.

Don – not sure if they are required to do this.

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Jackie – yes we are

Commissioner Houpt made a motion to approve the change in the By-Laws. Commissioner McCown seconded; motion carried.

Budget for the Human Services Dinner – February 12, 2006

Ed stated there is still a total of \$86,000 to distribute – 1st quarter.

BOARD OF HUMAN SERVICES

APPROVAL OF EBT/EFT DISBURSEMENTS FOR DECEMBER, 2006

Lynn presented the Disbursements for December 2006 totaling the amount \$422,609.45.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the EBT/EFT Disbursements for December in an amount of \$422,609.45.

In favor: Houpt – aye McCown – aye Martin - aye

HUMAN SERVICES -CONSIDERATION AND APPROVAL OF FOUR OUT-OF-HOME PLACEMENT CONTRACTS

Lynn presented the 2007 out-of-home placement agreements and child specific addendums for the following:

- Lutheran Family Services for Sate ID Y576436 in an amount not to exceed \$13,727.51;

- Lutheran Family Services Agreement to purchase for the above addendum;

- Hand-up Homes for State ID P526378 in the not to exceed amount of \$39,129.48;

- Mount Saint Vincent's for State ID U199468 in the not to exceed amount of \$32,893.09.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the -

Lutheran Family Services for Sate ID Y576436 in an amount not to exceed \$13,727.51; Lutheran Family Services Agreement to purchase for the above addendum; Hand-up Homes for State ID P526378 in the not to exceed amount of \$39,129.48; and Mount Saint Vincent's for State ID U199468 in the not to exceed amount of \$32,893.09.

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES -COLORADO PREVENTION GRANT – issues but Lynn is working on this – timing and work loads. More later.

HUMAN SERVICES -STRATEGIC PLANNING WITH AAA AND OTHER GRANT OPPORTUNITIES ON A REGIONAL

BASIS ON WESTERN SLOPE – may have a meeting coming up on 2-20-2007 to look at our role in resource development on long-term care.

HUMAN SERVICES -CHILD ADVOCACY CENTER – APPROVAL OF POLICY – OPERATION PLAN

Debbie Quinn and Lynn Renick presented.

The Child Advocacy Center – Policy & Operation Plan was included in the Board's packet of information.

Lynn requested the Board approve the outline Policy and Operation Plan for the Child Advocacy Center as set forth in the 1-10-07 draft.

Debbie reviewed the plan and stated she had captured all the changes discussed last meeting.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the outline Policy and Operation Plan for the Child Advocacy Center.

In favor: Houpt – aye McCown – aye Martin – aye

Child Help is thrilled to be involved and would like to have been here for the groundbreaking.

January 23, 2006 – 3:00 p.m. and a follow-up at Valley View Hospital.

January 24, 2006 a meeting with the MDT and John Reed will be held from 9 a.m. – 10 p.m.

HUMAN SERVICES - PROGRAM UPDATES

Lynn submitted the following reports:

- Colorado Health Care Policy and Financing will conduct an on-site annual certification visit, and administrative/programmatic review of the Department's Single Entry Point Program beginning January 23 through January 25, 2007.
- % Child Support Enforcement staff has moved to new cubicles located in the Public Health area of the Health and Human Services facility in Rifle.
- An updated organizational chart has been included in the Board's packet outlining a few changes in the Department's structure effective January 2007.

BOARD OF HEALTH

PUBLIC HEALTH - ANNUAL COMMUNITY HEALTH PLAN PROGRESS REPORT

Mary Meisner submitted the annual Community Health Plan progress report for the Board's review and consideration.

The report was enclosed in the Board's packet. A few major highlights were mentioned one being the formation of the Community Coalition and the forward movement on the air quality and community assessment and the continuation of the car seat programs were among several she commented on.

Chairman Martin requested the progress report be placed on the Internet for the public to view.

PUBLIC HEALTH BLOCK GRANT - 2007 – 2008 CSBG APPLICATION AND PLAN – ALLOCATION \$40,000 FROM MARCH 1, 2007 TO FEBRUARY 28, 2008

Don stated this was a published notice and it has been accomplished and the Board is entitled to proceed.

Chairman Martin swore in the speakers.

Exhibits – Notification and Application/Plan were submitted.

Chairman Martin entered the two exhibits into the record.

Mary Meisner and Victoria Kennedy presented the CSBG application and Plan. Victoria explained the grant application is a Community Service Block Grant (CSBG) for \$40,000 for the term of March 1, 2007 –

February 28, 2008. Just a review of this last year calendar year 2006, the two prenatal case managers served 591 low income pre-natal clients which is actually is up about 100 prenatal clients over the previous year and we feel very pleased with the results and the outcome of case management, we feel as though we do make a significant difference in those outcomes. In collaboration with Mountain Family Pre-Natal program and various other services in the community, it takes everyone to impact the healthy outcome for pregnant moms and babies.

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Commissioner Houpt is very pleased with the outcomes and a tremendous job has been done through the efforts that Victoria puts in and the collaborative nature of this project I think has been very successful – you look at the numbers and statistics and the outcomes are very positive and you are reaching a lot of people. I applaud the work that you both are doing in tandem with the other agencies.

Victoria stated this makes a great impact to individuals to tap into this type of care.

Commissioner McCown moved to close the public hearing; Commissioner Houpt seconded. Motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt we would approve the CSBG grant application and review process and the Chair be authorized to sign.

In favor: Houpt – aye McCown – aye Martin - aye

Executive Session – continued

Airport – and proposed participation – asked to have this done this afternoon. *Stillwater* after the conclusion this afternoon.

CITIZENS NOT ON THE AGENDA - CONSTRUCTION RECYCLE WASTE FACILITY

Ken McKeegan and Steve Tannis and Tom Joyner were present information regarding a Construction Recycle Waste Facility – like to construct this on CR 100 (the old coal dock loading area) and recycle construction waste inside the building and non-intrusive to the neighbors. We’ll store our containers there now so just trying to get an idea of whether this is something that seems like a reasonable thing or not. Chairman Martin - Great idea and extends the life of our landfill and we want to see more and more of that – this is a valuable resource. As far as the location this is on zoning and if by the old rock dust plant, Mid Continent Building, could be and industrial area, or a use by right, special use permit, etc. and what you’d have to go through.

Commissioner Houpt – supports this concept but added she couldn’t speak to the location.

Ken – cost involved of going forward.

Chairman Martin – need to discuss this with staff and this would be sent out to a lot of referrals – suggested talk to Town of Carbondale, neighbors – but no questions until the public hearing. This Board did approve a facility for construction waste our side of Rifle - this was a transfer station. It hasn’t been built yet.

BUILDING AND PLANNING – DISCUSSION RAPIDS ON THE COLORADO

Bobby Hayes – Trustee with the Town of Silt; attended the Planning and Zoning Meeting where they heard about the Rapids – heard some things and heard some things that the BOCC needs to hear because it is a safety issue.

Chairman Martin – if we’re going to take testimony about an issue we have to hold it until the public hearing is scheduled before the Commissioners. He said testimony can be put in writing and submitted to the Planning staff which the BOCC would receive a copy of and the Commissioners can read it when the public hearing is started. The only thing is that Bobby can come and testify in front of the Commissioners once the public hearing is open for discussion and input by the public.

Bobby submitted information via email to the Board and Chairman Martin stated that was forwarded to the Planning Staff and it will be produced as evidence.

BUILDING AND PLANNING - ASPEN GLEN AMENDED PLAT – DISCUSSION - APPROVED DECEMBER 11, 2006 TO CHANGE INTERNAL STREET NAMES. APPLICANT: ASPEN GLEN HOMEOWNERS ASSOCIATION – DAVID PESNICHAK

David Pesnichak presented the memorandum. As the Board of County Commissioners is aware, the Aspen Glen Home Owners Association (HOA) petitioned Garfield County by Public Meeting on December 11, 2006 to change some of the street names within the Aspen Glen Planned Unit Development (PUD). On December 11, 2006, the Garfield County Board of County Commissioners voted unanimously to approve this application from the Aspen Glen HOA.

The Amended Plat involved correcting street names which were erroneously labeled at the point of construction and the creation of sales maps. The currently labeled street names have now become the status quo. According to the Aspen Glen HOA, “some Aspen Glen street names are in use elsewhere in Garfield County. Due to the potential for confusion particularly in an emergency situation this plat correction also proposes to clear up these redundancies. Because Aspen Glen is relatively new, we plan to change our street names and use names that are unique to Garfield County.”

Since the approval of the Aspen Glen HOA amended plat, County Staff has received a couple letters and calls from affected residents who are concerned with the outcome of the December 11, 2006 Public Meeting. In an effort to proactively address this situation before a Mylar is submitted to the Board for signature, staff has scheduled this second Public Meeting to attend to the situation at hand.

David heard by phone and letters regarding this item.

December 11, Leslie indicated the changes making to the plat then street signs and maps – Homestead Road – in use in Garfield County about 20 years prior – to eliminate confusions and the Midland Loop creating confusion.

The address pattern will create additional confusion. In working with David Mead they came to the conclusion that a new street name needed to be changed. She also worked with the County Clerk – hired by the Aspen Glen Board of Directors in May and took the plan to the HOA in June.

President of HOA - This problem will become massive unless they make the corrections now. 40 more homes on Midland Loop and more on Bald Eagle Way.

Leslie – Changing the name of Homestead Road and Midland Loop will greatly benefit the Fire Department Public

Bonnie - 353 Midland Loop – full time resident and runs her Real Estate Brokerage firm from her home– change was made aware until December 19th. The changing of my street name would require me to change all personal and business contacts. Understand there are problems and I would like to know what alternatives were discussed. 40 lots to be built in the center portion of Midland Loop – was it considered that the center portion could be changed. Curious to know what specific addresses are duplicated – no other 353 Midland Loop. Another homeowner suggested adding A, B, C – a simple way to assist in directions. Heard from other people about the fire department being concerned yet the guards are on duty 24/7 – in the event of a response, they would lead the department to the home with the emergency. UPS has never had a problem with the address.

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Roseanne – 283 Midland Loop – asking for more time – found out at the 11th hour – why is it going to be changed. Informed this morning, has his own HOA and more informed that they were – asking today before this new plat is accepted, want to know what is going on and the problem is not knowing about it. What options are and what needs to be done if they change the road.

Mr. Aldridge - President HOA – notified the residents back in June in the HOA newsletter and at the annual meeting notice in October and discussed at the annual meeting in December. All the details of this have not been disclosed to all the residents but it is something that they are working on. No house numbers will change – Midland Loop and Homestead Road will be the ones to change. Made an attempt to make sure the residents were made aware.

Bonnie – it has come to her attention – received the newsletter and did not attend the HOA but didn’t receive an agenda. A personal call to the 36 affected homeowners as to what is going on. Also her credit rating – impacts her refinancing in February.

Carolyn asked Mr. Aldridge, as president of the Board of Directors, are you authorized to act on behalf of the HOA.

Chairman Martin – how will the time delay affect them?

Mr. Aldridge – won’t affect anything with the delay.

Roseanne – part of the problem – internal thing – notification from the HOA – comes through a newsletter on line – no computer – no access to information. This is something the HOA needs to address. Agreed they made efforts to contact them.

Bonnie – meet and have a map – Leslie – alienation between some of them.

Chairman Martin – you folks need to find a resolution.

Commissioner Houpt – went through the process of changes and does take work to change addresses.

Chairman Martin – it is an internal issue – we had a public hearing and gave the approval. Now they object – Mylar has not been completed.

Leslie – conditions added to the plat – notified last Friday – next staff is to create a paper draft for staff to look at. Yes, we talked about some alternatives however regarding the guards, after 12 p.m. until 6:00 a.m. no personnel guards to escort emergency personnel.

Commissioner Houpt – communication between neighbors is important.

Chairman Martin – make adjustments before the Mylar.

Leslie will meet with Bonnie and Roseanne.

Mr. Aldridge – not sure of the compromise they could make – we have to do something about this addressing problem. Tried to talk to both of them – Bonnie and Roseanne. They will be willing to assist the HOA’s as best they can. Voter and Vehicle registrations will be offered to assist them.

David - It takes 90 days for an amended plat and the Mylar needs to be in our office by March 11th.

Commissioner McCown – this is plenty of time to give the neighbors with their conversations otherwise I do not feel I’m in a position to render any remedy to this situation, it is something that needs to happen and it needs to happen County-wide, our numberings system in the County is a mess but it has not been taken on because you can see what could happen on two very short streets. Try going back and renumbering the entire County. It is a significant problem for obvious reasons so I would let this run its course because this Mylar doesn’t have to be back to us until March and should give you ample time to meet with the folks and at least inform them and offer any suggestions or help that you may be able to offer with their problem but I would anticipate seeing back as to how this Board voted on December 11, 2006.

Chairman Martin obtained willingness from the affected homeowners to continue this until March 11, 2007 allowing everyone to get together and have discussions.

BUILDING AND PLANNING - SUP – MULVIHILL - CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT FOR “PROCESSING AND MATERIAL HANDLING OF NATURAL RESOURCES” TO THE PLANNING COMMISSION. APPLICANTS: MR. & MRS. GENE MULVIHILL – CRAIG RICHARDSON

Cody Smith for Wagon Wheel Consulting and Antero submitted the application. Craig Richardson submitted the memorandum suggesting the Board hear the matter and not refer to the Planning Commission.

BACKGROUND

Wagon Wheel Consulting has submitted a Special Use Permit application for “Material Handling of Natural Resources” intended to allow the use of an existing frac/flow back water pit. Water will be stored in the pond for recycling and continued use in frac and drilling operations of natural gas. The subject property is located in the ARRD Zone District, northwest of Rifle, off of County Road 233.

PROJECT SPECIFICS

The existing pond was constructed with a geosynthetic liner, having the capacity of approximately 42,715 barrels of water. Flow back and frac water will be transported to and from the location via trucks. Water will be stored temporarily in the pond until needed

The pit has been abandoned until the permit is received.

STAFF RECOMMENDATION

Staff recommends the Board of County Commissioners not refer this application to the Planning Commission.

The Board had consensus to hear this before the BOCC.

BUILDING AND PLANNING - ZONING CODE VIOLATIONS – WILLIAM & KIMBERLY VEZZOSO

Request for a Continuance was submitted by Mike Sawyer of Leavenworth and Karp. Mike said that Mr.

Vezzoso received the violation notice late on Friday and Mr. Vezzoso is in Denver and unable to attend.

There are some additional research items with prior actions and land uses on the property and the outcome of that research will have an impact on this.

Ron stated there is no eminent danger.

This was continued until February 5, 2007 at 1:15 p.m.

BUILDING AND PLANNING – SIA – SPRINGRIDGE CONSIDER AN AMENDMENT TO THE SUBDIVISION IMPROVEMENTS AGREEMENTS FOR PHASE I AND II OF SPRINGRIDGE

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RESERVE PLANNED UNIT DEVELOPMENT. APPLICANT: SPRINGRIDGE AT GLENWOOD SPRINGS DEVELOPMENT CORPORATION – FRED JARMAN

David McConahey and Pat Fitzgerald, Fred Jarman and Carolyn Dahlgren were present.

Commissioner Houpt recused herself from the discussion.

Fred Jarman submitted the memorandum and explained that on July 7, 2005 the BOCC entered into an SIA with Springridge at Glenwood Springs Development Corporation in order to govern the terms and obligations for improvements to be completed in Phase I of Springridge Reserve PUD. This SIA expired on August 26, 2006 leaving three specific improvements uncompleted which include: 1) relocation of the existing water tank, 2) new well completion (testing), and 3) water treatment facility renovation. The security held by the County for these required improvements remains in effect until February 19, 2007.

Summary:

In summary, the SIA's have expired for both Phases I and II of Springridge Reserve yet there are still outstanding improvements that have not completed that serve both phases. To this end, the Developer proposes the following to the Amended SIAs:

- 1) Incorporating Commissioner McCown's motion from 12-18-2006 about the current status of CO's and Building Permits;
- 2) Adding a provision that is Springridge Place Subdivision and Springridge Reserve agree, additional building permits could then be issued for other lots if Springridge Reserve sells any between now and the completion of the improvements, but no more CO's could be issued until all the improvements are in place;
- 3) Springridge Reserve agrees to adding a sentence about the 3rd well to reflect that if the Water Service Agreement imposes additional conditions (such as a trigger to construct before Phase 4 based on flow tests), Springridge Reserve agrees; and
- 4) Propose allowing Springridge Reserve until 3-1-07 to record the agreement since 2/1/07 will be tight and Springridge Reserve doesn't want to impose a deadline that can't be met.

Fred presented the security agreement for Phases I and II and is intended to roll the two together.

Included in the information packet is what has occurred to date when the originals were approved, where it has fallen out and then the three still yet to be completed improvements so relocate the water tank, the new well and the water treatment renovation. The heart of the discussion is shown on page two and this deadline for Phase I improvement – "all remaining Phase I improvements shall be completed no later than May 30, 2007 including the completion and permitting of the new well drilled as provided and a very specific location for that well". Point two is paragraph two that talks about how CO's are proposed to be issued – this is consistent with the motion Commissioner McCown made the last go round and rolled in there are the last four lines "except for those lots for which a building permit was issued on or before December 4, 2006, no further CO's shall be issued until the remaining Phase I improvements have been certified complete and the County has accepted such certification in accordance to procedures Phase I and II SIA's". The next paragraph relates to the third well and when is it going to be constructed, this has been in negotiations with Springridge Place ownership HOA and not only where and when it is to be constructed and what is being proposed in this SIA is that is happens for Phase IV and that the physical improvements then are secured by way of that SIA. This is really flag post for when that comes down to the BOCC. Number 3 - Security – suggests a figure that was supported by Sopris Engineering for the remaining improvements – this does include a contingency and its \$163,910 and submit to you no later than February 1, 2007 and this would be valid until November 30, 2007. In that new Exhibit A – includes the Engineers cost estimate for these improvements a line item includes a new line item that relates to the inspection and testing of the upgrades to the Springridge Place non potable irrigation system. This is also rolled into the security. Language is included on how this is tested and verified and more specifically "the owner agrees to have its engineer test and inspect such improvements to determine that the system if functioning properly within its design capabilities once the irrigation system season begins in 2007." Finally is the security – the option there for a cash deposit and they acknowledge that it's an arrangement that doesn't allow for partial releases – it's a one-time release in full of that amount. They suggest they bring this in prior to the existing letter of credit which is due and set to expire on February 19, 2007 – WestStar Letter of Credit. It was the issue with the water service agreement and let the applicant speak to this.

David – we've accomplished a lot but three improvements remain to be done and all relate to having to drill the second well in a number of location. That well has been drilled its there, pump test have been provided and supplied to Springridge Place and need to wait until the snow melts to move the tank and get that well on-line. No issue with Springridge Place on this – we're in conceptional agreement about the conditions under which, when and where. The one thing not done is the water agreement between the two subdivisions signed. We are extremely close and down to one issue with the testing. I am asking the BOCC to act on this today because our existing letter of credit expires on Feb. 19th. We would like to do a cash deposit agreement and would need to come back on a Consent Agenda on February 5th. Suggested in paragraph 4 to say that we must have this agreement between the two agreements signed, sealed and recorded by March 1st. If we don't then you have the right to call us in breach and bring us back in here and exercise whatever remedies might be appropriate. David said he added since the last draft of this was to try and incorporate Larry's motion about the building permits and the CO's and added the four sentences to say that if we can get this agreement in place we'd be back to the status quo, which is you can issue building permits but can't have a CO until those improvements are done. Yancy Nichol previously said you don't actually need that new tank on line until the last 20 lots and we're not anywhere near this – we have 34 platted and there's 4 or 5 with building permits. He requested until February 7th to get the replacement security to you and the cash deposit agreement would be approved on February 5th.

Barbara Larime – member of the Springridge Place HOA and agreed with David they are real close to the water agreement; one main point of concern and that is the criteria for the testing to be done on the irrigation system. It's very important to us that the testing ensure that we have the pressure and flow used to having in the last 10 years and the wording design capability of the splitter box doesn't really cover the requirement that they have the pressure and flow that it had in the past. We're in the process of putting together some ways of

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measuring whether or not the system has that and will provide that when we test this around May 15th. If the system doesn't meet the criteria, there will be ways to make sure it does.

Commissioner McCown – in the last year or so when all of the water had not been used by the other subdivision, had you been using any additional water or had you only been taking your legally decreed amount of water.

Barbara – we were only taking our legal decreed water because there would have been an overflow condition if we had opened up the gates.

Bruce Wampler – Springridge Place –emphasized that this may seem like a minor point but we have asked several times for some assurance that we would have the historical volume and pressure and every time it comes back with that language taken out and so it may not be a small point but it just seems an adamant refusal on their part to guarantee that it would work that way and it should be a minor point and obvious that this is the least they could guarantee that it would work as well as it did before and they don't have objective measurements as what is was like before, we have historical usage and people can say it used to work this way, we used to be able to get water to this point and I don't think you're going to have 20 members of Springridge place purging themselves saying that it worked better than it used to.

David – we agree that is the one point we're are working with their attorney and our engineer Yancy Nichol to try to come to terms on that, education persons can disagree but we're getting closer and ultimately if we haven't worked that out regardless of what's in this, if we haven't a deal to resolve that issue by March 1st, you can call us in breach and drag us back in here.

A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin stepped down as chair to approve the 1st Amendment to the Subdivisions Improvement Agreement Springridge Reserve Planned Unit Development Phase I and II as presented and including all the testimony of the applicant as well.

In favor: McCown – aye Martin – aye; Commissioner Houpt did not vote as she had – recused herself previously.

Carolyn – Treasurer's deposit agreement rather than a letter of credit as security, can you approve that today so that could go on consent agenda otherwise we'll have to bring it back for discussion.

Commissioner McCown – I have no problem with either one – this can be scheduled for February 5th.

Consent agenda item okay.

PUBLIC HEARINGS:

BUILDING AND PLANNING – ADU – SHERICK - CONSIDER A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT LOCATED SOUTH OF GLENWOOD SPRINGS AT 150 GARFIELD COUNTY RAOD 126. APPLICANT: GEORGE and JEN SHERICK – DAVID PESNICHAK

David Pesnichak, Carolyn Dahlgren, George Sherick and Tim Thulson for the applicant were present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Subdivision Regulations of 1984 as amended; Exhibit D - Garfield County Zoning Regulations of 1978 as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F - Application materials. Chairman Martin entered Exhibits A – P into the record.

DESCRIPTION OF THE PROPOSAL:

The applicant requests the Board of County Commissioners grant a Special Use Permit (SUP) for an Accessory Dwelling Unit (ADU) located at 0150 County Road 126. The proposed ADU is within a separate building consisting of an office, bedroom and garage. The existing drive will be used as access to the proposed ADU. The ADU is represented as being 1,020 square feet.

BACKGROUND:

On July 12, 2005, the Garfield County Compliance Office notified George and Jeri Sherick that the Building and Planning Office has “received information through available real estate listings that building and zoning violations may exist on your property at 0150 County Road 126. The information indicates that buildings have been constructed that include a garage and an accessory dwelling unit, as well as an additional detached garage. Our records do not indicate that any building permits or special use permits have been issued for these buildings.”

To this end, this Special Use Permit is intended to legalize an accessory dwelling unit which as been constructed without proper permits.

The Applicant has obtained an amended Well Permit (# 121860) to expand the legal right of the well from one dwelling unit to two dwelling units. In addition, the Applicant has obtained a West Divide Water Conservancy District Water Allotment Contract (# FM060720GJS(a)) for one acre feet of water per year. The application does not speak to quantity of water available, however. Staff recommends that prior to issuance of this Special Use Permit, a (4) hour pump test shall be conducted showing the ability to meet all existing and proposed uses as set forth in this application. In addition, staff recommends that prior to issuance of this Special Use Permit, the water quality be tested by an independent testing laboratory to ensure the water meets State guidelines concerning bacteria and nitrates.

The application includes an ISDS permit (# 1349) indicating that a 1000 gallon capacity septic system was installed and permit issued in 1983. Staff suggests that, prior to the issuance of a Special Use Permit, the Applicant have a third party Colorado Certified Engineer certify that the current ISDS system is capable of handling the additional load of the new ADU.

Main access to the proposed ADU will be from an existing driveway. This driveway is accessed directly from County Road 126. If the ADU is approved, the Applicant shall obtain all applicable access and grading permits from Garfield County prior to issuance of a building permit.

The proposed ADU is in character to the surrounding properties and should not adversely impact surrounding owners. If approved, the applicants shall use minimal lighting that is shielded to prevent light trespass on other properties and is inward and downward facing towards the structure.

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The property contains 10.5 acres, which exceeds the minimum required for an ADU. The Applicant has represented that the constructed ADU is on a portion of the property that has no slopes exceeding 40%. The applicant has not submitted any formal building plans for the proposed ADU. The applicant is representing the built ADU as 1,020 Square Feet. Compliance to this requirement will be reviewed at the building permit stage.

This property is not in a platted subdivision and is not subject to any known protective covenants.

The applicant is proposing to use an existing ISDS for the ADU. As stated previously, staff suggests that the Applicant provide a letter from a Certified Colorado Engineer indicating that the existing ISDS system is adequate to handle the additional capacity of the ADU. This letter shall be provided prior to the issuance of the Special Use Permit.

The Applicant understands that only leasehold interests are allowed in the unit.

The Applicant shall obtain all necessary Building Permits for the already constructed building.

At this time the staff cannot recommend approval due to the square footage.

Condition No. 10

The applicant shall perform an evaluation which shall be approved by the Glenwood Springs Fire Department indicating the danger of the buildings from being destroyed by wildfire and the danger of a structure fire creating a wildfire. If a danger is found to exist, the applicant shall at the discretions of the Glenwood Springs Fire Department, develop a plan to mitigate the conditions favorable to the aforementioned fire dangers. The Glenwood Springs Fire Department shall approve all fire mitigation plan implementing prior to the issuance of a SUP.

Exhibit G – a solution in the form of a drawing was submitted by Tim Thulson.

Chairman Martin entered exhibit G.

Tim – applicant will agree to that and could craft an agreement to address this fairly easily and with that modification he urged the approval supporting the staff.

David said it's staff opinion that in order to take space out of livable space which we're trying to accomplish is the garage is not calculated into the ADU, there needs to be more than just a door for an opening because with a door you can close it back off, heat it and it can become another livable space so staff recommends the wall be completely removed between the workshop and the garage.

Tim Thulson – we're willing to do that.

Commissioner McCown – did I understand you Tim, you're going to run a wall completely from north to the south from the bath to the south wall, now you're only going to be able to run it part of the way and run a wall back to the east so that there will be a L configuration down in that basement area to meet the necessary footage.

Tim – on the drawing, this wall right here.

Commissioner McCown – showed on his map on what he understood is happening.

The wall now between the garage and the workshop will go away, this wall would come down creating more garage space into this area and whatever we need to reach the 1500 foot then this wall would go out here and make this all part of the livable area still staying under the 1500 square feet.

Tim Thulson agreed this is correct; it is an adjustment of 164 feet.

RECOMMENDATION

Staff recommends **APPROVAL**, with the following conditions:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
2. All lighting associated with the ADU shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
3. The Applicant shall obtain a letter stamped by a Certified Colorado Engineer stating that the existing ISDS system is capable of processing the added demand from the ADU. The letter shall also verify that the existing ISDS is in compliance with the regulations and standards required by the Colorado Department of Public Health and Environment.
4. The applicant shall obtain any applicable Garfield County access and grading permits
5. The Applicant shall meet all obtain all necessary Building Permits prior to the issuance of a Special Use Permit.
6. The gross floor area of the accessory dwelling unit shall not exceed 1,500 square feet.
7. The accessory dwelling unit shall not be conveyed as a separate interest but may be leased.
8. Prior to issuance of this Special Use Permit, a (4) hour pump test shall be conducted showing the ability to meet all existing and proposed uses as set forth in this application.
9. Prior to issuance of this Special Use Permit, the water quality shall be tested by an independent testing laboratory and meet State guidelines concerning bacteria and nitrates.

See No. 10 above.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown to approve and request for an accessory dwelling unit with the conditions as recommended by staff and the testimony of the applicant indicating how the basement floor of the garage will be reframed to meet space requirements.

Commissioner Houpt commented that since I've been sitting in this seat every request for forgiveness has come from the contractor and I don't get it – you guys know our rules, you know why we have them in place and the importance of them and I don't understand how this happens. I hope you will share with your colleagues that it is aggravating me.

George Sherick stated it wasn't intentional and it started as a garage which should have been permitted anyway but ...

Tim Thulson added that this has not been a pain free or an expense free learning curve for George either.

In favor: Houpt – aye McCown – aye Martin – aye

The drawing of Larry's was admitted into the record.

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BUILDING AND PLANNING – SILLS – PRELIMINARY PLAN - CONSIDER A PRELIMINARY PLAN FOR CREEK SIDE ESTATES TO CREATE 6 SINGLE FAMILY LOTS LOCATED 4 MILES NORTH OF THE CITY OF RIFLE. APPLICANT: MARK SILLS – DAVID PESNICHAK

David Pesnichak, Carolyn Dahlgren, Davis Farrar, Mark Sills and Derrick Walters were present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Carolyn submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Comprehensive Plan of 2000; Exhibit F -Application materials; Exhibit G – Staff memorandum; Exhibit H – letter from Jake Mall of Garco Road and Bridge dated 9-27-06; Exhibit I – Email from Dan Roussin of CDOT dated 10-6-06; Exhibit J – Letter from Jonathan White of Colorado Geological Survey, dated 10-09-2006; Exhibit K – Letter from Steve Anthony of GARCO vegetation management dated 10-16-2006; Exhibit L – Letter from Chris Hale of Mountain Cross Engineering, dated 10-19-2006; Exhibit M – Letter from Cria Lis of the Colorado Office of the State Engineer, dated 10-18-2006; Exhibit N – Letter from Mountain Cross Engineering dated 10-19-2006 and updated 11-25-2006; Exhibit O – Letter from Davis Farrar, Western Slope Consulting dated December 5, 2006; and Exhibit P – Letter from Mountain Cross Engineering dated January 3, 2007.

Chairman Martin entered Exhibits A – P into the record.

GENERAL PROJECT INFORMATION

Property Description

The proposed subdivision is located approximately 4 miles north of Rifle on State Highway 325, South of Rifle Gap Reservoir. The Property lies on the east side of State Highway 325.

This 15.37 acre property is located between Rifle Creek and Highway 325 and is zoned ARRD. The topography is generally gentle and sloping down from Highway 325 to Rifle Creek. There is one residence currently on the property, which is proposed to become Lot 6. Much of the eastern edge of the property abutting Rifle Creek is within the 100-year floodplain.

The existing driveway from Highway 325 is proposed to be relocated to the north in order to facilitate the development of proposed Lot 1 as well as site distance requirements for CDOT. There are two known existing easements on the property: one easement is held by the Public Service Company of Colorado located in the southwest corner of the property in proposed Lot 1; another is located along the southernmost boundary of the property as a 20’ wide water system utility R.O.W.

The subject property is 15.37 acres. The owner is proposing to divide that land into 6 parcels. The largest of the 6 parcels is 3.086 acres. The other lots will be 2.834, 2.402, 2.778, 2.248, 2.022 acres, accounting for 1 unit per 2.56 acres of gross land. There is one existing home on the 15.37 acres, which is proposed to be located in Lot 6. Creek Side Drive, which is proposed to be about 600 feet in length, is to serve the new lots. Creek Side Drive is to be held within a utility and access easement through lots 1-4. There is an existing well that will serve domestic water to the proposed homes. Sewer will be provided by individual sewage disposal systems (ISDS). The applicant is also proposing to use an above ground pond to be used for fire protection, which will be filled by the well. Access will be from State Highway 325. Much of the proposed 15.37 acres are deed restricted due to existing wetlands, which restricts disturbance in these areas.

A. Background

This item was heard by the Planning Commission as a preliminary plan in 2004. At the hearing, the Planning Commission moved for continuance of the preliminary plan. According to the applicant, the following items have been updated since the previous hearing:

1. revised adjacent ownership list;
2. updates to the application narrative;
3. updated mineral owner/lessee list;
4. revised preliminary plats;
5. revised information on physical and legal water supply;
6. executed and approved CDOT access permit;
7. revised covenants.

This item has since been reheard by the Planning Commission. The Planning Commission is recommending approval. Per the conditions, the Applicant has further examined the items addressed by Mountain Cross Engineering since the Planning Commission hearing to resolve concerns (See Exhibit N).

Mountain Cross Engineering: Mountain Cross Engineering has submitted the following comments:

1. With high concentrations of Selenium reported in the water and the applicant’s suggestion that it is the property owner’s responsibility to treat their own potable water, some discussion is necessary per Section 4.91 A.5. It is suggested that “the discussion should contain a general discussion of the process, the amount of waste water generated (if any), maintenance required for a treatment system, and a general estimate of the costs of treatment;”
2. The water “pumping rates and storage amounts should be verified against the additional demand anticipated for irrigation;”
3. The 30,000 gallon lined pond proposed for fire protection has “relatively junior priority in a reportedly over-appropriated basin...The actual volume of water that will be available for fire protection will generally be less than the 30,000 gallons and in some cases may be much less. The anticipated fluctuations in the available volume of water should be reviewed by the appropriate fire district per Garfield County Subdivision Regulations, Section 9.73;”
4. There is a discrepancy within the documents for allowable irrigated areas (1,000 square feet per dwelling unit in the water report limits vs. 485 square feet per dwelling unit in the “decree” and the “covenants”;
5. “The saturation of soils from an ISDS system may cause slope instability if placed near the escarpment. The ISDS systems may also warrant a setback from the escarpment. This should be verified with the geotechnical engineer;”
6. “The “Easements” Section 12 in the “Covenants” does not appear to allow for any storm drainage conveyance. Note #11 on the plat seems to allow storm drainage in this manner. Verify that all

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drainage ways from up-gradient lots are contained within dedicated drainage easements or include drainage within the uses for the easements in the covenants and per Note #11 on the Plat;”

7. The depth of the fire protection pond is shallow. To prevent the pond from growing completely over with wetland plants, it is suggested that the HOA periodically maintain the pond to protect the proposed 30,000 gallons of fire protection water;

8. The CDOT permit appears to have expired.

9. There is a contradiction in that the “Covenants” allows ADU’s while statements throughout the documents indicate that no ADU’s will be constructed;

10. The “Covenants” allow two (2) dogs per dwelling unit while Garfield County regulations limits the number of dogs per dwelling unit to one (1). (See Exhibit L)

The Applicant proposes single-family residential development on six newly created lots, one of which already has a single-family residence. The six residential lots are contemplated as a “use by right” in the ARRD zone district and are therefore consistent with the underlying zone district. For other uses, the applicant should consult Section 3.02 of the Zoning Resolution. The applicant has proposed that no Accessory Dwelling Units will be allowed within this development; however, the “Covenants” are not consistent with this sentiment. In addition, a significant portion of this property is deed restricted to protect the associated wetlands.

The applicant is proposing the following measures for fire protection and prevention:

1. A 30,000 gallon pond filled by the well which will have a dry hydrant located at the end of Creek Side Drive;

2. Individual propane tanks are to be placed in a location where they are not subject to damage, and combustible materials are to be kept a minimum of 10 feet away;

3. Trees greater than 15 feet in height at maturity shall have a minimum spacing of 10 feet between the edges of the crown. Dead trees shall be cleared and removed;

4. Spacing between clumps of brush and/or shrubs shall be 2.5 times the height of the vegetation;

5. The maximum diameter of the brush and/or shrub clumps should be two times the height of the vegetation measured at the crown of the vegetation;

6. All ladder fuels should be removed from under brush, shrubs and tree canopies;

7. Non-combustible ground cover (gravel) should be placed under trees, brush and shrubs to the edges of the crown, or the vegetation should be pruned to a height of 10-feet above the ground or ½ the height of the plant, whichever is least;

8. Lawns should be kept to a maximum height of 4 inches;

9. Brush should be removed around the perimeter of all residential structures for a distance of 2.0 times the height of the brush or completely removed within 10-feet of any residence and trimmed down to a height less than 5-feet within 20-feet of any residence.

Following discussions with the Applicant and Mountain Cross Engineering, the Applicant has agreed to increase the pond depth to 8 feet and reshape the pond to 52’ by 52’ surface area and 3:1 side slopes. This will increase storage from 30,000 gallons to 57,000 gallons. The covenants will be updated to reflect this change.

Following a review of the Ruling of the Referee, Case No. 04CW99, it appears that the applicant is only approved for 0.16 acres (50,000 gallons) of Storage Water Rights to be used for fire protection. The applicant will need to satisfactorily address this issue prior to final plat.

In addition, Staff recommends that language be added to the HOA Bylaws which requires periodical cleaning of the fire protection pond. Without periodic cleaning of the pond, it is likely to become engulfed with wetland plants which will limit the fire protection attributes of the pond.

H. Road/Access Plan

Staff Findings: The access to the subdivision will come from a main entrance off of State Highway 325. An internal dead end public road is proposed to provide access to each of the 6 lots. This road is configured to terminate with a cul-de-sac. The access road is to be dedicated as a public road but will be maintained by the HOA. Using the ITE Trip Generation manual, 6 residential lots will generate approximately 57.42 trips at 9.57 trips per dwelling which requires the all internal road be designed to the “Semi Primitive” standard pursuant to Section 9:35 of the Subdivision Regulations. This road type requires a 40-foot right-of-way, two 8-foot driving lanes, 2-foot shoulder widths, 4-foot ditch widths, and a gravel driving surface. The cul-de-sac is approximately 600 linear feet and appears to comply with the required standards. It appears the proposed internal road has been designed to this standard. Dedication to the public of this internal road will be required. Maintenance however, will be the responsibility of the Homeowners Association and memorialized on the final plat as a plat note.

The Applicant is required to obtain a “Notice to Proceed” from CDOT prior to Final Plat.

I. Easements

The Applicant will need to delineate, legally describe, and convey all easements shown on the plat to the Homeowners Association. This dedication needs to be in a form acceptable to the County Attorneys Office and transfer shall occur at the time of recording the final plat. These easements shall include, but are not limited to all drainage easements, shared water system easements (domestic wells and water storage tank), storm-water drainage easements, and all internal roads (which will be dedicated to the public on the face of the final plat).

STAFF RECOMENDATIONS

Staff recommends the Board of County Commissioners **APPROVE** the proposed Preliminary Plan request subject to the following conditions of approval:

1. That all representations made by the Applicant in the application and as testimony in the public hearings before the Planning & Zoning Commission and Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners.

Access and Internal Roads

2. According to the Colorado Department of Transportation (CDOT), there are site distance issues with the access to the proposed Creek Side Development. The Applicant shall obtain a Notice to Proceed to work within the CDOT right-of-way prior to final plat.

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3. Right of way dedication shall be at the time of final platting. A plat note using the standard dedication certificate language as set for by Garfield County shall be used.

Fire Protection

4. The Applicant shall update the application including covenants, plats and profile to reflect an 8-foot depth, 52' by 52' surface area, 3:1 slope and overall 57,000 gallon capacity fire protection pond.
5. The Applicant shall verify that adequate legal water supply is available for the proposed 57,000 gallon fire protection pond prior to final plat. If adequate legal water supply is not available for the 57,000 gallon fire protection pond, the Applicant shall obtain legal water rights prior to final plat.

Wetlands

6. The Applicant shall incorporate the recommendations contained in the "Wetland Restoration Plan" prepared by Beach Environmental, LLC contained in the Application.
7. The Applicant shall obtain all necessary wetland permits from the Army Corps of Engineers for the access road and any other disturbance areas prior to final plat.

Revegetation

8. The Applicant shall provide a security for revegetation in the amount to be determined by the County Vegetation Manager (based on disturbed acreage) for all areas to be disturbed in connection with the final plat and the obligations of said security which security shall be incorporated into the Subdivision Improvements Agreement. The security shall be held by Garfield County until vegetation has been successfully reestablished according to the Reclamation Standards in the Garfield County Vegetation Management Plan.
9. The Applicant shall provide a Soil Management Plan that includes 1) provisions for salvaging on-site topsoil, 2) a timetable for eliminating topsoil and/or aggregate piles, and 3) a plan that provides for soil cover if any disturbances or stockpiles will sit exposed for a period of 90 days or more. The Applicant shall prepare this plan to be submitted with the final plat documents so that the County can review prior to final plat approval.

Soils / Geotechnical Issues

10. The Applicant shall incorporate the recommendations contained in the "Preliminary Geotechnical Study" prepared by HP Geotech contained in the Application into the covenants.

Drainage

11. The covenants shall be updated to allow storm drainage conveyance along all property lines.

Individual Sewage Disposal System

12. The Applicant shall incorporate the recommendations contained in the "Creek Side Estates Individual Sewage Disposal System" report prepared by HP Geotech contained in the Application.
13. The Applicant shall update the covenants to require a 50-foot setback from the top of bank for all Individual Sewage Disposal Systems (ISDS) for Lots 2-6.

Irrigation

14. The Covenants shall be updated to limit each dwelling unit to 485 square feet of irrigated land each.

Easements

15. All easements of record shall be shown on the final plat.

Impact Fees

16. The applicants shall make a cash payment in-lieu of school land dedication of \$200 per lot at the time of final plat.

Covenants

17. Update the Protective Covenants to prohibit Accessory Dwelling Units.
18. Update the Protective Covenants to restrict the number of dogs per dwelling unit to one (1) as is required by Garfield County Regulations.

Plat Notes

19. A plat note shall be placed on the final plat stating: "To mitigate fire hazards, each lot owner shall incorporate and maintain a defensible wildfire zone as set forth in the "Colorado State Forest Service Publication 6.302"
20. A plat note shall be placed on the final plat stating: "Each dwelling unit is limited to 485 square feet of irrigated land each."
21. A plat note shall be placed on the final plat stating: "No accessory dwelling units are permitted within the Creek Side Estates subdivision."

David – the note there states that the conditions on the plat currently need to be carried over to the final plat.

David suggested corrections to the recommendations. Condition 3 - Take out the period and way using standard dedication certificate language; Condition 11 – in reference to the storm drainage conveyance along property lines, that should be covenants and plat; and Condition 15 – standard language going to the last paragraph on page 15 of your staff report showing all the easements the plat and conveying and add a plat note –No. 22 – and that would reference back to Condition 13 for the 50 foot set back for ISDS is from the top of the spring bank. Our regulations say 30 but Mountain Cross engineering suggested 50 to prevent the slopes from becoming unstable from the water building up and the applicant agreed to set them back to 50.

Applicant: Davis Farrar gave the applicant's report showing photos. This has been ongoing since June 12, 2002. Storage Pond – modified the fire pond to 50,000 gallons – Derrick will speak to this. Davis presented a power point.

Covenants will be modified to read one dog per unit.

Response to staff comments; on CDOT permit and will acquire the notice to proceed as is required by CDOT.

Right of way dedication will be dedicated at final plat and we will use the County certificate language so everything fits your requirements. Meeting with the County engineer, Derrick Walter met with Chris Hale with Mountain Cross Engineering and we've addressed those issues if there's anything outstanding or remaining, we'll get those taken care of by final plat. We'll incorporate the recommendations on the wetland restoration plan with our final document. Vegetation will be included in our subdivision improvement agreement; our Selenium management plan will be included with the final plat and the recommendations of HP Geotech will also be included with our final plat; again the drainage plan for Creekside will be included with the final plat. ISDS recommendations – we've agreed to those and we will put those notations on the plat

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and the plat documents. Meeting with the County Engineer resolving his concerns of his 10-19-06 letter and have done that and otherwise those will addressed with our final plat application.

On the Selenium treatment, the Planning Commission raised this issue and Derrick Walter addressed this issue. The treatment for Selenium is through typically reverse osmosis and to the use reverse osmosis you usually have 25 to 50% wastewater that's generated through that. In taking an analysis of what quantity of wastewater would be generated for a treatment system we would have to recharge back into the ground water concentrated quantities of 525 to just of 1,000 gallons per day of concentrated waters with more Selenium in them in parts per million than were originally part of the system themselves. We looked at putting them in individual RO systems and the only water to be treated is the drinking water, shower waters not needed, laundry water, toilet water, those types are not needed for treatment because they aren't being consumed. It's only the tap water and that comes down to really less than 5 gallons per day per person that would need to be treated in that scenario. We want to take the stance that this is the best solution for this property and that small amount of wastewater generated each day, less than 25 gallons per day could be put back into the ground water system through the individual sewage disposal system.

Derrick went over his discussions with Chris Hale over the various issues: the two main concerns were the fire protection pond and the water treatment method which he went over already. Chris is concerned with the original design of the 30,000 gallon pond and we changed that to meet the 50,000 requirement.

Covenants will reflect no ADU's and the other provisions in the staff recommendations.

Commissioner Houpt – on the ponds will a ladder be installed, is it designed to allow someone to get out safely if someone falls in?

Derrick – the ladder and the slopes are 3 to 1 and they have discussed fencing it off similar to chicken wire along a split rail fence.

Commissioner McCown – the water system is going to be a 4" pressurized 4" main that loops down from the house to the cul-de-sac for domestic use and will be served what is now called an exploratory well.

Derrick – there are three wells on the property and the applicant owns one well.

Applicant Mark Sills stated he owns just the one well and all the wells, original the first well was rated when they first pump tested it.

Commissioner McCown the concern is that these wells are within 150 foot of each other and I thought there was a 600 foot spacing limitation. I realize you can drill a well closer than 600 foot but a non-exempt well does not qualify if you are closer than 600 feet and this is a non-except well because of the augmentation plan so this well permit may or may not be granted by the State Engineer's Office.

Mark Sills - Bob Noone – attorney wasn't able to be here today.

Commissioner McCown – if you read the letter from the State Engineer's Office Mr. Lutz, it will tell you (Exhibit M – 3rd paragraph very last sentence, "there is no guarantee that the well permit can be issued – October 27, 2006."

Mark Sills – has a well permit right now.

Commissioner McCown – well to get one there is a hearing process that has to occur and the adjoining neighbors have to concur.

Mark – the neighbors had to sign off on it and we had to prove the well didn't affect their well with the test that we ran.

Commissioner McCown – this is the second time in the last month that we've had exploratory wells being drilled within 100 foot of an existing well. It clearly says you can drill an exploratory well but you can't permit a non-exempt well and now we're getting another one permitted here today so what does that do to the statutory requirements on non-exempt wells. Can we drill a well where we want to, as an engineer?

Mark – as long as you get permission of whoever owns the well within 600 feet.

Davis – we certainly could get clarification from our attorney on that so that there's no question about it.

Commissioner McCown – this pond from a liability standpoint. We address these over and over again for various other types of ponds which have a lot worse water and wildlife is always a consideration – if a deer gets in there, can a deer climb out on the liner? On 3 to 1 in some of these ponds that have a lot worse water in them they say no they've got to be fenced to keep wildlife out but this is a split rail with some type of mesh to keep kids out.

Derrick – it's a 3 – 1 slope and there's a foot of topsoil over that - it does have material over the liner. We will also have an erosion fabric on the liner and a PVC liner and erosion fabric and a foot of soil.

David Pesnichak – looking at the opportunity for wildlife to get inside the fence, will there be ramping for the wildlife get out back outside the fence?

Derrick – could leave one side open or exposed.

Commissioner McCown – do you currently have an access permit from CDOT for your driveway.

Mark Sills – neighbor can use the driveway.

Derrick - the new permit allows her to maintain her location and for all future homes.

Commissioner McCown – it shows the existing access to be abandoned.

Derrick - Marks access will be abandoned from that T; her access will remain on the single access.

Davis agreed to clarify this.

Commissioner McCown – what about the new access shown on the map that was coming across in front. Will she have two accesses?

Derrick – no only one. Her original access will be maintained. It is an easement across Mark's property. To be shown on the plat, a conveyance for the easement. In response to a question from Commissioner McCown about the appearance of two access easements, David showed it on his drawing. This easement was part of the original 2002 plan and it has since been removed and Gentry's access will be maintained in the current location and is a part of their well use agreements that she would not access through the new roadway.

Carolyn – does this mean the property owner to the south will have to have an easement across your property?

Derrick – yes and it is shown on the plat.

Commissioner McCown – does Lot 6 already meet the setbacks for the ISDS.

Derrick – yes the ISDS is located between Lots 5 and 6.

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Commissioner Houpt – struggling with the pond; as you re-designed it to hold the adequate amount of water, talk about the safety precautions due to the wildlife and children.

Derrick – we’ve agreed to put a fence around it split rail and chicken wire wrapping through it to keep children out and on the wildlife side we discussed taking the boulders out of one side of it so there wouldn’t be a vertical face for wildlife to overcome.

Commissioner Houpt – as you design it, design it in mind that kids climb fences. Do you feel confident with the way you’ve designed it that a child would be able to climb out.

Derrick – if we’ve got the ladder in there as well one side exposed, there’s not much else you could do on a pond other than take it out at 5 or 6 to 1 and the problem you would have with that is greater evaporation loses. It is a small pond 40 x 40 pond and there is room to maneuver.

Public comment – none

Commissioner McCown – asked staff to go over the corrections in conditions were reiterated.

David: Condition 3 – eliminating a period and taking out a plat note; Condition 11 – should say the covenants and plat shall be updated for the storm water conveyance along property lines so that’s shown on the plat as well; Condition 15 – referring to more standard language on which is also stated on page 15 last paragraphs – essentially taking this paragraph and putting in No.15 regarding easements; Correction from 30,000 to 50,000 gallons in Condition No. 4 & 5; figuration of 40 x 40 for the pond; and eliminate now the second sentence on No. 5 regarding legal water supply – we did not receive any comments back from the fire department.

Commissioner McCown – there is not a legal well permit, a legal one in this packet and we need to leave in No. 5 – when he get his legal permit it will be included in it. And No. 22 was the 50 foot setback from streamside for ISDS; Condition 22 is essentially same as No. 13 on requires it to be a plat note.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.

A motion was made by Commissioner McCown we approve the proposed preliminary plan with the corrections we’ve alluded to in Condition 3 – eliminating a period and taking out a plat note; Condition No. 4 – changing the pond dimension from 40 to 40 and the overall gallon capacity to 50,000; Condition No. 5 – making the changes from 57 to 50,000 in each of two places as noted; Condition 11 – adding the word shall after covenants and plat; Condition 15 all easements of record shall be shown on the final plat incorporating the standard language from page 15 last paragraph; No. 22 – 50 foot set back from streamside for all ISDS. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING – CUP – CASTILLO - CONSIDER A CONDITIONAL USE PERMIT FOR A HOME OCCUPATION. APPLICANT: JOSE CASTILLO – CRAIG RICHARDSON

Craig Richardson, Carolyn Dahlgren, Jose Castillo and Bruce Stovack were present. The applicant’s representative, Bruce Stovack checked the list of property owners from the Assessor’s office. Separate mineral interests under the property, how did you go about determining that? The deed and policy insurance and found no references to mineral rights and was not aware of this requirement.

The applicant Jose Castillo has owned the property for 6 years and affirmed he was not sure if he owned the mineral rights. Return receipt letters requesting return were sent to all surface owners within 200 feet, between the dates of November 16 and December 16, 2006. Records indicate they were sent out on November 27, 2006. The notice of this hearing was published in the Glenwood Post on December 4th. The property was posted by Mr. Castillo on the 28th of November and could be seen by Apple Drive. The Title Commitment was reviewed by Mr. Stovack – January 1999 regarding mineral interests. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and advised the Board they were accurate with the testimony but requested the Board decide if we would rely on a title commitment as proof enough that the minerals have not been separated. The state statute actually requires that the Clerk & Recorder’s records be searched to make sure that up to the minute no leases or royalties have gone out. We have the property owner’s testimony that he has not separated the mineral interests. This calls for a judgment on their part. The Board accepted the notice.

Chairman Martin swore in the speakers.

Craig submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D - Application materials; and Exhibit E -Application materials; Exhibit F – Letter from Randall Kimball. Chairman Martin entered Exhibits A – F into the record.

REQUEST

The Applicant requests approval from the Board for a Conditional Use Permit for a Home Occupation to operate a Mobile Tire Repair Service. A Home Occupation is defined in the Section 2.02.29 of the Zoning Resolution of 1978, as amended as the following:

Any use for gain or support carried on as an accessory use within a dwelling or a building accessory thereto, wherein such use would not create the appearance or impact of a commercial activity.

PROJECT DESCRIPTION

The Applicant wishes to operate a mobile tire repair service out of a proposed 1500 sq. ft. garage. When a motorist with a flat tire contacts this service, a vehicle will be dispatched. Tires will be exchanged on the scene when possible. This will be a 24 hr/day service. Two vehicles will be used for this business, and the applicant proposes to keep both parked in the proposed garage. The necessary equipment includes:

- 1) Tire balancing machine
- 2) A machine to remove tires from the rim
- 3) Compressor and impact wrenches

Replacement tires will be delivered onsite by suppliers.

STAFF RECOMMENDATION

Staff recommends the Board of County Commissioners **APPROVE** the request for a Conditional Use permit to allow a Home Occupation for a property known as Lot 15, Block 2 of the Mountain Shadow Subdivision located at 0040 Apple Drive, Garfield County with the following conditions:

1. That all representations made by the Applicant in the application, and at the public hearing before the Board of County Commissioners, shall be conditions of approval, unless specifically altered by the Board

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2. Business operations may not begin until the applicant establishes the subject property as his primary residence.
3. Appropriate building permits shall be obtained for the garage before business operations begin.
4. Hours of operation for following equipment will be restricted to 9:00 a.m. to 5.p.m., Monday through Friday, and 9:00 am to 12:00 p.m. Saturday. Operation of this machinery on Sundays will not be allowed.
 - 1) Tire balancing machine
 - 2) A machine to remove tires from the rim
 - 3) Compressor and impact wrenches
5. Garage doors shall remain closed at all times.
6. Onsite customer vehicle repair is prohibited.
7. All operations of the home occupation must be conducted within the dwelling or accessory building (proposed garage), including the storage of tires and equipment.
8. No signs advertising the home occupation may be placed anywhere on the subject property.
9. No employees are allowed for the home occupation. Only the property owner and any family members residing at the subject property may be involved in the home occupation.
10. Residential habitation of the garage shall be prohibited.
11. Ingress and egress is restricted to the west side of the subject lot adjacent to Apple Drive.
12. Vehicles displaying commercial advertisement must be stored inside the proposed garage.
13. Deliveries shall be limited to once per week, and may only be conducted between the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday.
14. Walk in service shall be prohibited.
15. Any violations of the terms, interpretations or agreements made or represented to Garfield County by the applicant pertaining to or included in this conditional use permit, shall be considered a breach of the terms of conditions and the applicant shall cease and desist all activities resulting in a revocation of the conditional use permit.

Testimony

Craig – the County has issued CUP for similar operations including one next door to him for an auto repair shop.

Commissioner McCown asked about deliveries, knowing that you can't quite possibly get all your tires from one vendor, what if you have more than one vendor making deliveries. You are restricting it to one delivery a week.

Craig – the applicant said this is what they are anticipating it will be a truck.

Bruce – we anticipated one delivery a week. We didn't necessarily be restricted to that but the idea is if it needed to be restricted, you could have we manufacture come on week and another manufacturer come the next week. If that restriction has to be at one, Mr. Castillo is willing to live with that but if it could be one or two or three that would be preferable.

Bruce – our proposal is explained pretty well in the documents and we showed a photo of the building, we chose, Mr. Castillo has a building permit for the garage already, if he can't do the Conditional Use he wanted to have a garage of this size so he went ahead and pursued the permit for it. We chose cinder block to help mitigate sounds rather than a wood frame or a metal building. Essentially its a family business, he, his wife & children would operate it and as described they would get a call from someone on the highway in need of a tire repair and they would drive out and fix it. They have rims and tires that you could fix for people or go assist them change their spare for them and then make the repair later, that kind of a service. When I discussed this with Mr. Castillo, I explained it would be a CUP and he would have neighbors to deal with and he could not have a business that appeared to be a business and could not have walk-in traffic and he agreed that he would operate his business in that fashion and respect those regulations and hopefully he will and he understands that if he doesn't it can be revoked. Mr. Castillo has one of the conditions of this is that he live there first and he recently purchased the home from Valley Sales, a modular home and they have prepared the application for the building permit and he and I have a few items to go over to fill out the check list and send it for the building permit for the mobile home this afternoon as well so all of that should be in the works.

Commissioner McCown – is his operation going to be restricted to passenger vehicles or is he going to be looking at truck tires as well.

Jose – big trucks.

Commissioner Houpt – with respect to the conditions proposed, it doesn't allow walk-on customers and that had been proposed in your report, your application that be allowed, have you gone through these recommendations and figured out how you will adjust your business to comply with all of these conditions keeping everything contained within the building.

Bruce – this was the only issue as far as keeping everything contained in the building, that was understood from the get go. We thought that once people found out that he fixed flats, people would show up, he wasn't going to advertise or promote it but people in the neighborhood or whatever would occasionally appear and I explained that he couldn't do it under these conditions and you will have to send them away and tell them you'll come to their house and pick up their tires or that you can't do this kind of service. You have to vehemently discourage people from walking up and bringing tires to him. He understands the conditions. Commissioner McCown – you basically applying for this as a 24 hour mobile tire repair service yet there can't be any noise or activity after 5 pm in the evening from the tire changing machine or the balancing machine or a compressor. I'm assuming you are going to be changing all of these by hand roadside after 5 p.m.

Bruce – asked Jose if he understands.

Jose said, yes. We would like to have some spares in the And we would not make noise in the night time.

Bruce – so you understand this and you feel like you can do, what he's saying, you have to go out to fix somebody's tire, you have to do all the work on the side of the highway and then if you have to work on their

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tires it won't happen except during 9 – 5 Monday through Friday. You feel like you can make your operation work under those conditions.

Jose – yes.

Public comment:

Megan Richards – adjacent property owner – concerns – chose a home south of New Castle in a rural area to raise her family in a quiet well developed neighborhood and Mr. Castillo is proposing a 24/7 day business and promising not to have walk-up clients. Another one of my concerns is commercial traffic, we have children in the roadway, and there are several of us in the near vicinity that have small children and pets. For Mr. Castillo's business to receive inventory he's going to have a semi coming in and the street which we live on is not maintained well enough as it is as far as being plowed or even maintained in the summer months too support commercial traffic. The traffic on my road, is residential only in my opinion is all the road is designed or maintained for. The traffic issues on this corner and I assume there will be some map representation here. The site in which he's on is basically on the inside corner of a 90 degree turn and I live directly south of his property in a T intersection.

Chairman Martin – we do have a map.

Megan – The corner is tight as it is and only southbound traffic on Apple Drive has a stop sign at that intersection. The stop sign is complexly blown most of the time, people coming southbound are typically in the wrong of traffic as they in turn to the roadway and my concern is adding any additional traffic from Mr. Castillo's business coming and going on a 24/7 basis as well as commercial traffic that will be parked in this intersection unloading, reloading possibly once a week and in my opinion is more than that road can support. Another strong concern of mine is that my property values and my home resale value is going to plummet – no body wants to live across the street from a commercial business whether it be a day care or a tire changing company – in my opinion one man's right or decision to make a living in a residential neighborhood should not negatively affect every neighbor around him as it's going to. Another issue of mine and I'm sure what our recourse would be not following his conditions of approval. I'm not convinced as I'm sure that others aren't that the noise isn't going to be an issue. Garfield County doesn't have a noise ordinance so which means if I hear impact and compressors in the middle of the night, I can't call the Sheriff's office and say, could you take care of this for me. I've got no recourse but to listen to that kind of noise any time of day so I guess I'd like to know what my recourse is in making sure the conditions of approval are met 100%.

Chairman Martin – that would be the Code Enforcement Officer on a complaint basis if there was a violation, if it was approved, that would be a public hearing before this Board and possible revocation of that Special Use Permit.

Megan – so no immediate action.

Chairman Martin – probably the Sheriff's office would come by and say knock off the noise. That's going to be the enforcement in the middle of the night or else Mr. Talbott and his special force that would be down there.

Megan – another concern of mine is and I live directly across from the property but I'm not sure the notification was posted on the property but I haven't seen it.

Audience – it is there.

Commissioner Houpt – what kind of impact does the auto repair business have on the neighborhood?

Megan – I can't see but can smell the fumes every now and then when he's painting and I have had concerns about that however it was there when she purchased her property and it was something I decided I would have to live with because it was one of the present cons that I weighed out.. He does not have business coming in and out on a regular basis. I've never seen a customer drive in and out. Can't hear or see his operation from her residence.

Paula Bush – I have letters from 5 other residents – she submitted as Exhibits. She wrote a letter and read into the record. It was also marked as an Exhibit. In her letter she referenced the other two businesses currently in jeopardy of losing their CUP's due to violations and she submitted photos on those businesses. She asked for denial.

Jonathan Lepisto – lives right across the street from this – Mr. Castillo's property and Richard Medina's body shop and I was not in approval of Richard Medina's auto body shop although we've been friends for 25 years. Mr. Castillo's property is pretty much always in disarray and in fact it is illegal in a lot of different ways but will not go into that, but if we allow another business there it's going to be a little industrial strip down through there – we had a nice little residential neighborhood that's the way I bought it and I think that's the way it should stay. Property values are going to be affected very negatively by this tire repair shop. No way it can operate 24/7 without impacting the neighborhood in a lot of different ways, aesthetically, noise wise there is going to be walk up business it unavoidable.

Commissioner McCown – Just one quick one and I think I know the answer; does the subdivision have any covenant?

Jonathan - We are pretty much a free form neighborhood.

Martin – Is Mr. Kimball still the mayor?

Jonathan – He's retired.

Dennis Hunstad – I also live in Mt. Shadows, My concerns is that basically there is only one one entrance and exit to the Mt. Shadow Subdivision, with the business that he's proposing it doesn't even appear to be like was mentioned earlier, room, space, road conditions aren't in acceptable forms to even accommodate that kind of traffic when he's talking truck and whatever. And there is a rural route box delivery right in front of his property and that basically leave him one other road to park anything on and that's on the main road coming in as you turn into Mt. Shadows and as far as that property being big enough for set backs and everything else for a garage of any size that he could house a truck to work on if he's going to work on a truck on site isn't big enough for a house. It just isn't in my opinion, it's a residential area. Having a home business is one thing but there is an industrial park just down the street from here. Everybody living in this development doesn't need to be driving by a commercial area as they turn off to go to their house. That's it.

Commissioner McCown – Just a clarification and I don't want there to be any misunderstandings one of the conditions of approval or one of the qualifications for this to meet the CUP is that it cannot look like or be

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presented to be a business and there will not be vehicles coming to that location to get their tires worked on. He may bring a tire back go inside and fix it from out on the road somewhere but there can't be vehicles coming to that location to get their tires fixed. That is not any part of the conditions of approval.

Jonathan – Like what was mentioned earlier is the property has been pretty much in disarray. We moved in there in 99' and it's other than an additional shed and a 1970 camper pulled in front that is just setting there it's become a junk yard.

Commissioner McCown – I'm sorry I just wanted to clear that up that was not part of the application that vehicles would not be coming there.

Jonathan Lepisto – Mr. Castillo has never been a resident at his property. He's had it rented out to various people there ever since he's purchased the property.

Greg Hooker – I live at Mt. Shadows. One of my major concerns Mr. Castillo's owned the place I guess for 6 years now. Never met him, never seen him, I see that one of the contingencies is that he is going to live there and my biggest concern is going to be, beside the traffic, I have a 2 year old the roads are a disaster getting in and out of Mr. Shadow. You have the little hill side there in front of the fireplace, it's a tough enough little T section corner, your ramped up on a hill that doesn't get sanded very often. To pull in from Apple or from the County Road onto Apple Drive it is pretty much an abrupt U-turn, I don't know how they would be able to make that. So the size of traffic and that would be how the code enforcements would be acquired and what we as citizens would need to do to make sure it's kept up. We have seen some businesses that really aren't business but they have been ran out of there and we've done a lot of effort to call the Sheriffs dept. we don't seem to get any where in getting 15 vehicles out in front of a house moved away. It's kind of scary to even think about allowing another business in the area. Grant it if there is going to be something there I think it would rather be zoned, coded and licensed. I think we have a little better opportunity as residents to have a say so and a control on that than somebody trying to run something without an actual permit. Still pretty scary to even think about it.

Tim Schif – I live at 91 Apple Drive, the traffic concern is one of my bigger ones, it's a really hairy little corner especially the slick, there simply is no space for semi delivery trucks that access in and out of that property is kind of sketchy at best because it comes right out into the intersection of the two streets. Quite frankly the track record of that corner has led itself to be really undesirable situation from day one. We're kind of ignored by the County in general down there I think it's time for us to step up and say no.

Richard Medina – I own Mountain Shadow Auto, I want to apologize to all my neighbors. I want to thank them first, when I did my occupational use permit, I asked my neighbors and talked to them completely before I did anything and I admit with Paul I am out of compliance and working with Mr. Van Meter to get back into compliance and I will do this and I apologized to all my neighbors. I'm just a Consciousness observer for my own particular interest thank you.

Back to the applicant:

Bruce – I would like to clarify the use for the neighbors. Really the only commercial traffic coming in to the operation will be this delivery truck. The focus of the business is more on the semi's like you talked about. He will have his truck inside his garage to load will load a tire to take out, repair, change the tire then bring back the ones that damaged and fix it in the garage during hours it's allowed to be open. There is not going to be a lot of coming ad going that's strangers, it will only be Mr. Castillo or his family and then this one delivery truck. The location of it as far as the impact on the subdivision, its right on the corner, the trucks that come in I suppose could just come right in and not make the turn and back out onto the county road. Because he is right on the corner we could make a limit perhaps in the language that's the way the deliveries have to come in, not try to engineer or drive thru the subdivision. One of the reasons Mr. Castillo considered this was because there was a similar operation next store and that's what made him think that his operation would be allowed. Just in terms of the state of the property and what's been going on, Mr. Castillo hasn't lived there he's lived in Carbondale, he's lived far away. As far as going down trying to check on things, he's rented it out off and on. And has not had a lot of control in terms of, he is not the one who has been causing the overflow personally, it's been people he has rented it to or allowed to use it and that will change because he has to live there to do this business. Basically it is going to enter into a construction project to put up these two buildings and clean the property up and allow the things that are there will not be there any more, he will be there to make sure the property is kept in a orderly fashion and if he does not comply I'm sure you will all let the county know and the condition of this permit is if he does not comply he cannot continue to do it. He's going to have to be a good neighbor in order to have this operation there and I believe he understands that.

Commissioner McCown – Would you address this lot size, is it adequate with the set backs allowed accommodating the 1,500 square foot shop?

Bruce – Yes we already have a building permit for that garage, it can only be used as a personnel garage if he doesn't get this and we submitted a site plan to the county, a driveway permit application and all that stuff when we applied for a garage permit and it's been approved and we submitted a footprint of the proposed future mobile home and we met all the set back requirements and lot coverage regulations. The garage is already permitted to be built so that structure will be there and he chose materials to try to impact the noise as much as possible.

Dennis Hunstad– Do you have the actual dimensions of the lot?

Bruce – Yes

Dennis – Because with the 1,500 square foot garage and what size is his house, mobile home that is going to go on there?

Bruce - It's about the same size.

Dennis – So you're talking 3,000 square feet?

Bruce – This is the site plan here. The lot is 100 X 130 and the garage is 1,500 and the modular home is 28 X 50. He showed the footprint.

Dennis – so you've got a 30 feet setback from the County Road, a 30 foot setback from the entrance and a 30 foot setback from the initial and a 10 foot from your neighbor to the north?

Bruce – Here it is, from the dotted lines it's all within the set back.

Chairman Martin – That's been reviewed by the building department?

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Commissioner McCown – 1,400 foot on the mobile home, 1,500?

Craig – We have a drawing, survey with the building envelope shown so it shows what they will have to keep it contained into, but we haven’t seen specific drawing to the mobile home.

Chairman Martin – That would be subject to review.

Jonathan– The thing about deliveries from CR 335 road, the 335 road comes and sits up above Mr. Castillo’s property you look right down onto his property and so to try and make a delivery there without pulling into the subdivision that would be impossible. There’s just a lot of things that are not conducive to putting this kind of business on that lot. Not to mention it’s sort of the front door to your house it’s where people get their impression, you’re driving to Mt. Shadows and you look right down into the tire repair place, there going to be tires stored there and it’s just not very conducive to a residential neighborhood.

Chairman Martin – Thank you John.

Megan Richards – Another question we have is if the occupant leaves the residence, what is considered a full time resident of the property? And if and when the occupant fails to meet full time residency what then happens to the property, how is it zoned?

Chairman Martin – Again on conditions of approval, if the approval is done and residence is required he fails to do so that would be subject to review and revocation of the Special Use Permit.

Megan Richards – What happens to the property if it’s sold?

Chairman Martin – The occupancy goes with the owner of the property.

Commissioner McCown – No goes with the land

Chairman Martin – Unless you make it different and the occupant has said that they own the land and that it’s his business and it’s a requirement that he live there. So therefore the new owner doesn’t live there etc.

Technically that would be right. I think that if we made it conditional Mr. Castillo would be the owner and it couldn’t be transferred that’s subject to approval.

Carolyn – permits run with the land unless you make it personal.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing;

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the request for a CUP to allow property of block 15 block 2, Mtn Shadow Subdivision with the 15 conditions of approval as submitted by staff adding a 16 condition that the CUP will not transfer with the sale of the land. Commissioner Houpt – I’ll seconds but I would like to comment. I think when people purchase their property in a residential neighborhood they have an expectation for a certain type of lifestyle and what I have heard today is that the exceptions in this residential neighborhood have failed to fit into the culture of that neighborhood and there very similar businesses. I’ve also heard the property currently isn’t being maintained in a manner that would even be in compliance with this application. I think it’s really important to allow people to have home industries, I also think it’s very important to make sure that you don’t impact the neighborhood when you allow that to happen. And that makes this a very difficult application for me. Because the practicality of what you’re trying to accomplish is going to be very very difficult with these conditions. And those are very noisy machines that you will have in your building and I appreciate the fact you designed it to contain noise, but I’m really struggling with this application and I hated to make this statement before we vote.

Chairman Martin – My comment is I think that you have set yourself up for failure on this business simply because of the conditions. As well as you are going to be an unwelcome neighbor, most likely have quite a few problems. I think a location out of the area would be much better and more successful.

Call for the question.

In favor: McCown – aye Opposed: Martin – aye Houpt – aye

Point of order Commissioner McCown – I don’t think you can deny a CUP you have to approve it with conditions.

Chairman Martin – I understand. But we’re disapproving that motion.

Commissioner McCown – Very Good.

Chairman Martin – Let’s see if we have other conditions that we can put on.

Commissioner Houpt – Well, let me ask this, because you know there is the question of what qualifies as a home industry and under that I would not have approved Mr. Medina’s business. Because I don’t see.....

Chairman Martin – We need to stay on course here and stay on this issue

Commissioner Houpt – I’m not sure that I agree that this can’t be denied because I’m not sure I view this as a home industry. If we’re talking about shop use I guess I would define it differently but I would have to ask our attorney or

Chairman Martin – I believe our staff tried to say they didn’t have a true definition of home occupation other than it can appear to be a home occupation business etc. and that’s in the rules and regulations.

Commissioner Houpt – I was looking to Fred to help us along with this if that’s okay.

Fred Jarman – Craig why don’t you get back to the definition on your slide. This is your regulation right now and at the beginning of that sentence is the key piece, it says, “Any use for gain”, so this is I think one of your best examples of performance based zoning vs your regulations, you can’t say you can’t so in another words you have the ability to condition it to a large degree, you can’t condition it so it’s so they can’t operate the business that’s a default of denial. That’s the framework in which your regulations allow you to move.

Commissioner Houpt – But look how that sentence is ending.

Fred Jarman – That’s correct and that’s exactly the debate you are having in this discussion is how do you mitigate this kind of business to the point that it meets that last sentence. You are right – this is a critical part of this. If it can’t walk or talk like a commercial business at all and if it does that then you’ve knocked yourself out of the definition of a home occupation. That’s the challenge with home occupations, they do have a lot of value but they have to have to walk and talk like residential household ultimately. The ones that you see and the ones that you don’t want to see, you’ll never see and to explain – the attorney’s the planners, those folks who don’t have delivers, don’t have.

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Commissioner McCown – we had a witness testify in another land use action before us this afternoon that admitted she had a home occupation in a most upscale subdivision in Garfield County and I bet it is not a permitted use.

Chairman Martin – I know it’s not.

Commissioner McCown – reinstituted his motion saying conditions 1 – 16, 16 being the addition of conditional use permit will not transfer with the land.

Chairman Martin – It will have to consider also that all code enforcement violations presently identified be rectified before permit is issued as well and you have it that he has to establish residence there before it’s permitted.

Commissioner McCown – that was another condition. It was certainly alluded to – Number 9- Only property owner and any family member residing at the subject property may be involved in the occupation.

Chairman Martin – the other one is that the applicant must meet all zone enforcement regulations that are identified in violations – they have to be rectified is what I’m putting on there and I think you have some now.

Commissioner McCown – are there violations currently in force.

Fred – I’m not aware of any – we have our Code Enforcement Officer here.

Chairman Martin – I’ve heard numerous requests.

Ron Van Meter – we’re talking about this property only; I’ve received no complaints regarding that property – it is not currently under investigation for anything under my purview.

Chairman Martin – I’ve heard there may be one or two of them within this testimony that we are considering that there are some violations.

Ron – the Snowmobile operation is under investigation but this is a different property.

Chairman Martin – I’ve heard testimony alluding to that there were violations upon this one and if that complaint comes forward I expect that to be investigated – that’s what my additional condition is.

Commissioner McCown amended his motion to include that.

Commissioner Houpt – seconded with No. 17.

The Board was in a dilemma because this was not easy.

Commissioner McCown agreed this is not an easy one for me but given how the statutes are written and our land use codes are written, you condition, you try to condition to the best of your ability to offset the mitigation or any impacts that might be there. This is how it works; there is not a provision to deny a CUP in our land use code. You can deny Special Use Permits but we can’t Conditional Use Permits.

Chairman Martin – my dilemma is that you set this owner up that he can’t meet these particular kind of requirements particularly because of what’s out there, to operate this type of a business you can’t do it 9 – 5 and not have any activity after dark and that’s one thing that’s going to happen – but you have to do it under this agreement. I’m all for businesses because it helps a lot in reference to the revenues of Garfield county and all the municipalities of those individuals but still think is an extreme hardship on everyone – that’s why I said another location outside of a subdivision would be better.

Commissioner McCown – I agree.

In favor: Martin – aye McCown – aye Opposed: Houpt - aye

Bruce – I’ll make sure that Mr. Castillo understands what was in the hearing today.

Executive Session continued

Airport and Stillwater Litigation

Commissioner McCown moved to go into an Executive Session to discuss hearings regarding the Stillwater Subdivision and Airport. Commissioner Houpt seconded; motion carried.

Commissioner McCown moved to come out of Executive Session and adjourn. Commissioner Houpt seconded. Motion carried.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

FEBRUARY 5, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, February 5, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

CROUCH PROPERTY – MISSOURI HEIGHTS

Louis Beutner, a Land Surveyor and here about a client on Missouri Heights, Adrienne Crouch. She has hired me to clear up some clouds on her title that affect the marketability of her property. In my research I have come up with several items that involve County staff and asked if he might have ½ hour of non-public meeting time with the Commission to discuss these problems as they involve county staff.

Chairman Martin – must keep all sessions open except for Executive Session.

Louis – it involves staff and requested this be in a non-published setting; he may not be accurate in the identification of County departments.

Chairman Martin said as individuals they could sit and talk to him about the issue but we can’t as a board meet with him except in a public setting.

Louis is willing to come and talk to anyone and everyone within certain guidelines.

Don – Mr. Beutner and Ms. Crouch have had a number of communications with the planning department, some of which have been referred to his office and it has been several weeks if not a few months since the last

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communications and discussions on this. Don and Fred have discussed this and Fred was to suppose to communicate to Mr. Beutner and Ms. Crouch that we needed to have a clear statement of what relief they were seeking from the County. One of the problems with that is part of that relief may involve a public hearing i.e. such as an exemption request. Fred hasn't brought that request directly to his office and therefore not aware if this has been accomplished.

Louis – initially communicated with the County Attorney's office trying to give you folks a heads up to discuss the legal ramifications involved. Since that time another issue has come up namely a road right of way deed of which I can not determine if it was a fee title granting or if it was an easement granting. Also, with the local survey control that easement or right of way is un-locatable. The local control was set by the County surveyor.

Don – what Mr. Beutner is discussing now is one among a number of issues that were raised but as I just noted, the correspondence Don and his department reviewed did not propose any solutions for those issues and did seek legal advice and other than direction from the County. And as you know we don't normally provide that, we ask that the landowner propose a remedy. That is what was communicated.

Louis – who should I communicate these remedies to?

Don – Mr. Jarman.

Louis – he makes the legal issues or he just fronts for the Commissioners?

Don – Mr. Jarman is the director of building and planning department and if you have an issue on land use or a course of action you wish to follow on the use of land, then it is his department that is for initially addressing it.

Commissioner Houpt – then Mr. DeFord would work with him on the legal issues for the County and then bring it to us if it's a Commission issue.

Louis – I last communicated with Mr. Jarman asking to open a dialogue with him and that's been 30-days ago and I have had no response.

Don – again, a dialogue is really not necessarily how we want to proceed, we want to know how you want to proceed and then we'll address your proposed remedies.

Louis – Okay, I'll give you a complete – outline or the documentation.

Don – not sure how you want to precede, more than likely we'll need both.

Ed – does it need to be in the form in the letter request?

Don – yes outlining how you want to proceed to solve the issues that are raised and if you have supporting documents and you've given us a lot already, but if there are other supporting documents, I would submit those as well. Then we can address how you form your request. Louis – I have not received any response except from basically two departments and their response was inadequate.

Don informed Fred, who just arrived of the conversation and what would be needed.

Louis – that is satisfactory at this time.

COUNTY MANAGER UPDATE – ED GREEN

JUSTICE CENTER IN RIFLE - DOLA CONTRACT - RANDY WITHEE

Randy submitted the request stating that in October 2006 staff presented the County's request for DOLA funding to the Energy and Mineral Impact Assistance Advisory Committee in support for the construction of a new courthouse in Rifle. In November 2006, staff received notification from the executive director of DOLA that he concurred with the committee's recommendation of providing funding of \$600,000 and would enter into a contract for the grant. Rifle received \$1M.

Recommendation: Staff recommends the BOCC authorize the Chair to sign a contract with the State of Colorado as presented.

Commissioner McCown – so moved; Seconded by Commissioner Houpt.

IGA – Commissioner McCown – no direct relevance

Ed – City wants to proceed on the common area.

Don – in relationship of the DOLA Grant, a reminder that this grant appropriately runs to the end of 2007.

Will it need renewal or will we complete the portion for which the grant is dependent by the end of the year.

Randy – basic indication is when they go to the end of the year and then we request extensions and it always happens.

In favor: Houpt – aye McCown – aye Martin - aye

Ed noted that the City does want to proceed.

**HUMAN SERVICES CONSIDERATION AND APPROVAL OF CHILD ADVOCACY CENTER
PURCHASE OF SERVICE AGREEMENT AND LEASE AGREEMENT WITH CHILDHHELP, INC –
DEBBIE QUINN AND LYNN RENICK**

Debbie and Lynn were present and submitted the Purchase of Service Agreement for discussion and approval. Previous discussions were held with the BOCC regarding the lease agreement with Childhelp and various

other aspects of the agreement. This document includes those stipulations made by the Commissioners.

A floor plan and architectural rendering of the site plan for the new Child Advocacy Center was submitted as Exhibit A.

Exhibit A-2 demonstrated approval of plaques and naming rights for the River Bridge, A Childhelp Center would be recognized. The River Bridge requested consideration for a bridge or brick walkway outside the building that could have donor's names carved into the slats of the bridge or the brick walkway. Included in the packet is the year ending balance 6-30-2008 as well as the estimated total to furnish and equip all rooms in the Center.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Lease Agreement with Childhelp, Inc with the Board of County Commissioners and Child Help.

In favor: Houpt – aye McCown – aye Martin – aye

APPROVAL OF CHILD ADVOCACY CENTER PURCHASE OF SERVICE AGREEMENT

Commissioner Houpt made a motion to approve the Child Advocacy Center Purchase of Services Agreement and the Chair be authorized to sign. Commissioner McCown seconded.

In favor: Houpt – aye McCown – aye Martin – aye.

HUMAN SERVICES - OUT OF STATE TRAVEL FOR STEVE AURAND – LYNN RENICK

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Lynn submitted the request for Steve to travel for the purpose of attending the National Conference for Fatherhood and Families as it relates to the new program development in Garfield County. Lynn has previously mentioned the Fatherhood Initiative in her reports to the Board. The total amount requested is \$1,202.20 and Lynn stated she had travel money in her budget for 2007 to cover these expenses.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the out of state travel for Steve Aurand in an amount not to exceed \$1,202.20.

In favor: Houpt – aye McCown – aye Martin - aye

LEASES – AMENDED WATER LEASE - AUTHORIZE THE CHAIRMAN TO SIGN AN AMENDED WATER LEASE – MIKE VANDER POL

Mike requested the Chair to be authorized to sign the amended water lease for the West Divide Conservancy District for the purpose of dust suppression.

Last year we used 8 acre feet and this year we are increasing the amount to 20 feet.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to

In favor: Houpt – aye McCown – aye Martin - aye

HUMAN SERVICES COMMISSIONER – NEW MEMBERS - REQUEST FOR APPROVAL FOR TWO ADDITIONAL MEMBERS FOR THE HUMAN SERVICES COMMISSION

Ed submitted two letters, one from Cindy Webb representing Columbine Home Health and Kathryn Grosscup representing a co-membership with Geneva Powell of Garfield County Housing Authority. The purpose for this dual membership representation is to attend meetings held both in Rifle and Glenwood Springs.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to add the two new human service commission members – Cindy Webb and Kathryn Grosscup.

In favor: Houpt – aye McCown – aye Martin - aye

OPERATIONS - DISCUSSION OF SCHOLARSHIP AWARD IN CIVICS FOR OUTSTANDING STUDENT – DALE HANCOCK

Dale said this is the culmination of a 3-day discussion. At the FAA conference they realized the lack of this opportunity – based on phone calls and inquiries – the disconnection between the roles of government and students. The proposal includes students in the RE1, RE2 and District 16. The award would be for a week spent in Washington to see government in action.

Commissioner Houpt – nice concept but not sure about spending public funds; government should volunteer in the schools. It's in our schools and she has spoken to numerous classes.

Dale – not pure civics.

Commissioner Houpt – not on its own – a lot of worthy reasons to give scholarships but

Ed – it was a scholarship program

Chairman Martin – referenced the summit in Denver, Colorado regarding understanding American Government. Directors said they are lacking in civics and need to reinstitute. Public funds have been contributed to Mock Trails and have sent kids out of state and civics is so important; we need to be leaders and help our students understand how government works. It is not taught in schools except in a history class.

Commissioner Houpt – agreed this is an important effort but would like to note that if we do look at giving money we need to reach more students. She would want to be a part of a brainstorm activity and in conjunction with the school.

Dale – a conceptual thing and the dollars would not put a hardship on the budget.

Commissioner Houpt – haven't seen a dollar amount or an outline.

Dale – schools have been notified and suggested to wait.

Chairman Martin suggested that Tresi give us your ideas.

FINANCE - REQUEST TO PAY PDO BUYOUT – PATSY HERNANDEZ

As previously directed by the Commissioners, Patsy submitted the PDO balances for the employees affected by the buy-out of unused vacation time due to the amount of hours established in the Personnel Policies and Procedures that an individual employee can carry forward yearly. The total amount for the buyout is \$6,823.90.

Patsy requested that the Board authorize the Payroll staff to add these amounts to the February paychecks or Human Resources staff to add to the deferred compensation plan for those employees who select this option.

Ed said the numbers go down each year.

Commissioner McCown – so moved. Seconded by Commissioner Houpt.

Patsy will review the list and submit something to their supervisor to watch this.

The Board did approve to have this next year as well.

In favor: Houpt – aye McCown – aye Martin - aye

ROAD AND BRIDGE – EQUIPMENT PURCHASE - PROCURE A F-350 WITH UTILITY BODY AND CRANE INCLUDING TRADE FOR A COST OF \$42,032 – MARVIN STEPHENS

Tim Arnett and Marvin Stephens submitted the four responsive bids received for the One Ton Dually with Utility Body & Crane for the Landfill. The recommended award is to Glenwood Ford for a cost after the trade in the amount of \$42,032.00.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the purchase of the Dually with Utility Body & Crane for the Landfill not to exceed \$42,032.00.

In favor: Houpt – aye McCown – aye Martin - aye

OIL AND GAS AWARD A CONTRACT FOR PHASE II HYDROGEOLOGIC STUDY – JESSE SMITH

Tim Arnett and Jesse Smith submitted the Phase II Scope of Work to perform the baseline water quality studies in the Mamm Creek Field Area in Garfield County. The primary objective is to identify domestic water wells or springs within the study area where water quality analyses indicate that the drinking water may not meet State or Federal primary or secondary drinking water standards or have excessive methane or sodium chloride concentrations. The Phase II Hydrogeologic Study Flow Chart will be conducted in three tasks: Task 1 would conduct an analysis of the updated COGCC Database of the domestic water wells located in the Phase I and II study areas and identify the potential problem water wells exceeding the drinking water standards. Task 2 would collect produced water samples for analysis from gas wells near water wells with

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two or more analyses confirming sodium chloride and solutes of concern. Task 3 would identify water wells with water quality data exceeding health standards and notify landowners (notification by Garfield County). Identify water wells and gas wells with similar geochemical signatures and notify the COGCC (notification by Garfield County). They will prepare a final report encompassing results and analysis. The evaluation team consisting of Jesse Smith, Geoff Thyne and Michael Matheson recommend awarding the proposal for Phase II Hydrogeological Characterization Study to S. S. Papadopoulos & Associates, Inc. Jesse also reviewed this choice with the COGCC and they were also pleased.

A motion was made by Commissioner McCown and seconded by Commissioner Hought to approve the award for Phase II of the Hydrogeological Characterization Study to S.S. Papadopoulos & Associates, Inc.

Don noted the funding would be discussed later on the agenda.

In favor: Hought – aye McCown – aye Martin - aye

HUMAN RESOURCES – PERSONNEL SEARCH - AUTHORIZATION FOR COUNTY MANAGER TO SIGN AGREEMENT FOR SERVICES WITH THE WATERS CONSULTING GROUP, INC.

Ed submitted this was to assist us in finding the appropriate purchase of service agreement for the new Human Resources position. Waters Consulting Group is located in Dallas Texas and provides services to clients across the nation in the field of wage and salary system development, performance management, executive search and other human resource areas. The purchase of services agreement was submitted and a request was made for the Chair to authorize Ed Green to sign the contract in the amount not to exceed \$28,000.

A motion was made by Commissioner McCown and seconded by Commissioner Hought to approve the consulting agreement with Waters Consulting Group, Inc. not to exceed \$28,000.

In favor: Hought – aye McCown – aye Martin - aye

Ex. Session – PEIS for Oil Shale and change to an ordinance. Ed's request.

COUNTY ATTORNEY UPDATE – DON DEFORD

SENIOR HOUSING CORP AND CHAFA - CONSIDERATION/AUTHORIZATION OF CHAIR TO EXECUTE CONSENT AND ESTOPPEL TO COLLATERAL ASSIGNMENT OF LAND LEASE BETWEEN SENIOR HOUSING CORP AND CHFA

Commissioner Hought - recused herself due to the work that Jeff has done on this project.

Don stated the Board would remember this discussion took place toward the end of last year and the Board made a motion to grant the \$50,000 “bridge” grant to ensure that the construction can go forward with the renovation of the Club 60 space that had been used for food preparation and that the remodel would entail one 2-bedroom and 1-bedroom, 3 additional residential units would be provided and that it be written in the contract that if this money is not needed to complete this project that it would be returned to Garfield County and would be replaced in the source which it came – out of Human Services or out of the general fund. Neither Ed nor Patsy was present and this was to be determined later.

Don submitted a plat that depicts the number of changes that were made to this document. He called attention to page 5 of the Estoppel agreement.

A motion was made by Commissioner McCown and seconded by Commissioner Martin to authorize the Chair to sign the consent and Estoppel to the collateral assignment of land lease between the Senior Housing Corp and CHAFA.

In favor: Hought – aye McCown – aye Martin - aye

LEASE - (OFFICE SPACE) LOWER VALLEY TRAILS GROUP (LOVA) - CONSIDERATION/APPROVAL OF 2007

Larry Dragon and Don DeFord were present.

Don submitted the lease for space at the Henry Building in Rifle for the term January 1, 2007 to December 31, 2007 for the LoVA Group for an amount of \$3710.00. He requested the Chair to be authorized to sign the lease.

A motion was made by Commissioner Hought seconded by Commissioner McCown.

In favor: Hought – aye McCown – aye Martin - aye

LOWER VALLEY TRAILS GROUP (LOVA) - 2007 PURCHASE OF SERVICES CONSIDERATION/APPROVAL OF AGREEMENT

Don submitted the purchase of services agreement with LoVA to provide long range planning services for an amount not to exceed \$43,710.00 and requested the Chair be authorized to sign the agreement.

A motion was made by Commissioner Hought and seconded by Commissioner McCown.

In favor: Hought – aye McCown – aye Martin - aye

SOUTH CANYON TRAIL – LOWER VALLEY TRAILS (LOVA) - 2007 MOU CONSIDERATION/APPROVAL

Don presented the Memorandum of Understanding for the South Canyon Trail development as previously approved. This is the 2007 matching grant to be paid to LoVA in the amount of \$50,000. The contract contains the standard language and requested the Chair be authorized to sign the MOU.

Jesse asked if the Board was aware that fiber optics to be placed under the trail was proposed. His understanding of this is that Glenwood is planning to lay it to complete their fiber optic system all the way to Rifle.

This was a complete surprise to the Board and to Larry Dragon as well.

Don also hasn't heard anything about this and it is something that we could work on but it needs to be done before we do construction. The other thing is in talking to Jeff Nelson or the SGM; they owe me a redlined version of the contract before it goes out to proposals.

Commissioner McCown said being a separate utility going in that corridor, that would have to go all the way back to feds on allowing that.

Larry Dragon – the reason we haven't gone out to bid is the federal highways now. Larry will talk to Jeff and the City.

Ed asked if we need to have an agreement for the \$240,000 or whatever we are going to pay in engineering costs for this. Or is this part of the project costs.

Don – thinks it is part of the project costs – its part of the CDOT agreement.

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Larry Dragon said the amount was based on what the engineering costs would be but didn't think it was being specifically used for that – the County has been billing them throughout this year.

Don – suggested Larry mention this to SGM and Jeff that the CDOT agreement may need to be renewed however because we are now in a new fiscal year for the County. It's not for the state but it is for us part of the agreement and suggested to Jeff this may need to be renewed.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown.

In favor: Houpt – aye McCown – aye Martin - aye

**COUNTY ATTORNEY - LEGAL COUNSEL FOR BOARD OF ADJUSTMENT
CONSIDERATION/APPOINTMENT OF**

Don this is after the fact; during the hiatus in Board meetings we had a Board of Adjustment Meeting and an item came up in which Carolyn and Fred believe that separate counsel was needed because of potential conflicts between the CA's office advising the planning department and then the necessity of providing the Board of Adjustment as in the past we retained Steve Carter.

Commissioner McCown asked if this would remain during the course of the year.

Don would like to do this.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt that Steve Carter be appointed as the legal counsel for Board of Adjustments for the year or 2007.

In case there is a conflict where Steve Carter would be involved, we will go elsewhere.

In favor: Houpt – aye McCown – aye Martin - aye

**ENCANA – FINES - CONSIDERATION/APPROVAL OF MOU REGARDING PERFORMANCE OF
PUBLIC PROJECTS IN LIEU OF FINES (ORDER NOS. 1V-297 AND 1V-298) WITH COGCC AND
ENCANA**

Don submitted the new MOU and explained the purpose was to enter into an agreement with COGCC and EnCana as previously discussed in a public hearing held on March 20, 2006 where the COGCC approved its staff to approve public projects in lieu of part or all of the fines under the Administrative Orders by Consent (AOC's). The parties agree that EnCana shall expend no more than \$178,000 on public projects pursuant to this MOU. Garfield County agrees to be responsible for any expenditures on public projects undertaken pursuant to this MOU that exceed \$176,800 that are no otherwise covered by a balance remaining under that certain MOU executed by the Parties in March 2005 related to the contamination of the Dietrich and Amos wells.

Don requested the BOCC approve the MOU as presented and authorize the Chair to sign.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt

In favor: Houpt – aye McCown – aye Martin - aye

**ENCANA – FINES - WITH COGCC, ENCANA, WESTERN COLORADO CONGRESS AND
GRAND VALLEY CITIZENS ALLIANCE - CONSIDERATION/APPROVAL OF SUPPLEMENT
TO MOU REGARDING PERFORMANCE OF PUBLIC PROJECTS (ORDER NO. 1V-276)**

Don submitted the supplement to the MOU regarding the performance of public projects discussed in public hearings July 2005 and August 2006 and the COGCC approved Phase II and Phase III of the Hydrogeologic Study.

The parties agree that EnCana shall expend the balance of the fine related to these projects to the terms as provided in the Supplemental and MOU.

Commissioner Houpt – asked Jesse if when he referred something to COGCC, the owner will also be notified. She feels they should under any circumstances.

Jesse – if there is a concern we would notify the landowner – we would say based on our testing you should obtain an independent test on your well. The landowner makes the decision.

Commissioner Houpt – also wants the landowner contacted at the same time. Make sure that if the COGCC is alerted, so is the landowner.

Jesse agreed this was in the language.

In favor: Houpt – aye McCown – aye Martin – aye

**BLM - RESOURCE MANAGEMENT PLANS - CONSIDERATION/APPROVAL OF MOU WITH
BLM RE: EIS THIS Memorandum of Understanding (MOU) sets forth roles and responsibilities for**

Cooperating Agencies as agreed to between Garfield County and the Glenwood Springs Field Office (GSFO) and the Kremmling Field Office (KFO) of the Bureau of Land Management (BLM) for the purposes of collaborative planning and productions of an Environmental Impact Statement (EIS) for the respective Resource Management Plans (RMP).

Garfield County has requested, and the BLM has agreed, to grant Cooperating Agency Status pursuant to 40 CFR 1501.6, 1501.2, and 1501.8. Under these regulations, the BLM recognizes that Garfield County has both jurisdictional responsibilities and special expertise as it relates to many aspects of the planning efforts described above.

Garfield County responsibilities:

Garfield County has both jurisdictional responsibilities and special expertise in many arenas related to planning and is responsible for the following;

They will participate in the planning process.

They will be assisting BLM in the identification of issues and concerns to be addressed in the planning effort.

They will provide relevant data, which may assist in the RMP revision/EIS process.

They will review and provide comment within scheduled deadlines of receipt of preliminary baseline reports or other technical reports where Garfield County has provided data or other such information in order to complete the report.

They will review and provide comments within scheduled deadlines of receipt of the following sections of the preliminary draft EIS.

- Preliminary range of alternatives to be considered in detail
- Relevant portions of the “Affected Environment” section (including the socio-economic section).

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- Relevant portions of the “Environmental Consequences” section.
- Relevant portions of the “Consultation and Coordination” section including information on consistency reviews.

During public review periods for the Draft EIS, provide the BLM a consolidated comprehensive review of the Draft EIS.

Garfield County will assist the BLM in analyzing and reviewing public comments/data and work with BLM in the Development of proposed final RMP/EIS.

Each entity agrees to fund its own expenses associated with this planning process.

This agreement becomes effective upon signature by all parties.

Don – needs the BOCC to authorize the signature and also designate Jesse.

Commissioner Houpt – important for Fred, Jesse and the BOCC to respond – a process that happens in a timely way and Don as well – be tightly informed on the documents to be sent to the COGCC. Would it be Ed, Fred?

Chairman Martin – all 3 Commissioners should be notified.

Don – could put the 3 Commissioner, but if we do that, a quorum would be needed and Jean would need to attend to make the record, versus one Commissioner. That individual can speak as authorized, before an agreement, then the Board would have to discuss with the other two. One person is all that is necessary.

Commissioner Houpt – in the past we have had the Board involved – that kept all of us in the loop.

Commissioner Houpt would like to been involved in this.

Commissioner McCown reminded Tresi that he is the on the Northwest RAC – evidentially you have no confidence in him if you want to chime in for the meetings.

Commissioner Houpt – it’s not a matter of confidence or to be involved on a larger scale. Chairman Martin – we have appointed Larry and we know that we all can participate however the final decision will be made at this Board meeting. Larry has been the representative and has always reported to the full Board what is taking place.

Commissioner McCown explained that for a scale of economy they chose to combine the Kremmling and the Glenwood study the areas, there will be people all the way from Grand County, all of that area.

Commissioner Houpt – this wouldn’t prohibit all of us from being at these meetings.

Commissioner McCown – absolutely not, just as long as we notify Jean.

Commissioner Houpt – well, if we’re making decision, otherwise –

Commissioner McCown – anytime there is a quorum, I think whether there’s decisions made or not, we need to notify Jean.

Don – back to the oil shale Cooperative Agreement that we did treat them as meetings. That’s how we do it.

So for the very reason you could make decisions if you chose to do so.

Commissioner Houpt – I’m sure there will be meetings where I at least will also want to attend.

Commissioner McCown – just alert Jean when you’re coming to those meetings and we will be covered. I think John’s motion is lacking a second, so I will second it.

Chairman Martin rephrased the motion that it is to appoint Larry McCown as the point person.

Commissioner Houpt – also wants to know what Jesse, being the point of contract means. How is that defined?

Jesse will report in Ex Sess on another meeting with BLM issue but there have been no meetings on this one.

Commissioner Houpt – when our response is in writing to something, will that then go to Fred, Jim Rada, Steve Anthony and everybody involved.

Jesse – yes.

Commissioner McCown and then finally our decision is that’s the Board’s opinion on this before it goes back.

In favor: Martin – aye McCown – aye Houpt - aye

Executive Session: Litigation Update; Legal Advice

Discuss potential code violations in the Carbondale area off CR100; the affordable housing position – direction from a legal perspective and will be open to the public later; provide an update on Silt litigation; legal advice on the status of RETAC; direction concerning IGA’s with City of Glenwood on South Bridge; direction to staff on the County position for the Stillwater proposal in front of the Town of Silt and that will also have some public discussion as well; an Annexation impact report to consider and give direction on; provide legal direction on Fire amendments which will be the subject of public discussion later; an update and status on CR 221 and CR 204; Ed has a personnel issue and the selection process on a position and need legal guidance; Jesse has a proposed Ordinance in the Town of Parachute

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session to discuss the aforementioned items listed by the County Attorney; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken:

None

COMMISSIONER REPORT

Commissioner Houpt – Wednesday a Mayor’s roundtable on gravel pits; an I-70 Corridor Coalition meeting on Thursday ; CCI meetings on Friday; a new legislative session has started and both John and I have been in Denver with CCI meetings over the past month; anticipate many trips in the next few months on issues.

Commissioner McCown – Thursday Associated Governments, Northwest Colorado meeting in Meeker.

Letter from the DOLA asking that we designate the contact person for the federal mineral lease and severance tax distribution again, this is the employer reports and the oversight board that I sit on so if the rest of the Board he asked staff to acknowledge Larry McCown as the contact person and they asked local government number and email so that we can keep abreast of all reports that will be coming in after the 1st of April.

Chairman Martin asked for action to appoint Larry.

Commissioner Houpt so moved; Commissioner McCown – seconded. In favor: Houpt – aye; Martin – aye; McCown – aye.

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Chairman Martin – 12 legislative actions related to severance tax Associated Governments and asked Larry to keep them informed; different legislative meetings that are cycling off the funds that would normally flow to the projects.

Commissioner McCown – so far we have had two results that have been favorable that have been killed in committees. So far so good.

Commissioner Houpt – also some bills that would generate more money before cycling off.

Chairman Martin - Pitkin County meeting – noon Tuesday – 27th of February at Hotel Colorado.

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-fund Transfers
- d. Changes to Prior Warrant Lists
- e. Authorization to ratify the Resolution 2006-117 (Excess Revenues)
- f. Resolution authorizing re-recording the Resolution 2006-114 (Budget for 2007)
- g. Authorize the Chairman to sign the Resolution of approval for a Special Use Permit for an Accessory Dwelling Unit at 0250 County Road 126. Glenwood Springs. Applicants: George and Jeri Sherick – David Pesnichak
- h. Authorize the Chairman to sign the Resolution of approval for the Creek Side Estates Preliminary Plan located 4 miles north of the City of Rifle. Applicant: Mark Sills – David Pesnichak
- i. Authorize the Chairman to sign the Special Use Permit for Storage, Processing, and Material Handling for Produced water treatment and storage pond for EnCana Oil and Gas USA, Inc. – Fred Jarman
- j. Authorize the Chairman to sign the Acknowledgement of Partial Satisfaction of the Subdivision Improvements Agreement for Phase II, Filings 1, 2, and 3 of the Ironbridge Subdivision located in the Ironbridge Planned Unit Development. Applicant: LB Rose Ranch, LLC - Fred Jarman
- k. Authorize the Chairman to sign the Resolution approving the Preliminary Plan for Pinyon Mesa Subdivision located within Los Amigos Ranch Planned Unit Development. Applicant is Pinyon Mesa Development, LLC. – Fred Jarman
- l. Authorize the Chairman to sign the Resolution approving the Preliminary Plan for Panorama Reserve Subdivision. Applicant: Cort Lewis – Fred Jarman
- m. Authorize the Chairman to sign the final plat and Subdivision Improvements Agreement for Overview Subdivision. Applicant: Wayne Rudd – Fred Jarman
- n. Authorize the Chairman to sign the Treasurer’s Disbursement Agreement for Phase II, Filings 1, 2, and 3 of the Ironbridge Subdivision located within the Ironbridge Planned Unit Development. Applicant: LB Rose Ranch, LLC – Fred Jarman
- o. Authorize the Chairman to sign the Treasurer’s Disbursement Agreement for Pinyon Mesa Subdivision in the Los Amigos Ranch Planned Unit Development. Applicant: Pinyon Mesa Development, LLC.- Fred Jarman
- p. Authorize the Chairman to sign the Treasurer’s Deposit Agreement and Final Release of Original Letter of Credit for Phases I and II of Springridge Reserve. Applicant: Springridge at Glenwood Springs Development Corporation – Fred Jarman
- q. Authorize the Chairman to sign the Condominium Plat for Building J in the Valley view Village Subdivision, Battlement Mesa PPUD. Applicant: Darter, LLC – Craig Richardson
- r. Authorize the Chairman to sign the Resolution of approval of a Conditional Use Permit for Lot 15 of the Mountain Shadows Subdivision, allowing a mobile tire repair service as a Home Occupation. Applicant: Jose Castillo – Craig Richardson
- s. Authorize the Chairman to sign the Resolution and Special Use Permit for a property owned by John and Mary Railsback, to allow the “Processing and Material Handling of Natural Resources.” Applicants: John and Mary Railsback – Craig Richardson

Exhibit O – Carolyn – this is a Treasurer’s deposit agreement related to a grading permit (a building permit) which you don’t always see but the developer wanted to go forward with grading prior to other approvals and on a voluntary basis was willing to put up some cash so the County could go back and deal with it.

Item 4-F – recording the budget for the County; Resolution was recorded without the Exhibits – it does not affect the date of the recording at all but Don felt there need to be something in the record that related to this.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a –s removing b; carried.

LIBRARY BUDGET – 2007 - PRESENTATION OF CHANGES – WILMA PADDOCK

Cheryl Currier, Library President, and Wilma Paddock, business manager submitted the Budget Worksheet 2007 for the Public Library District in accordance with the IGA approved by the Library and Board of County Commissioners.

The Library Board has approved these changes. \$233,000 change – some out of this year’s budget and some out of the savings – Consultants and – coming out of fund balance.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Library District Budget as revised for 2007.

In favor: Houpt – aye McCown – aye Martin - aye

AFFORDABLE HOUSING - GLENWOOD MEADOWS HOUSING - FINAL DIRECTION REGARDING

Don DeFord submitted the memo regarding the contract with the Glenwood Meadows Housing. He explained this was set for discussion and final direction. He stated the BOCC may wish to engage an executive session discussion to give direction to staff and receive legal advice. The relevant documents include the following:

- January 18, 2007 Letter of Intent to the developers of the project
- The narrative received from the developer outlining their commitment to build affordable housing.
- Minutes of the January 8, 2007 discussion of the subject project prior to the meeting with the Glenwood Springs City Council

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- Minutes from the July 10, 2006 BOCC meeting at which official action was taken by the Board of County Commissioners to participate in the Affordable Housing Project with a number of specified conditions
- July 14, 2006 memorandum to the BOCC concerning the legal mechanism by which the BOCC can financially participate in an affordable housing project.

Don said pursuant to my memorandum of July 14, 2006, I believe all parties anticipate the BOCC will enter into an Intergovernmental Agreement with the Garfield County Housing Authority specifying the participation of Garfield County in the Glenwood Meadows project, as well as delineating the conditions, which the BOCC anticipates for enforcement by the Housing Authority. Based upon the actual Motion of July 10, 2006, as approved by the BOCC, as well as the representations received by the developer, I anticipate that if I drafted an agreement today, it would contain the following provision:

- 1. All representations of the developer concerning the number, size and cost of units, as set forth in the January 9, 2007 correspondence from the developer would be incorporated in the Agreement
- 2. The developer will participate with the Housing Authority on the basis set forth in the next to last paragraph of that same memorandum. I would not that the statement they would refund the One Million Five Hundred Thousand dollars (1,500,000.00) to the Housing Authority is highly conditioned, first subtracting all administrative fees paid to the Housing Authority, and secondly a payment of this balance is to be made only upon sale of the subject property
- 3. The official action of the County commissioners on July 10, 2006 required all of the following conditions be included in the contract:
 - a. That the County participate with the Housing Authority for an amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500.00.00)
 - b. That the payment to the Housing Authority will be based on the amount of Twelve Thousand five Hundred Dollars (\$12,500.00) per unit
 - c. That the amount would be determined based upon the number of units actually built
 - d. That the BOCC determines the participation of the County is undertaken on a comparable level with the city
 - e. That we proceed to payment based on an engineered analysis of the project which demonstrates that it is physically sustainable for the life of the financing.

Particularly, in regard to the latter conditions, I would point the board to the next to last page of the minutes that are attached to this memorandum. As set forth above, my interpretation of your conditions is a best effort to take statements of the Board set forth as conditions and put them in workable and enforceable context. You will note none of your conditions to date require the residents of the affordable housing project, to the extent of County participation, must be employed in Garfield County. Additionally, there has been extensive discussion that this project would be for rental purposes, but I have not found an actual condition to that effect.

If the BOCC desires to alter conditions that have previously been stated or add additional conditions to those I have enumerated, you must take official public action to accomplish the task. It is that final official action I will be seeking today.

Don also had minutes from the City of Glenwood Springs joint meeting on this issue.

Commissioner Houpt – there was a question raised and asked Arnie who establishes the rental levels – is there a regulation in place when looking at who you can rent to?

Arnie Porath, Spruce Developers – this is established by CHAFA and a function of the area median – as it increases or decreases adjustments are made but they set those.

Commissioner McCown – voiced some concerns regarding the financial commitment, \$1.5 is the last money in and will be based on \$12,500 per unit once a Certificate of Occupancy has been issued for the subject unit. Then money from the County would be transferred to the HA – our money if for the finished product. Also, at least one adult member of the rental unit must be employed in Garfield County as the purpose of our contributing is to house those who are trying to live and work in the County.

Arnie – believes this may pose a problem due to CHAFA funds until Title 26 – Internal Revenue section 42 – credits. The loan is the tax credit that we are allocated and from that we derive the equity and the other is FHA; therefore we can't discriminate. He understands the problem.

Commissioner McCown – must work in Garfield County.

Chairman Martin – added no subleases.

Arnie – at least one member of each household work in the County and you want that to be subject to this agreement. He will look into this.

Commissioner Houpt said other counties have done this; Pitkin and Eagle have done this. Worth looking into. We are investing in AH and want to make sure the people living in Garfield County and also Garfield County.

Arnie – regarding the last money in, he has no issue as long as it is in keeping with the construction drawing schedule.

Commissioner McCown – as CO's are issued for each unit, last money in for those particular units but not until they are finished.

Bob Darling – Glenwood Housing Authority – Put **IF** employed otherwise it would restrict retired individuals.

Commissioner Houpt – or make exceptions for retirement or disabilities. People who would otherwise qualify under the AH – to qualify.

Patsy Hernandez – question – how it would be policed and how would employment be proved.

Chairman Martin – under the Housing Authority

Don – one of the reasons – we are specifying conditions under which the AH distributes the funds – i.e. retirement situation, then they must be gainfully employed at time of the lease – occupy to the term of the lease or similarly and if employment out of the county they would not qualify.

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Martin – HA has the incomes – qualifiers – if you have a job – HA would review.

Don – HA monitor and enforce this provision on annual basis.

Commissioner Houpt – Geneva wasn’t present and she felt there should be some protocol to use in terms of how long they stay in the unit.

Arnie – it is an annual requirement that each remain in compliance. It affects the tax credits that he guarantees and if not in compliance it affects Arnie.

Arnie – agreed to no subleasing.

Don will put this in the agreement. Leasehold has to be in the residence and all persons have to sign a lease.

Commissioner Houpt – talk to Geneva for those disabled or retired; this is an exception that should be made.

We don’t want to subsidize housing for those working in a neighboring county.

Don – The Board will need to approve by motion these conditions. One question however in regard to the conditions already adopted, did the Board wish to have Geotechnical review of the project?

Arnie – agreed to make these available and the construction drawings should be ready most any time. The want to start construction in April/May.

Don – valuable to have this done on the actual construction drawings and we would need a 30-day time period for our firm to do this. Randy Withee County engineer is who these need to go to.

Arnie – back to the last monies in at the time of CO’s – He is requesting the CO be issued before the money go in. CO’s require lien releases from the subcontractors – can’t give the CO before the other people sign off.

Commissioner McCown – can see that on the last units. You don’t have the money to complete the units?

Arnie explained they do but the funds would be needed for contingencies.

Don – the money will flow to the HA – HA is acting as a holder of the funds – they could hold it in Escrow until the CO’s have been issued and the money released. Our requirement is that the CO be issued before the money is released.

Arnie – these are FHA assured loans and in keeping with what Larry said, all their money would be expended.

Commissioner McCown explained how this would be handled saying when you complete 10 of the 120 units, then as the CO is issued for those 10 units, the money would be released at \$12,500 each unit.

Arnie – explained in order to rent units he needs certificate of occupancy and he can’t get those unless the sub contractors have signed off; therefore the flow of funds is at issue.

Commissioner McCown – this is the part that we don’t want to be involved in. As other units are coming out of the ground, if this project is so lean that our money has to be in first, this scares me to death.

Arnie – timing of how the buildings can be released. More definitive from the two sources of funding to see what they will require.

Don – like the Board to see the draft of the final conditions and a draft agreement with AH and take a look at all conditions – Arnie may need to come back before the Board. Now we can go the HA and the developer and see if we can do these.

Commissioner Houpt – supported Larry’s idea on a certain amount of money per unit to be released and hopes this can be worked out by the developer.

Arnie – it is all related to timing

Commissioner Houpt made a motion that the County Attorney move forward with the Housing Authority for moneys to be paid to the Meadows Affordable Housing project in the amount assumed be \$1.5 million that factors out \$12,500 per unit for 120 units; that one member of each household who rents these units be employed within Garfield County and that exception to retirees or folks who are disabled and unable to be employed; that we select an engineer to review the final plans prior to a building permit being pulled within a reasonable period of time; hiring someone to do this and Randy be the point person for the County; additionally, no subleasing, all units to be rental units pursuant to CHAFA guidelines and HUD guidelines. She referred to the sheet the developer gave us that outlines some of those restrictions on the 40/60/80 AMI and rental levels also be set by CHAFA and HUD guidelines.

Don – did you address payment only at the time of CO’s?

Commissioner Houpt – I was originally going to say at the time of building permit but I understand Larry’s concern and would support the notion of payment upon CO’s but I want the HA to work closely with the developer to make sure they aren’t caught in a situation where they can’t get the CO because they don’t have the funding to make that happen. I wouldn’t anticipate that in this size of a development.

Don – so if I put in a letter setting out conditions that the payment pursuant to the IGA be made only at the issuance of CO’s is that within the scope of your motion?

Commissioner Houpt – wants to make sure the Housing Authority has the flexibility to work with the developer.

Don explained what he is anticipating after listening to the conditions and some of the concerns you’ve raised; I should take the form of the motion and put it in a letter to you and to the HA and this Board will participate and commit fully \$1.5 million under these conditions. Set out all the conditions, get this back to the developer this week so that next week they can get back to you with issues or problems that are raised by your final conditions. They need to know initially where the Board stands on these issues before they can respond.

Commissioner McCown – seconded.

Don – the last issue, do I need to include a provision on enforcing the residency and income on an annual basis.

Commissioner Houpt – this is a requirement of this money anyway.

Arnie – two comments – on the CO issue, it may be just a timing issue and all this may come together in a moment in time. The last moneys in, the CO is given and the releases are coming together all at the same time, so everybody gets satisfied. So there’s no passage of time between these. On the issue of retirees, Geneva, on her waiting list is part of what she does, she has a number of vouchers and those some will have some employment or no employment at all.

Commissioner Houpt – the language has to be consistent with the Housing Authority language.

Don – the language I anticipate using in the letter, the language would be that the HA will also make these units available to retirees and others who are disabled and not working under guidelines currently in

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place by the HA who are individuals who are currently residents of Garfield County at the time of application.

Commissioner Houpt – or other individuals who fall under Geneva’s program for vouchers. She wants to be able to go through her list of people who qualify under her Housing Authority program for these units. So I would include in motion – retirees and disabled and otherwise who would qualify under the HA guidelines.

Commissioner McCown – asked what will take preference, will there be a rating scale. Geneva’s list – first choice or Garfield County criteria. What does our conditions of at least one member of the unit be employed in Garfield County mean?

Chairman Martin suggested that Geneva would have to respond to these things if they do not fall within her guidelines.

Don will write the letter and get a response back from Arnie and Geneva – this will be set for the agenda on February 15, 2007.

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN RESOURCES COMPENSATION AND CLASSIFICATION PLAN PERSONNEL POLICIES AND PROCEDURES - RESOLUTION- ADOPTING A FOR GARFIELD COUNTY EMPLOYEES, INCORPORATING APPROVED

Patsy and Ed submitted the Resolution which states the salaries of all employees working directly under the authority and control of the BOCC are solely within the province of the BOCC.

The Salaries of the Undersheriff and the Deputy Sheriffs of Garfield County may be established by the Garfield County Sheriff, with the approval of the BOCC pursuant to 30-3-106, C.R.S., as amended.

The BOCC may establish a compensation and classification plan for the Garfield County Clerk and Recorder and it shall become binding upon those offices by acceptance of that plan by each elected official.

The Garfield County Coroner and Garfield County Surveyor do not employ deputies and/or employees paid directly by Garfield County.

Staff recommendation is to adopt the Compensation and Classification plan set forth in Exhibit A, which outlines the suggested compensation for each employee.

Anomaly’s raised and Ed needs to make these.

This Resolution shall become effective upon signature of the Chairman of the BOCC.

Patsy stated, the Garfield County Clerk and Recorder, Garfield County Treasurer, Garfield County Assessor and Garfield County Sheriff accepts and adopts the Compensation and Classification plan set forth in Exhibit A. as binding on the employees of their respective offices. Additionally they each accept and adopt the Garfield County Personnel Policies and Procedures Manual as currently in place, as amended by the BOCC, including the work week formula established by the BOCC pursuant to that Manual.

Patsy said the payroll begins next Monday and hoped to have this approved for HR so we can make it for the February payroll. Not a huge problem and with the BOCC’s approval, staff may have to tweak some. If approved next Monday we could go ahead.

Ed estimated the outside cost to be around \$5,000.

Don said this will be a not to exceed \$5,000 amount and it will not affect elected officials only than those who work for the County Commissioners.

Commissioner Houpt moved to adopt the Compensation and Classification Plan for Garfield County Employees incorporating the approved Personnel Policies. Commissioner McCown seconded.

In favor: Houpt – aye Martin – aye Opposed: McCown - aye

AIRPORT - STATE GRANT APPLICATION FOR NEW ADMINISTRATION OFFICE – BRIAN CONDIE

Brian Condie and Carolyn Dahlgren were present.

Brian submitted the document as referenced and explained the scope of work is to participate in construction of airport administration and service building. The grant budget consists of a State grant of \$200,000 and the local match by the County in the amount of \$647,000. Brian stated that this was put in his budget for 2007. Brian requested the Board authorize the Chair to sign the Grant Agreement.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the State Grant Application for the new administration office at the Airport in an amount not to exceed \$200,000 with CDOT- aeronautics.

In favor: Houpt – aye McCown – aye Martin – aye

AIRPORT - ANNUAL ASMI CONTRACT FOR INSTRUMENT LANDING MAINTENANCE – BRIAN CONDIE

Brian Condie and Carolyn Dahlgren were present.

The agreement for the annual ASMI contract for instrument landing maintenance at the Airport was submitted for the Chair’s signature.

This is a single source vendor.

Carolyn – ASMI hasn’t seen the new state law on immigration.

Brian – went over it and they had no problem – they have sent a fax copy but he hasn’t received it.

Request to sign the contract and get a signed release.

Carolyn asked the Board if they would be willing to sign the contract pending the willingness of the contractor to sign the state law on immigration.

Commissioner McCown – so moved; Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – aye

AIRPORT - (T-HANGAR AREA PAVING AND PAVEMENT REHABILITATION) - AMENDMENT #1 TO RTC #4 – BRIAN CONDIE

Peter Olsson, Brian Condie and Carolyn Dahlgren were present.

Carolyn explained that this was originally executed in August 2003 and allows for four renewals of one year each. The contract was amended in June, 2005. Both the sponsor and the engineer have executed this Amendment No. 1 to Release to Contract No. 4 to be effective as of the effective date set forth in Release to Contract No. 4 no matter the date of execution of this document.

Brian explained this and this is the legal paperwork to make that official.

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Carolyn – Peter and I had a misunderstanding saying that once the Board agreed to the subcontracting arrangement, he continued to draft a contract for the most part in his office and didn't realize he was using the form that included your approval of the subcontracting arrangement. So this corrects the record by putting the letter agreements between Olsson and PRT as part of the public record. That's why you have three different documents that are amendments to three different releases to contracts and they include the subcontract arrangement.

A motion was made by Commissioner McCown seconded by Commissioner Houpt to approve the amendment No. 1 to release No. 4 and the Chair be authorized to sign.

In favor: Houpt – aye McCown – aye Martin – aye

AIRPORT - (RUNWAY RECONSTRUCTION PRELIMINARY ENGINEERING FOR 404 PERMIT) AMENDMENT #2 TO RTC #5 - BRIAN CONDIE

Peter Olsson, Brian Condie and Carolyn Dahlgren were present

Carolyn explained that this was originally executed in August 2003 and allows for four renewals of one year each. The contract was amended in June, 2005. Both the sponsor and the engineer have executed this Amendment No. 2 to Release to Contract No. 5 to be effective as of the effective date set forth in Release to Contract No. 4 no matter the date of execution of this document.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the amendment No. 2 to release No. 5 and the Chair be authorized to sign.

In favor: Houpt – aye McCown – aye Martin – aye

AIRPORT LAYOUT PLAN CHANGES - AMENDMENT #1 TO RTC #6 –BRIAN CONDIE

Peter Olsson, Brian Condie and Carolyn Dahlgren were present

Carolyn explained that this was originally executed in August 2003 and allows for four renewals of one year each. The contract was amended in June, 2005. Both the sponsor and the engineer have executed this Amendment No. 1 to Release to Contract No. 6 to be effective as of the effective date set forth in Release to Contract No. 7 no matter the date of execution of this document.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve amendment No. 1 to release No. 6 and the Chair be authorized to sign.

In favor: Houpt – aye McCown – aye Martin – aye

AIRPORT - LAND AND EASEMENT ACQUISITION - AMENDMENT #1 (2007 RENEWAL) TO RTC #7 – BRIAN CONDIE

Peter Olsson, Brian Condie and Carolyn Dahlgren were present

Carolyn explained that this was originally executed in August 2003 and allows for four renewals of one year each. The contract was appropriated for 2007 on December 18, 2006 when the budget including the encumbrance of \$1,500,000 of Federal Grant Funds available for Land and Easement acquisition related to the extension of the runway at the airport. An amount not to exceed greater than \$50,000 or approximately \$57,500, which amount shall constitute the ceiling amount/amount not to exceed for calendar year 2007 under this Release to Contract No. 7. Such amount may be altered by mutual written consent of the sponsor and the engineer, assuming the availability for budgeted and appropriated funds in the GARCO budget "Airport Fund". Other than as amended the Contract as amended and revised and Release to Contract No. 7 shall remain in full force and effect and executive of this Amendment No. 1 to Release to Contract No. 7 shall serve as written authorization by the sponsor for the engineer to commence services as outlined.

The Board has already approved the budget and this is the 2007 portion

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve Amendment No. 1 to release No. 7 and the Chair be authorized to sign.

In favor: Houpt – aye McCown – aye Martin – aye

AIRPORT - RUNWAY RECONSTRUCTION DESIGN ENGINEERING - RELEASE TO CONTRACT #8 WITH EXHIBITS– BRIAN CONDIE

Peter Olsson, Brian Condie and Carolyn Dahlgren were present

Carolyn explained that this Release to Contract No. 8 is for engineering design work for upgrading of Runway 8/26 to the ARCD-III requirements. The runway way may have a slightly different horizontal alignment and will have a significantly different vertical alignment to the existing runway. It will be 7,000 feet long and 100 feet wide. The services to be provided under this Release to Contract have been divided into 9 tasks to facilitate matching the services to the funding available and the likely phasing of the construction work. Task 1 is the Conceptual Design for a cost of \$21,199,176.; Task 2 is the Borrow Pit Evaluation and Pavement Design Alternatives Analysis. Task 3 is the Final Design – County Road 346 (West Mamm Creek Road) and County Road 319 Relocation and Dry Creek Relocation for a cost of \$3,474,380. Task 4 is the Preliminary Design – Extended Runway Safety Area West of the Runway 8 End and North of the Extended Runway Centerline for a cost of \$3,177,450. Task 5 is the Final Design – West Runway Grading and Drainage for a cost of \$9,564,838. Task 6 is the Preliminary Design – East Safety area Grading and Drainage for a cost of \$4,044,550. Task 7 is the Final Design – East Safety area grading and drainage for a cost of \$4,044,550. Task 8 is the Preliminary Design – New Runway and Partial Parallel Taxiway Paving and Lighting for a cost of \$9,920,744 and Task 9 – the final design – New Runway and Partial Parallel Taxiway Paving and Lighting for a cost of \$9,920,744. The Engineer shall complete this project for lump sum fees for each task outlined for a total \$1,541,800. The Sponsor agrees to pay the Engineer for services covered by this Release to Contract monthly on the basis of the percent of work completed and as agreed to in the Professional Services Contract Section XII inclusive. Any work done on this project after December 31, 2008 will be subject to fee renegotiation. The amount to be expended pursuant to this Release to Contract No. 8 is limited for the year ending December 31, 2007 to \$850,000.

Carolyn – letter agreement are attached and found a typo and a date and asked Chairman Martin to initial these changes.

Brian stated that Olsson is giving us a good price on this.

Peter pointed out in Task One – conceptual design – have done it and unlikely that the EA fails they would have to redo – contingency – and could result in a reductions.

Brian – kept this amount in just in case.

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A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Release to Contract No. 8 not to exceed \$1,541,800.

In favor: Houpt – aye McCown – aye Martin - aye

PUBLIC HEARINGS:

CONTINUED PUBLIC HEARING RE: CONSIDERATION OF ADOPTION OF GARFIELD SHERIFF - GLENWOOD SPRINGS FIRE PROTECTION DISTRICT - INTERNATIONAL FIRE CODE OF 2003 - COUNTY ORDINANCE NO. 2006-1 – ORDINANCE AMENDING ORDINANCE 2005-1 – ADOPTION OF

Ron Biggers, Andy Schwaller, Don DeFord and Mike Pifer were present.

Exhibits – Memorandum from Andy Schwaller to the Board; a red-lined version of Exhibit A which was prepared by CA's office and included in the packet. Also an email from Lou to CA and Andy setting forth the Sheriff's Office position.

Chairman Martin entered the exhibits.

Chairman Martin swore in the speakers.

Don – exhibits – alterations to the form and amendment to the amendment – Sheriff and Don's take on Andy's showing the effect of the changes. The title of the Ordinance – 2006-1 – hearing actually commenced in 2006.

Memorandum of Feb. 5th.

Andy stated that during the hearing of December 18, 2006, it became evident that additional editing of the Ordinance proposed by the Glenwood springs Fire District needed to be made before a complete and formal review of the Ordinance could be achieved by the Board. Staff was directed to discuss the proposed amendments with the fire district prior to a continuance of this hearing scheduled for today. Andy submitted the review of what stayed the same and what changed in Exhibit A.

Discussion was held with respect to open burning, prohibiting indoor pyrotechnic displays and a requirement not to bury fire hydrants with snow, automatic sprinkler systems and deleting an exception not requiring a manual pull box alarm in a building with an automatic sprinkler system for various different occupancies.

Andy stated that Section 907.1.5 remained the same and requires the most expensive alarm system (addressable) to be used everywhere with an exception for a conventional system at the discretion of the fire code official. At the December 18th meeting there are many advantages to the addressable systems. The disadvantage relates to the staying within a budget for a building.

Commissioner Houpt – asked about open burning.

Mike Pifer said they have stipulations on what people can burn – construction debris not allowed. Vegetation for mitigation purposes or removal to reduce fire loads – very specific – we feel we give adequate time and historical fire ban burns – not issue and don't call us – exceptions are made - ie. Boy Scouts – open fire pits – like to see this continued – people more notification – campfires are regulated on public lands and they issue their own burn guidelines – campfires depend on the severity of what is going on – but if there is a total fire ban, negates the allowance - fire pits on property.

Mike – a burn barrel is not approved.

Commissioner Houpt – would allow a fire ring

Ron – the request gives them the opportunity to give them a chance to go out and look at it. It also allows them to say no.

Commissioner McCown – confused – Ron do you want all the residences to call before they light the grills?

Ron – a one time event – the get calls – if they deem it necessary they can look at it. Barbeque grills are not involved here.

Kenneth Smith – addressed the item no. 4 – addressable alarm detection systems.

Ron stated construction in Glenwood is on hillsides and makes it difficult for them to get to the building in case of fire – therefore these restrictions are necessary. It addresses a dialogue between the fire department and the builder.

Kenneth Smith – in the current adopted restrictions – addressable system – standard and not a demonstrated need to amend this standard for the fire protection district. Recommended staying with the standards as currently adopted.

Commissioner McCown – on tanks, a maximum of not over 1000 gallons for storage of Class I and II. He gave an example of Fattor and if he was to move it would be new.

Ron – he checked with various jurisdictions – this is to get a handle on above ground tanks on combustible tanks.

Andy – the state has rules and requirements that cover this.

Commissioner McCown said the state regulations make sense.

Commissioner Houpt – see what is reasonable in this County and not in the state – we need to figure out what is in place and what the fire district would perceive what they could handle.

Andy – the state does inspections.

Commissioner McCown – railroad tankers – they do what they want. Heartburn with the 1000 gallon storage.

Mike Pifer – this has to do with a lot of temporary tanks during construction. He asked Ron to look up the standard code around the nation.

Ed – state approval at our Road and Bridge facility.

Commissioner McCown – a fire district can trump the state.

Wording was agreed to be changed.

Mike said they get a lot of requests for temporary storage.

Ron determined the code states the 1000 tanks.

Mike – we are talking about new tanks. The other districts would have to address those. Code in the City and the Fire District consistently so developers can look at this and to move Mike Fattor's plant may please some folks and if so who would enforce this. This doesn't apply to propane.

Andy – some stipulations for exceptions for Class I and II.

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Commissioner McCown – it says permanent. We recommend that nobody in the County have over a 1000 gallon tank and we should never have approved this. This needs amended today. If it is limited above ground tanks would be a problem – this will be researched later.

Fees stay the same as in December 2006.

Mike – codes are there just like speed limits – this will help with the education process and enforcement is an issue. Knowledge of the code and speed limits are about the same.

Commissioner McCown – 500 gallon tank for a landing strip – would that be an approved use – it would above ground.

Mike – they would come through the process and the code addresses this and if it meets the oil and gas regulations that require fire extinguishers in place – where are they placing it – a private residence – these restrictions fall into zone allowance of things. This given the fire department to review this request.

Commissioner Houpt – one point to be researched – wait until we have all answers if this is not problematic.

Mike want all concerns and questions to be before them – all codes apply – these are minimal – okay to continue.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to continue this until next week in the 10:15 time frame.

COMMISSIONERS - ORGANIZATIONAL MEETING – BOARD OF COUNTY COMMISSIONERS

Commissioner Houpt pointed out that this is one of the few counties that do not rotate the Chair position and feels there is great value in doing this – she would like to be considered for the Chair position.

Commissioner McCown – no matter to him; the Chair only keeps the things going and can’t make the motions. Who is the chair creates no heartburn for him.

Commissioner McCown made a motion to keep the organization structure the same.

Chairman Martin – seconded and stated that he likes to stay neutral.

In favor: McCown – aye Martin – aye Opposed: Houpt – aye

Public Comments from Citizens not on the Agenda

NOISE REGULATIONS – NONE IN COUNTY

Sonny Stapleton asked why there is no noise regulation in Garfield County; she has written letters to the Sheriff trying to figure out why no noise ordinance in Garfield County

Chairman Martin – the Sheriff is limited in a private residence. It is an age old problem – if we are going to do it, we need to figure out how to enforce it.

Commissioner Houpt – there needs to be a discussion by the County on an ordinance that would include noise and harassment. Suggested to get municipalities to enforce noise regulations.

Chairman Martin – the legal staff would have to prosecute the case and would need an agreement to do that.

Commissioner McCown – Sonny would have to be the witness in this case and follow the line of evidence.

Commissioner Houpt – wants to start the dialogue and investigate. She favored direct the legal staff to look into it and possibly use municipality’s codes.

Commissioner McCown – what about the state – thought it was the state statute.

Carolyn – stated that Counties are limited by statute on what they can do.

Chairman Martin – state statute defines the decibels of noise allowed.

Carolyn – Statute defines noise over a certain decibel. This would be a civil complaint

Chairman Martin – not sure you can do it criminally.

Carolyn – a private civil complaint. We will investigate it but it doesn’t address what folks in the neighbors want to do?

Sonny – asked if this was a personnel issue.

Carolyn – it is a legislative issue that determines the guidelines. The statute makes it a nuisance and a tort between private citizens. She also recommended a private attorney would be helpful.

Chairman Martin may have to look at new regulations to allow the County to do it.

Carolyn – if there is a SUP or CUP – then the BOCC could do some enforcing.

COMMISSIONER’S BUDGET – DONATION - TEAM EFFORT GOVERNMENT MULES- 24 HOURS OF SUNLIGHT

Charles Zelenka, Fred Jarman thanked the BOCC for funding their team. Race started on Saturday and did very good – the came out 5th out of 13 teams. Fred also thanked Tresl for the chicken soup she supplied for them during the night. Fred said the challenge is on for SGM next year. Fred refunded \$125 for registering early.

BUILDING AND PLANNING: FRAC TECH SERVICES - REFERRAL TO THE PLANNING COMMISSION CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR AN INDUSTRIAL SUPPORT FACILITY LOCATED 4.5 MILES WEST OF THE TOWN OF PARACHUTE ON STATE HIGHWAY 6 & 24. APPLICANT: FRAC TECH SERVICES – DAVID PESNICHAK

David Pesnichak presented.

The Applicant, Frac Tech Services, LLC, requests a SUP for an “Industrial Support Facility which would include: material handling, pumping facilities, warehouse facilities/staging areas, storage areas, and accessory uses to the above” in the RL zone district.

Approximately 6 miles west of the Town of Parachute, located between I-70 and Highway 6 & 24 (East of Travelers Highlands Subdivision) on 77 acres.

BACKGROUND

The Applicant is proposing to construct an “Industrial Support Facility” to accommodate the storage of heavy trucks, vehicle washing and servicing, office building, warehouse building, acid dock, gel tanks, and fueling station. These buildings will include an 80’ x 312’ main building containing a service bay area of about 80’ x 200’ and an office area of about 80’ x 112’; and a 225’ x 50’ warehouse building. The services and offices on this site are to be used by the Applicant, Frac Tech, who is engaged in the oil and gas well frac services industry.

The Applicant has represented that the hours of operation are to be 24 hours a day, 7 days per week and will include both heavy truck traffic as well as employees accessing the site with personal vehicles. Truck traffic

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is contemplated to range from 32 to 60 trips per day while employee traffic is to range from 20 to 35 cars per day. The number of employees is to start at 32 with numbers potentially reaching 120.

Activities on the site are to include truck storage for 44 trucks, employee parking, truck servicing/fueling and washing, warehouse loading and unloading (including gels, acids, polymers and biocides), sewage treatment, and offices.

This facility will have a high level of visibility from I-70 as well as Highways 6 and 24. In addition, the location of the property is immediately east of the Travelers Highlands Subdivision which is zoned Commercial Limited and will accommodate numerous commercially oriented businesses.

This application is to run concurrently with a rezone request, which is scheduled for the Planning Commission on April 11, 2007. The rezone request is for a change in zoning on the subject parcel from ARRD to RL which allows an "Industrial Support Facility" as a Special Use.

STAFF RECOMMENDATION

Staff recommends the Board refer this application for a Public Hearing before the Planning Commission for the following reasons:

1. This SUP is to run concurrently with a Rezone request on the same subject property;
2. A rezone from ARRD to RL at this location would be the first RL zoning south of I-70;
3. The scale of the project is large with a high level of visibility and located within the Visual Corridor within the Comprehensive Plan;
4. The project is anticipated to produce a significant amount of traffic including heavy trucks and passenger vehicles.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to refer this to the Planning Commission for their recommendations to the Board.

In favor: Houpt – aye; McCown – aye; Martin - aye

BUILDING AND PLANNING - ORCHARD LAKE LODGE LLC - REFERRAL TO THE PLANNING COMMISSION

CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR "RESORT AND RECREATIONAL SUPPORT FACILITIES" TO THE PLANNING COMMISSION. APPLICANT: ORCHARD LAKE LODGE LLC – CRAIG RICHARDSON

Craig submitted the staff memo and explained the request for consideration for referral of a Special Use Permit to the Planning Commission. The Applicant is proposing to operate a commercial lodge that will accommodate fishing and hunting activities, while providing lodging, dining and commissary operations.

Site Information

The subject property is located approximately 15 miles northwest of the Town of DeBeque, on County Road 209. Orchard Lake Lodge, LLC. owns a 40.196 acre parcel zoned Resource Land: Gentle Slopes & lower valley floor. Adjacent land uses consist of undeveloped BLM land, and ranching activities.

Staff Recommendation

Staff recommends that the Board of County Commissioners not refer this SUP request to the Planning Commission for recommendation.

Tim Thulson and applicant were present. Tim added that this is similar to the Travelers' Highlands that was heard by the Board and requested the BOCC hear the matter directly.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt that the BOCC to hear the Planning request.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CODE VIOLATION - VEZZOSO - CONTINUED BUILDING AND ZONING VIOLATION – WILLIAM AND KIMBERLY VEZZOSO – RON VAN METER

This was originally scheduled for January 15, 2007 but the County received a request for a Continuance submitted by Mike Sawyer of Leavenworth and Karp. The matter was approved to be held today.

Ron Van Meter submitted the alleged zoning violation and investigation information stating that the matter involves an illegal front property fence, illegal garage/shop and failure to obtain grading/excavation permit; also a zoning violation for storage of heavy equipment without a Special Use Permit, a site for processing, storage or material handling natural resources without a Special Use Permit and an illegal contractor's yard. Ron suggestion was to have the matter referred to the County Attorney for abatement action. This is the 7th photo – Vezzoso Berm photo

Mike Sawyer, Bill and Kim Vezzoso and son Bill Vezzoso, Jr. were present.

Ron Van Meter submitted Exhibits in a packet of information with photos and the original complaint filled anomalously.

Ron stated in his Memorandum to the Board that in 1990 a summons and complaint was issued in a Uniform Summons & Complaint from the Garfield County Sheriff's Office with charges the owner used the property against zoning regulations. Heavy equipment was being used and a zoning violation in the ARRD zone district. The actual final disposition of this summons and complaint is not exactly known at this time. The BOCC and P & Z received an anonymous complaint and Ron included that in the Commissioner's packet. Ron added that in the anonymous complaint there are major allegation that the Vezzoso property is being operated as a gravel pit operation and Environmental issues related to noise, dust, fumes and back-up alarms on heavy equipment as well as a business referred to as Independent Trucking. Ron stated that he sent a letter on 12-3-2006 to the Vezzoso regarding the allegations and noted that the complaint referred to dump trucks, a bobcat, rock screener and crushers. This was being used for commercial operations in the ARRD Zone District. Reference was made to the 1978 Zoning Resolution and particular notice was to the storage and handling of natural resources without a Special Use Permit.

Ron said he had three separate phone conversations with Mr. Vezzoso and Bill Vezzoso was reluctant to allow Ron access to the property to investigate. On 12-26-2006 arrangements were made to do an inspection of the property and Ron spent 45 minutes taking photos and documenting the alleged violations. Ron noted at this meeting they met in a structure and it was built under the representation of an Ag building. They met in this office that was located on the left hand side of the barn looking west. There was a couch, desk and chair in this office. Ron said he also walked the property and Bill discussed the grading, berms etc. and Ron explained and discussed the grading allegations. This property is taxed residential. As a result of the site

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visitation it was apparent that the allegations were violations of the 2003 UBC and the Garfield County Zoning Resolution of 1978 as amended.

Ron submitted various photos and explained that the property fence built was built without a permit and it was 98 inches high, not including the cap at various locations. Ron did not measure the length but estimated it to be approximately 75 yards in length. Another item on the site visit as a coding violation is a second wall as an interior retaining wall and a pit run. Bill had threatened a court order would be needed to allow Ron on the property. Ron estimated this fence to be over 6 foot tall. The 3rd allegation is the two-bay garage shop and dump truck; the office is located in this building. It wasn't a heated office but had seen employees come and go in the office but not on the day he was there. Building violation were the grading and excavation without a permit. Ron explained that this is residential property not agricultural and required that they obtain grading permits. An additional handout was submitted as a result of the email late Thursday stating there is substantial grading, a privacy berm, some vegetation done and seeding to make portions to make it attractive. The person sending the email, since the most recent allegations in the 5 page letter, states this berm is approximately the length of a foot ball feet and 8 feet tall.

The alleged zoning violations include: the storage of heavy equipment, 3 dump truck, 1 belly loader, 1 bob cat and a loader and in addition a screening plant and fill operation. Mr. Vezzoso stated he has used this 27 hours and on occasions he does lease it out for use on other properties. Ron didn't witness the operation of the screening plant. The belly loader - all of these items refer to a contractor yard and the front end loader – this contractor yard is for storage and material handling requiring a special use permit in the ARRD zoning district. Another piece of the investigation (Mr. Vezzoso did respond to the site inspection where he responds to the alleged zoning violation and submitted to the BOCC.) Bill Vezzoso submitted his own exhibits and a power point was provided.

Copies of identification used in the DEX telephone book show the name of his company as Independent Trucking –and the most current copies he was able to observe three different phone numbers in relations to this operation. The second handout is in the yellow pages and mentions Independent Trucking and Excavation. These advertisements have the same phone number as the home address and 3rd is the white pages and it also had William Vezzoso with the same number as the Independent Trucking and Excavation. In summary as a result of the latter dated 11-20-06 with the email this notice of alleged violations required a certified letter and once again resulting in investigation that finds violations of the Zoning Resolution of 1978 as amended. Ron is here today to see what action or recommendations the Board would recommend.

Mike Sawyer, Attorney for the Vezzoso's held what was perceived as a court hearing. Carolyn reminded Mr. Sawyer that is was not a public hearing. Mike summarized his client's case and continued stating that at the conclusion of this meeting he believes the Board will find there are no violations of the building code or the Garfield County Zoning Ordinance on the Vezzoso's property and you would direct County staff not to pursue this matter any further action. The Vezzoso's are not only nice people and good neighbors, but they contributing members of their community and hardworking independent business people. Aspen Daily News a week ago printed a story about this and the alleged violations and I believe that article painted an unfair image of my clients that quite frankly isn't true and potentially could bias decision making in this case. Mike provided the Board a packet that has these letters in it. He referenced two letters from neighbors Robert Hutton and Sharon Washburn and Randy Hughes.

Carolyn – again reminded Mike this is not a public hearing – this is a public meeting.

Mike – continued with a response to Ron Van Meter alleged violations saying that Ron broke out the issues as matters affecting the zoning and building code. Ag use of the property, Ag use and what this allows them to do.

Kim Vezzoso explained about the 4H and animals as well as the vegetable garden and flower garden elaborating on the food and flowers she gives away. She believes this to be an Ag situation when they purchased the property and they have made Ag improvements. In 1987 when they came to a property it was full of thistle; they started with the ditches, horse, pigs and flowers.

Mike explained they had pigs, horses and cattle and moved to this location from a trailer park so the children could be in 4H learning and growing things so they would learn how hard it was to make it.

Bill Jr. stated the office building was used for 4 H projects and for Ag purposes since he was 9 years old.

Ron Van Meter referred to it as an office with a desk, chair and area for workers.

Bill Jr. stated they used this for 4H record keeping.

Bill explained that Kim was in real estate and they raised longhorns and sold some meat, vegetables and livestock, however no records were kept. They sold some pigs and they also bred pigs.

Kim described the garden activities – being part of the community – taking care of the elderly – grew more than needed and gives vegetables away – uses the flowers and takes them to shut-ins and the sick. Kim described the Ag projects and added they expanded the property to orchards and more flowers.

Mike raised the issue of Ron's allegations stating the construction and use of a barn. Bill Sr. added that this is not the first barn they built, the barn blew over four times with wind speeds of up to 75 to 90 mph. Photos of the current barn were in the packet. Bill Sr. said he called and talked to the Building and Planning Department and asked if he needed a permit and was told no. This was a reconstructed barn in the year of 1994 or 1995.

At the time the barn was constructed, uses were no deception - we had cars and as a landowner, use as any normal person would do.

Mike – reiterated the office building was primarily used for 4H to hold meetings.

Bill Sr. – built a new barn and used the old barn for medicines.

Mike – the barn was constructed for agricultural purposes and originally the drainage projects were to return to full Agricultural use.

Regarding the front fence – it was a wood fence formerly – the current fence was built for wind protection and Bill explained the construction of it.

Fence height - from road height – is 5 feet. Fence behind his house is constructed of 3000 lb block 2x2x6 – fence is into the ground and he planted the blocks 4 feet deep in the ground. He is turning it into a stucco wall. The fence has benefited Kim's agricultural use with flowers and corn – winter squash and pumpkins. Bill Sr. – measured the height of the fence. It is 4.5 above the feet. Didn't know he wasn't paying Ag taxes – paid too much – he's applying for a reclassification to agricultural now with the County.

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Next issue that Ron addressed is the grading on the property.

Bill said this is due to drainage issues. When the County did the road work on CR 100, they built up the road and it brought the elevation up 2 feet and water used to flood back through a release culvert – afterward the water didn’t drain and built up higher. They had ponding of water in the low points on his property. Impact – no grass so they needed dirt. They showed a reclamation plan for the Vezzoso pasture. Bill said he lost two horses due to soft hoof disease from the horses standing in water. Solved the problem – reasonable solution – proceeded to pack back pasture to where the forest service and neighbors couldn’t flood in - alleged gravel pit was used in this effort.

The berm is on the northerly property – started at least several years ago – completed the berm and he told Ron he needed more dirt. The berm is vegetated with Pinon. He said he rakes both sides of the berm every year – it is sprinkled and irrigated. Bill was flabbergasted that he needed a grading permit. He maintained he has done grading on Ag land for many years. He wasn’t aware that he was paying taxes on residential property instead of Ag land.

Mike confirmed that Bill wasn’t aware that the County changed the standard a few years ago to where a permit is needed to do grading on his land. Mike asked Bill is he planned to seek Ag tax status or get a grading permit before he does any more grading – Bill said yes

Mike alluded to the next issue raised in Mr. Van Meter’s letter relates to the “Gravel Pit” on the property and asked if Bill ever mines or excavates anything off his property.

Bill was a miner and knows it takes a permit to do mining anywhere and no he has never mined any gravel on his property. Bill stated the materials were not produced on his property. Material in question was hauled in from River Valley Ranch, he had two job sites and they had excess of approximately 100 loads. Most of the time he will put a bid in and we’ll put so much to get rid of the material; this was a kid struggling told the contractor he would haul off the material to do the pasture. A Screen on the property was also in Mr. Van Meter’s report and Bill was asked if has operated the screener for commercial purposes. He has operated the screener for the 2 years and stated he only ran it 27 hours total and uses the screener for his commercial operation and this occurs ie. Pitkin Iron, Bill has mining permit for him to be able to do this. He has rented it out to screen the limestone, however never for commercial purposes.

Bill stated he has never transported material off his property from material he has brought on that then was screened and took off the property for commercial purposes. He does haul off roots from dead trees or pieces of pipes after it is screened it goes into the pipe and he discards it.

He has given fill and top soil to neighbors but said he never charges for it. A crusher has never been used on the property and Bill said he has never produced aggregate.

Mike made a legal comment that the use of the screen and the storage of the material has been for Ag purposes as Mr. Vezzoso has described for the purpose of elevating that portion of his pasture that has suffering from drainage problems – it has not been used for commercial purposes and do not believe this meets the legal definition of processing or storage of natural resources as intended under the County’s Zoning Ordinance and for that reason, there is not a zoning violation here. By analogy we do not require people in the ARRD zone district to get an SUP every time they get a truck of fill or top soil. Mr. Vezzoso has the equipment to do more than a dump truck load or two at a time but again the purpose is the same – this material has been brought in and used for Ag purposes.

The last issue Mike addressed was the parking of heavy equipment on this property and specifically the events that took place in 1991 when he was issued a summons by the County for essentially the same activity. Bill was sentenced to come to court because of having a company and equipment on my property and was told when I got to the court room that there were other members of my community being judged by the same thing that I was written the ticket and their outcome would be my fate and to wait in the hall for the outcome of the hearing.

Mike – in 1990 Bill’s understanding was that in addition to you there were other excavators who had parked heavy equipment on their property who were cited by the County.

Bill agreed and said this included Joe Zamora, Clem Hughes, Ron Troxell, Frog Excavation and Fin trucking excavation.

Bill was not represented by counsel at the hearing – he was trying to survive at this point.

Bill went to the hearing at the Courthouse on January 1-14-1991 and recalled that he waited in the hall for quite a while half hour to forty five minutes, and all of them came out in the hall but down the hall. All of them included all the County Commissioners – Buckley Arbaney and not sure of the other’s names, a couple of lawyers I find out now was Fred Gannon and some of the excavators, Frog and Clem and didn’t know them all that well but there was a group of 7 – 9, Mark Bean was there also. County Attorney – Don DeFord was there. Fred Gannon was Joe Zamora’s attorney – now he finds out that the judge wanted the Commissioners, and the excavators and lawyers to go out and try to reach agreement because it was a real tough situation, property was so expensive, there were no facilities for us to meet and everyone tried to use their best heads to figure out the best the solution for the situation. The outcome was, when they walked down the hall they explained that the ticket had been dropped and that he could continue with their blessing and keep up to 10 pieces of equipment on my 5 acre parcel.

Mike – did the County and Fred Gannon return to the judge’s chambers and dismiss those tickets based on the events that took place in the hall? Bill not sure – assumed they did because mine was the first one dropped.

Bill went home and continued to do what he is doing today.

Mike – noted that and he was reluctant to put words in the mouth of another public official but he did speak with Judge Gannon and I would say that his recollection of the events is substantially similar to what Bill has related here today. Again, as the lawyer, it is my belief that in 1991 the County in a public judicial proceeding made a site specific determination of property rights up to 10 pieces of equipment on 5 acres or more. He asked Bill how his operation was in 1991 compared to how it is today. Again, as the attorney the County has interpreted it’s Zoning Code as to this property and that determination cannot be changed without proper following of due process with an eye on the Takings Clause of the Constitution.

Bill discussed the operations in 1991 and the equipment he owned.

Mike said one allegation is that you are operating a contractor yard and noted there is really not a definition that constitutes a contractor yard the County Zoning Code but presumably that is more than parking

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equipment on your property. Bill stated that he does not have clients come to his property, the only ones who come are friends; very rarely and since 1983 he has had 5 sets of plans dropped off at his house. Business comes from his good work and word of mouth. 98% of the time he meets clients on site to give them a quote. Clients are not on his property for business. Bill will remove Independent Trucking and the address from the telephone listing in as much as it is relevant. Bill explained the process when he gets a job stating that most generally he wished he had a piece of equipment on his property because when he needs to do something his equipment is not on his property. Winter time is when he has the most congestion on his property and probably has 6 pieces of equipment on the property right now. When he gets a job the equipment goes from his property to the job site. He supplies a vehicle to his employees, only 3 employees, one vehicle and all three ride together to the job site. Bill said his operation on the property is similar to his operation in 1991. He has continued to operate as in 1991.

Commissioner Hought – inquired as to the projects in progress and what is his ultimate vision for his property. Kim – explained and a diagram was submitted for the vision.

Bill Jr. – claimed they didn't know they were taxed as residential.

Chairman Martin – noted there are lots of records in the Assessor's office.

Public testimony.

Bruce Hammer – claimed he was at the hearing in 1991 and also helped with Bills' wood fences. He heard the 10 pieces of equipment were allowed.

Mitch Miller – 25 year friend – aware of the situation – these are honest people and Bill's a good friend – family is a valuable asset to the community.

Barry Dodds-Scott – berm was for drainage and protection of view for neighbors – ran a back hoe – good people and trying to make the County better.

Shannon Muse – friend of Kim's – helps with the gardens – wildflower seeds and helps with donations of the flowers.

Dick Howard – member of the Rotary Club – Bill is very civic minded – building a memorial wall – Bill has donated his machines and no charge – Pearlinton, Miss after Katrina, Bill allowed him to borrow a trailer for the contributions – also build and enjoys Habitat for Humanity – excavation for no charge.

Former employee – Don Blevins– worked for two years and recently quit for good reasons, nothing against Bill, Bill's one of the most stand-up people I've ever met in my life – he has good friends around him which reflects on him too. The work he's done for neighbors in the surrounding area is far surpassed any thing ever seen anybody do and doesn't see any reason to do it other than to be a friend and a community neighbor. He's a really good stand-up guy.

Joe Zelenka – have known Bill for many many years – he was talking about the winds in that valley and I did work on his next door neighbor's house and put a new roof on their house actually used what was called a T-lock shingle system where the tabs interlock each other so they would stay in tact and the winds blows very hard and was blowing that particular type shingle off the roof. I had to nail the whole perimeter down, yes, I did lose all my shingles off the roof – it blew bundles off the roof like he was talking about and this was only on a 4/12 pitch it wasn't a steep roof at all. The winds in there are just incredible; I can see where his neighbors definitely appreciate that fence. Nobody could even use it; the wind would blow so bad that you lift the lid it's liable to blow off. I saw the fences go up and have been involved in fence construction for over 30 years and the structural is bullet proof. It would take a big dozer to push them over and the wind won't touch it. So everything he's done has such a back-up reason for it that if it was mine and I could afford to, I would have done the same thing.

David Wanzer – Bill's brother – I can testify to the wind out there, it's incredible – one day we were working on something and had a whole stack of plywood, 15 – 20 sheets and the wind took all of them – there was a boat on a trailer strapped down and it blew the entire thing down on it's side. Incredible wind. And Bill's a good guy.

Rich Cheney – I live across the road from Bill like for 20 years now and most of those wind stories are true plus that shed of his, one day the wind was blowing and before he got it all fastened down it actually took the roof and blew saw roof blow it clear off there in one chuck and put it out in his front yard. It was probably one of his first insurance claims but. We went through raising the pigs and all that stuff and he tore down my old house and dug the foundation for his new house and no dollars were even exchanged. We've always been good neighbors. It's just one of those deals.

Rick Brunty – I work for Bill and haven't worked for a better employer in my life. I've known Bill since 1999 and left for a few years and that's was the worst two years of my life because when I worked for someone else they treated me like a number; I was a nobody. Bill treats me like family; I mean I've never had a better employer in my life. Bill does great, he helps his neighbors out and does a lot of donation and that's about what I can say, there's no better person than Bill and Kim.

Chairman Martin – must remember Kim, Bill's getting too much glory there.

Matt Thompson – I've only worked for Bill for about 4 months; I will follow suit with everyone else, he is one of the best employers that I've worked for. I just recently moved to the valley and since I've been working there I've never seen any kind of commercial plant work or anything like that. So that's all I've got to say.

Chris Beebe – Bill and Kim's neighbor to the north and the presentation, I'm on the other side of the berm. I'm also the guy that's referred to in the original complaint as the neighbor who tried to handle this in a diplomatic way within the neighborhood over the summer months and kind of ran into a log jam and I think it was August or September with Bill in my yard and in the street. First off I'd like to acknowledge the Vezzoso's efforts to mitigate the visual consequences of their operation. The berm was put in the spring before I moved in which was 7 years ago. Bill and Kim have made a good faith effort to vegetate it in a responsible and aesthetic pleasing way. My thoughts on addressing the County on this are pretty hard to describe – I understand that Bill has had an operation for some time and Bill has done some work for me – he dug my foundation too when I redid my house and I've got some of his fill on my property and I paid him for it and I'd be glad to prove that if that's important. The challenge that my family and I have is the proximity to a full blown excavation operation which is not going to get solved by changing an address in a phone book. Most days including weekends, I can't open the windows of my house without it full of diesel fuel and dust.

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My wife called me from work the other day to say that she heard back up alarms in her brain having been home for two days and having to listen to that noise while being sick. I don't doubt though in Kim's community service- they've been a big service in the neighborhood and on the ditch. But the zoning ordinance is clearly state that what's going on there is against the County's laws or your rules or ordinances or regulations, whatever and I think it's a disservice to the community to allow this kind of operation with employees coming and going in heavy equipment, I have witnessed full dump truck loads full of perfectly good looking fill leaving the property having been screened and I'm around my property quite a bit – I've witnessed a lot of things that would imply that there's a full blown construction yard going on there and my little speech here is probably going to cost me about \$10,000 in rerouting my ditch which Bill has threatened to shut off. That's another issue. But I guess I'm willing to put my neck out on the line, obviously Bill's got a lot of support here current and past employees some of which have worked for me or friends. But it's disappointing to have come to this because we tried to handle it within the neighborhood with some of the people who are in this room today and that was met with threats and bullying and intimidation and I'm frankly done with that portion of the process. That's all I have.

Chairman Martin – remember to keep it civil and not attack individuals, if there is something pertinent.

Bill Jr. – No, I just wanted to convey our community philosophy that I grew up with my parents being, especially being back and helping them out a little bit, is since this is a public meeting we want to extend to all or our neighbors and anyone in our community to have an open channel with us, if they have any complaints we are willing to do what is possible to kind of meet in the middle and see where to go. So I just want to encourage that they can go ahead and call us or email us or send us a letter and we are willing to listen.

Chris Beebe – can I share my experience with that process with the Vezzoso's?

Chairman Martin – if you wish to but everybody remains civil.

Chris Beebe - this summer the Vezzoso's pit bull was in my yard growling at my daughter and her caretaker, I called Bill to ask him to come and get the pit bull out of my yard and four hours later after being screamed at and threatened and intimidated for four hours literally in my yard, that was the process of open communication that may be disinclined to open up another conversation with Bill about this issue which was obviously far greater of magnitude than a pit bull being in my yard and I interested in going on this alone and that's why I started to pick up on some ongoing conversation within the neighborhood about the issue of the construction yard being in operation and Bill finally got word of that and came and we had another blow out in my yard. So it's nice to offer an extension of open lines of communication but they haven't been very fruit full and they haven't been very civil and they haven't been very encouraging. Commissioner Houpt – I have a question of you, you said that you've witnessed loads being hauled out from Bill's yard.

Chris Beebe – yes, that's correct.

Commissioner Houpt – Do you know how often this has occurred that you've witnessed it?

Chris Beebe – I would say, and I'm not there all the time and I'm not there to count trucks going by but I would say in the true operational months for excavation being probably late February to November or so, over the last 3 – 4 years there's been an average of 10 to 15 business trips, vehicle trips, heavy equipment either being towed out by, coming back in back in by dump trucks or materials being hauled in and out by dump trucks, sometimes its slash from job sites that gets stock piled in the back yard and then burned for all day – but again I'm not in the business of counting traffic trips but its significant.

Commissioner Houpt – asked Bill to respond to materials coming in and slash, etc. to get a better understanding of why materials would be coming in unless they were being brought in to fill your pastures.

Bill – at the end of the day a gravel pit will close at 4:00 – 4:30 and we don't have to stop working till 7 pm – load of legally so a lot of times if I need a load of gravel first thing in the morning before the pits open, I have my truck go by, get a load of gravel and leave it on the truck, park it at the yard, plug it in and then in the morning the gravel goes where it is supposed to go.

Bill Jr. – Mr. Beebe is referring to some of the degradation of communications in the past and that's one thing I will personally try and offer an intern for because we need to strive for more communications because a lot of the reason we are here today is from mis-interpretations of the property and the uses of the trucks that we have on our property. When they are being used, specifically the fill is being used for agricultural fill of our pasture reclamation. There are a lot of other small issues that are assuming just because a truck has fill in it that it's on business. That's necessarily true, we deliver a lot of materials for donation and also give a lot of materials to our neighbors and try and pick and say from an outside perspective what's going on would be difficult at best and offered at this point going forward is a way to open the communication lines so there is no confusion between a neighbor or the community or the Board.

Commissioner Houpt – under what circumstances would you bring material in and burn slash?

Bill – no circumstances that he has brought material to my property except for my property. My brother may have come by and needed a load of dirt for his house in Silt and I'd give it to him. There have been other trucks but they've always hauled in because I needed the dirt and you can contract DUI, Aspen Earthmoving, they helped me build the first berm just like free fill dirt where you see it advertised all over. I've got better connections than most and when I need dirt I have a lot of good friends I help out and then return the favors. Kim – the burning piles, when you live on 5 acres you collect garden waste, fences and things that don't work and we save it and burn once a year – call the fire department, get their blessing and burn at once. It's not something we brought in from somewhere else to burn.

Carolyn Dahlgren reminded everyone – this is not a public hearing as we've said before. She addressed her questions to the table.

Carolyn – this is not a public hearing – address the questions to the table. We did mark these photos as exhibits but in the picture that has your new barn and your old barn, it looks like a port-a-potty there and why would you have a port-a-potty.

Bill said my men need a place to go to the bathroom.

Carolyn asked then if Bill didn't let them come into his house. Is this your employee going back and forth?

Bill uses the portable potty for himself and his family as well when they have muddy boots, etc.

Carolyn – confused about the location of front fence, is it on your property line. In your statement you said it was right on the property line.

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Bill said it was inside the property pins and the outside 15 feet is my ditch easement.

Carolyn – You described in detail how you put these walls together with rebar and such, so did you do this on your own or did you have actual engineering drawings.

Bill has worked with engineers all his life building project but didn't know he needed an engineering, he thought he was constructing an Ag fence to keep horses in and protect them from the wind and tried to build it at 6 feet and he was not aware he needed any permit to put up an agricultural fence.

Carolyn – when you talked about the going to court in 1991, I thought you said the Commissioners plural, were you saying that all three of the then sitting Commissioners were there, not just Buckey Arbaney.

Bill wasn't sure all of them were there, just Buckey Arbaney and he was the man who made the decision.

Mike – clarified when Bill was present at the court, you did not actually hear Buckey Arbaney make a decision with the County Attorney at that time, but rather Buckey came back to Bill and said ...

Bill said Buckey told him the ticket was dropped and he could continue to do exactly what he was doing as long as I don't get over 10 pieces of equipment.

Carolyn – asked the same question of the first member who spoke - Bruce Hammer – your statement was that you were present at the courthouse.

Bruce – went down to the courthouse with Bill and was helping Bill build his fences. Mr. Arbaney came over and told Bill to carry on, they dismissed his ticket.

Carolyn – they are just Buckey.

Bruce – didn't know who the other Commissioners were. That was 18 years ago.

Carolyn asked Bill Sr. – you said he could work till 7 pm legally, what is that 7 p.m.

Bill – in Garfield County and in most like Aspen Glen, equipment is loud and he knows it but there are standards and the basic standards with the city and county is 7 am – 7 pm.

Mike clarified if this meant his own property or on job sites.

Bill – on job sites, he has never applied this to his property. He hauls snow for the City of Aspen.

Commissioner Houpt – so much said today and she is confused about the activity because she is hearing from a neighbor that there seems to be constant movement of equipment throughout the day and that it's really disturbing and then hearing from Mike's client that he leaves in the morning so what is happening on the property during the day?

Kim – is there all the time and when the equipment is working and they hear the noise, it is working for me – she is using the equipment on her property, when it's gone working for somebody else. Billy was just trying to explain that when you're outside looking in, you're thinking they are working all the time for everybody else but when the equipment is not working for her or somebody else it is sitting.

Mike – generally when he does a job the equipment goes to the job site and stays there for the duration of the job. Do you occasionally import fill from a gravel pit to a job site, and do those dump trucks return home overnight and then get taken to the job later in the day.

Bill – just overnight. It's like any construction job, it's not easy to say I need 6 more loads of dirt to finish the job, okay you guess and bring 6 loads to the job, and it took 3 to finish it.

It would go home and the dirt would stay on the truck and leave to the next job.

Commissioner Houpt – so you would store materials for the next job.

Bill – the dirt would stay on the truck, go home, stay loaded and leave to the next job where it can be used.

Bill Jr. – we would not actually unload the material rather leave it stored in the vehicle to go to the next job.

Commissioner Houpt – even if you had 3 loads, 3 trucks?

Bill Jr. – if there was more than one load it would stay on the job site.

Bill – the whole brunt of the traffic was bringing the dirt in.

Mike –by saying that you are saying a lot of the traffic that people have discussed here today is relative to the fill that you've brought into your property. In order to do the green area shown in the photographs, how many trucks of fill were necessary to provide that amount of earth?

Bill – what's been done is approximately half – approximately 150 loads hauled in.

Billy – no one inquired what the fill was for and our plans – no inquiries as to what it was used for.

Mike – Carolyn raised the concern of the port-a-potty on the site; historically you testified earlier your employees will come to the property, take the stored equipment to the job site or car pool to the job site together, is that consistent with the operation that occurred in 1991.

Bill – yes sir.

Charles Cady – not acquainted with Vezzoso but has lived there since 1978 and recently the construction activity has greatly increased and would like today at some point is some clarification on what the zoning really is, over the year it has been handed back to us. My understanding is that a quite a few of the things built on his property were not permitted and what's going to be done about that and as far as I know the 10 vehicle rule was never written down or there's no record, I would like clarification on where this came from and I'm counting on the Commissioners to straighten this out.

Carolyn clarified that she had asked Mr. Beebe a question due to a comment Bill Jr. made and wanted him to make a statement to the Board that he was not the author of the anonymous letter.

Chris Beebe – I did not file the anonymous complaint dated 11-29-2006 but I am the person referred to in the complaint as the person who has tried to work this out within the neighborhood and was met with intimidation and bullying and so on.

Bill Jr. – responded, with that from this point going forward we really want to make it clear that we want to have the channels of communication open and if you want to go through me, you are welcome to do that.

There is a lack of communication and want this cleared up.

Chairman Martin - Staff has requested finding for the County Attorney for abatement of actions concerning the building and zoning violations. What is the pleasure of the Board?

Commissioner McCown – we were given an overwhelming amount of information that was not in his packet to read prior to this meeting not to mention all the testimony that's been given here today. He suggested at least on behalf of the staff and County Attorney's office there needs to be some research done on the background on some of the statements that were made today so a motion was made to continue these 30-days forward and that would be to March 5, 2007 at 1:15 p.m.

Commissioner Houpt seconded.

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In favor – Houpt aye McCown – aye Martin – aye

BUILDING AND PLANNING: CONSIDER A SPECIAL USE PERMIT FOR “STORAGE AND MATERIAL HANDLING OF NATURAL RESOURCES.” APPLICANTS: GENE AND GAIL MULVIHILL – CRAIG RICHARDSON

Wagon Wheel Consulting Cody Smith – Carolyn Dahlgren and Gene Mulvihill were present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Craig submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff memorandum; Exhibit E - Application materials; Exhibit F – Memo from Chris Hale P.E. of Mountain Cross Engineering, Inc. dated 1-30-07; Exhibit G – memo from Garfield County Vegetation Management dated 1-30-07; Exhibit I – memo from Steve Fontenot, Antero Resources, dated 1-24-07; Exhibit J – Email from Garfield County Road and Bridge dated 1-31-07. Chairman Martin entered Exhibits A – J into the record.

Craig submitted the request stating that Wagon Wheel Consulting submitted an application for a Special Use Permit (SUP) to allow “Storage and Material Handling of Natural Resources” to the Building and Planning Department on December 15, 2006. The subject property is owned by Gene and Gail Mulvihill and is located northwest of the City of Rifle, off of County Road 233. This application is intended to allow temporary storage of produced water in an existing pond created for a drilling operation.

The Application was referred to the following various agencies and County Departments for comments.

The operation of this facility will not require additional utilities.

State Highway 13 and Garfield County Road 296, 291, and 233 are the access routes traveled to and from the sight. Garfield County Road and Bridge Department has no objections to this application and cited that they currently have a road repair and improvement agreement with Antero for the listed roads. Traffic generated from this proposed use is represented not to exceed 31 round trips per day.

The character of the land surrounding the pond is farming, livestock grazing, and natural gas development. Located in a remote location within the property, the use of this pond for temporary storage should not have an impact on adjacent properties.

The pond is lined with an anchored geo-synthetic liner. The Applicant has stated that no more 36,690 barrels of water will be stored in the pond at any time in order to maintain a minimum freeboard of 2 feet. Kevin E. Milliman, a Colorado Registered Professional Engineer, has determined that the existing berms are designed to hold the amount water proposed by the Applicant. The Applicant has agreed to place a monitoring well to be located down gradient from the pond to monitor ground water for contamination. The Sill Prevention Control and Countermeasure Plan provided by the Applicant states that the operator will conduct a weekly inspection of the facility. The inspection will include a visual inspection of the liner, berm and fluid level. A weekly inspection will help prevent the risk of discharge or failure. Staff also recommends that this inspection also include documentation from the ground water monitoring well.

The operation of the proposed storage pit is not expected to generate vapor, dust, smoke, noise, glare or vibrations. The only activity at this site associated with the SUP will be the transportation of water to and from the pond.

A livestock fence has been constructed around the pond. In order to eliminate the risk of wildlife contact with the pond, the Applicant will be installing an anchored net covering the entire pond. These measures will reduce the risk of potential impacts on wildlife and domestic animals.

The Applicant has represented that one daily round trip per day is expected for a “pickup” that will occur along State Highway 13, and Garfield County Road 296, 291, and 233. During a “worst case scenario” traffic volumes are expected to reach at a maximum 31 round trips. The application does not contain a formal traffic study or explain the methodology used to calculate this estimate.

The utilization of the existing pond to store produced water on temporary basis does not appear to have an impact on adjacent property or nearby residences. The pond is located in a remote location.

The Applicant has represented that this facility is in compliance with all Federal, State and Local regulations. The Applicant has addressed Staff’s concern of the potential hazard of ground water pollution. A monitoring well will be placed down gradient from the existing pond in order to detect ground water contamination. Conducting weekly inspections on the site will help insure that these standards continue to be met.

Should the Board approve the request for the Special Use Permit, Staff suggests the industrial performance standards be considered conditions of approval as they are specifically intended to ensure that any industrial use such as the proposed facility function in accordance with the proper best management practices and within the parameters of the State Statutes.

STAFF RECOMMENDATION

Staff recommends the Board of County Commissioners APPROVE the request for a Special Use Permit to allow “Storage and Material Handling of Natural Resources” for a property owned by Gene and Gail Mulvihill with the following conditions:

That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.

1. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation for this type of facility.
2. The Applicant shall provide the Garfield County Vegetation Management Director with a revised Weed Management Plan, conducted after the start of the growing season. The revised Plan shall be submitted by May 15, 2007.
3. Volume and Sound generated shall comply with the standards set forth in the Colorado Revised

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- Statutes at the time any new application is made.
4. Vibration generated: Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
 5. Emissions of smoke and particulate matter: Every use shall be operated so as to comply with all Federal, State, and County air quality laws, regulations, and standards.
 6. Emissions of heat, glare, radiation, or fumes: Every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard.
 7. Water pollution: Installation of safeguards designed to comply with the regulations of the Environmental Protection Agency must be completed before operation of this facility may begin.
 8. The Applicant shall install a ground water monitoring well located down gradient from the existing pond before the issuance of this Special Use Permit.
 9. There will be a maximum of 31 daily round trips associated with this use.
 10. The Applicant shall demonstrate that a net covering the existing pond has been installed to help reduce the risk of potential contact with wildlife.
 11. The pond shall maintain a minimum of two feet of freeboard at all times.
 12. The Applicant shall cut and treat the tamarisk cited in the Noxious Weed Management Plan before February 28th.
 13. The Operator shall conduct and document weekly inspections of the facility.

Commissioner Houpt – in the findings we talk about dust and vapor. You basically say that none is expected but no analysis behind that. One of the big problems with ponds in this area for produced water is the vapor issue and asked Craig to expound.

Craig said staff discussed this and we couldn't foresee any of these items being an issue.

Commissioner Houpt will wait and ask the applicant about the components of the produced water. This vapor is a big issue and would like to see us pay a lot of attention to it.

Cody – this is an existing pit that was originally tied in with the well pad and used for the fracing back flow waters from that existing well. Since then Antero has needed to it for additional storage in emergency cases where if they had too much water and no place to use it on their frac and their flow backs for their continued operations to store it temporarily until it is needed again. Steve can answer how long this water will sit there for his operations.

Steve – the Netting, we are planning to anchor that to the berms as to eliminate any risk of any wildlife, livestock, migratory birds, and water fowl from entering that pond. That takes out the need for an egress ramp which was additionally asked as a condition of this SUP. With this going to the ground there is no need for that. We are planning on putting a ramp on the outside of the pond to make it easier for human beings to walk up and down for unloading water. We do have existing fencing keep out the wildlife and animals but the netting isn't installed yet – it is on order and should have it any day.

Cody said as for the monitoring well as stated by staff, “to install a ground water monitoring well located down gradient from the existing pond before issuance of the SUP” – we would like to go to work immediately; this is being permitted with Division of Water Resources for that monitoring well and they are behind in their permitting and have told Cody 30 days but it's been longer than that and he has not heard. We do still plan on installing it but then need for Steve and Antero Resources is extremely important and they need it now to put this water in instead of trying to find different places to haul it off. He asked the Board to look at allowing them to go to work immediately.

Commissioner Houpt – there has been a lot of vapor and odors coming off ponds around the County that hold produced water because of the condensate and when she sees a paragraph in a report and it says nothing is anticipated that's probably true with the other operators who've had problems as well. What will keep this from having the same problem?

Steve – the location of this site as such that it is elevated approximately 100 feet above the area just to the east where the prevailing winds typically go from west to east and there have been no complaints of odors in the past; a large part of that is that it dissipates so rapidly being on top of that plateau; the other thing is that we monitor daily the flows transported in there and if there's any hint of condensate or oil we have oil booms that are set out and we have roust about crews that basically collect that, not on a weekly basis but on a daily basis as needed. That's one of the resulting SUP requirements as a result of the fire that BBC had up there due to the condensate so I'm cognizant of that issue and the last thing we want to do is create any problem like that so as a result we will do this on a daily basis to ensure there is no accumulation of hydro-carbons in that pit.

Scott Balcomb – wants to support it so they won't have frac tank pollution which is the problem we have right now – they're all over the place and I think this is badly needed.

Carolyn – in response to the Cody's request on the well permit issue – your regulations at Sub Section 6 of 5.03.08 Industrial performance standards do say that all ground water tests as maybe required have to be met before operation of the facilities begin and that safeguards need to be in place before operation of the facilities may begin, so I would request more information on what kind of testing has already occurred down gradient if any.

Cody – there has been none besides doing basic water wells around the community. Antero has done for the landowners below the pond and around, ½ mile radius of a well site and other than that no other ground water monitoring systems around this.

Carolyn – asked if they were specific to this original well and pit? Could you prove up that water testing as to this location?

Steve – the testing that was done was specific to this particular well called the Lungrin A1, and all water wells within ½ mile radius of this particular site were tested and the results and can be provided to the Planning Department. All we're doing is baseline water well testing for the landowner and for our benefit as well. Cordilleran is an independent environmental consulting company that does the testing for us and what that basically provides a baseline of a water well quality and quantity so that we can insure if there's any impact at all to water wells based on any of our activities, we have a baseline of data showing how the wells

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were acting before they started. They have done the baseline data at least once a year and in this particular area they have done this every 6 months. No changes from baseline have been detected.

Public Comments:

Candy Branson and I live on CR 233 and two questions: one is if they have done any pre-air testing for contamination of the air in the area?

Steve – no air quality monitoring in that area but have done that on the south end but not at this Candy – when you posted your signs you posted them on the Rifle side of 233 Road, not on the Silt side.

Steve said he posted the sign on the Rifle side as it is the only entrance into this site.

Candy – so you’ll be using Rifle as an entry, not the Silt Mesa Road.

Steve – the Rifle entry and not the Silt Mesa Road.

Candy – is CR 291 the road that comes by Wamsley.

Cody – CR 291 comes off of North of Wamsley from Hwy 13.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.

A motion was made by Commissioner McCown to approve the request for a SUP to allow for storage and material handling of natural resources with condition 1 – 14 as recommended by staff; personally do not have a lot of concerns about them starting use on this facility prior to the drilling of the monitoring well considering if they are doing water testing every 6 months on adjacent water wells around the area but I would still leave that as a condition of approval that upon receipt of that drilling permit I would expect the monitoring well to go in.

Commissioner Houpt seconded and said that if there hadn’t been testimony indication that this is going to be monitored very closely I would have a real problem with it. I anticipate you will call them and urge them to get this to you if the vote is positive today.

In favor: Houpt – aye McCown – aye Martin – aye

Chairman Martin asked if Jesse knew if Jim Rada has this area under air monitoring control – north and east of Ty-bar.

Jesse was not sure but did confirm that air testing is going on.

Commissioner Houpt would like to have this determined.

Continued Executive Session – update on Silt litigation; advice on RETAC and contract; IGA with Glenwood for South Bridge and other traffic issues; discuss the Impact report and two County Road projects CR 204 and CR 241 and Parachute Trail; and Jesse wanted to talk about the HR process.

Commissioner McCown made a motion to go into an Executive Session to complete the discussion and legal advice for the above mentioned items. Commissioner Houpt seconded; motion carried.

Commissioner McCown made a motion and Commissioner Houpt seconded to come out of Executive Session; motion carried.

Public action – Agended Item

OPERATIONS - (RETAC)- DISCUSSION OF NORTHWEST REGIONAL EMERGENCY TRAUMA ADVISORY COUNCIL

Don – the proposed intergovernmental agreement forming an entity to operate under the name of Northwest RETAC, Larry has been attended these meetings with benefit from the County Commission on this.

Commissioner McCown said he will carry your banner forward.

Commissioner Houpt made a motion that the County’s position is not to participate in the formation of such an entity at this time since we lack statutory authority to undertaken upon us. Chairman Martin seconded.

In favor: Houpt – aye Martin – aye McCown – aye.

Larry will carry this message.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

**FEBRUARY 12, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, February 12, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

TRANSPORTATION AND TRAILS - TRAIL ISSUES – HWY 133 - Raymond Pojman, a Pitkin County resident and lives up Highway 133 - Comments on the Trail. Raymond wanted to give some public comments on the trail issues up Hwy 133. On 12/5/2005 Garfield County Commissioners approved \$50,000 to leverage a grant from the State Conservation Trust Fund for its section of trail between the Town of Carbondale and the Pitkin County line on Hwy 133. At that time the total construction cost of the 1.1 mile section was estimated to cost Garfield County \$400,000 or \$75 per foot and that Pitkin County would not proceed with its 2.2 mile section until Garfield County agreed to fund that seed money.

The Garfield County Commissioners agreed to the funding so long as the proper studies were prepared with regards to construction estimates and cost obtaining the proper permits and identifying all potential environmental and wildlife concerns. Pitkin County assured they would do the same.

In August of 2005 during a regular meeting of the Crystal River Caucus Pitkin County Open-Space presented a management plan for the area known as Red Wine Point for access and development of their 1,000 foot of the

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1 mile section of land-locked open space property. Further discussion revealed that Pitkin County had not even completed any official wildlife or environmental study for the area where they planned to develop river, trail and biking accommodations. In addition neither the Forest Service, CDOT nor the Town of Carbondale had received any applications or approved any permits for the use of the Highway right-of-way, Nettle Creek Bridge or Forest Service property. They also had not resolved access and safety issues that were documented at a public Pitkin County Commissioner meeting in July 2002.

With these revelations the Caucus was concerned that Pitkin County would proceed with the same capriciousness regarding its plans to develop other sections of off-road trails that would potentially have serious impacts in other locations. The Caucus discussion eventually widened to consider the entire 18 mile Pitkin County Corridor and a motion was passed to create a task force to study all possible wildlife impacts of an off-road trail system east of the Crystal River. During the debate of the motion Pitkin County Open Space Director, Dale Will and staff, Commissioner Dorothea Farris, Mike Ireland were present and except for Commissioner Farris, all participated and then objected to the proceedings or the formation of the task force. Mike Ireland who helped fashion the draft even stated he was delighted to hear the process. Today nearly 18 months after the task force was formed, Dorothea Farris, Dale Will and former Commissioner Mike Ireland have embarked on a propaganda campaign trying to discredit our Caucus, task force and private property owners within the Crystal River Valley that they complimented earlier. Commissioner Farris accused the Task Force of creating a “lousy report” and Mick Ireland stated a small contingent of residents have commissioned a pseudo-scientific study. Apparently they no longer agree with the Caucus agenda if it will interfere with alternate trail plans, plans that have not been presented to the public. The final draft from the Task Force will not even be released until the next caucus meeting scheduled for March 25th and neither Dorothea Farris nor Mick Ireland has seen it.

Raymond gave the names of those on the Task Force and stated that all individuals on this have donated many hours of time and most do not reside in Pitkin County or have any affiliation with our caucus. With the county officials attacking the credibility of the report and its authors, only serves to create misinformation, confuses the public and is totally unwarranted. At a Pitkin County Commissioner meeting on January 24, 2007 Raymond brought these issues and others before the Commissioners but to no avail.

Garfield County Commissioners agreed to proceed with financing with conditions as I’ve mentioned before. Raymond would like trail alignments, construction designs, permits, safety issues, construction cost estimates, scenic view and traffic impacts and private property rights need to be addressed for the entire 18 mile corridor. He added that this is may be the only opportunity that Garfield County has to guarantee the proper construction of this trail and the necessary preliminary studies to be completed before construction starts.

The Board inquired if the funds for 2007 had been sent to the trails.
Ed was to find out and report later to the board.

COUNTY MANAGER UPDATE – ED GREEN

OIL & GAS LIAISON REPORT – JESSE SMITH

Jesse submitted the oil and gas summary for Garfield County focusing on the gas well from 2003 to 2006. He made a comparison in 2003 they produced 2,075 wells and in 2006 it jumped to 3,669.

1. *Gas production state wide, total production 3.75 BCF. Natural gas 1.96 BCF and Coal Bed Methane 1.31 BCF.*
2. *Coal Bed Methane (CBM) well in Colorado*
3. *Natural Gas Permits – COGCC – Garfield Count in 2004 had 796 compared to 2006 which was 1,509 a 31% increase.*
4. *BLM Permits in NW Colorado as of October 2006*
5. *BLM Lease Sold – 2006*
6. *APD’s Received in January 2007*
7. *Projected Activity in 2007*
8. *BLM White River 20 Year Projection*
- o *Complaints Received Past 3 months*
 - November – 5 Odor, 4 – Mamm Creek Area, 1 – Dry Hollow Area*
 - 1 – Dust Parachute Creek Area and 1 – Environ Taughenbaugh Area.*
 - December – 3 – Odor, 2 – Divide Creek Area, 1 – Dry Hollow Area and 1 – Noise UNA*
 - Bridge Compressor*
 - January – 1 Odor in Mamm Creek Area*
- o *Incidents in January – Frac Tank Fire on a Windsor Pad on BLM. COGCC investigated. Water Spill on BBC Circle B #3 Pad was clear water COGCC Investigated and took samples. Spill Contained and totally cleaned up.*
- o *O & G Community Support Rep. – 24 Resumes received – Two telephone interviews on January 26, 2007 and three personal interviews o February 9, 2007.*
- o *Administrative Assistant Position – 5 resumes received and an offer was made. It was rejected. Additional interviews on February 5, 2007*

The Board was impressed by the report and Chairman Martin asked if this was on the website.
There were no questions from the Board at this time.

MOTOR POOL – REPLACEMENT - VARIOUS 2007 MOTOR POOL VEHICLES – MARVIN STEPHEN

Garfield County requested bids on hybrid SUV vehicles and regular production SUV’s.

Proposal one summary using hybrid vehicles:

12 vehicles purchased from Glenwood Spring Ford, \$265,315

1 vehicle purchased from Berthod Motors, \$18,749

Total Cost proposal one to purchase thirteen vehicles, \$284,064.

After cost analysis of purchase price, fuel consumption and miles driven in a year it will take up to seven years for pay back to procure hybrid Ford Escapes.

Proposal two summaries with out hybrid vehicles:

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Total for 5 vehicles purchased from Glenwood Springs Ford, \$119,134

Total for 8 vehicles purchased from Berthod Motors, \$125,669

Total cost for proposal one to purchase thirteen vehicles, \$244,803

Price differential between proposal one and two, \$40,261

RECOMMENDED AWARD:

- Proposal One: Glenwood Springs Ford - \$266,315/12 vehicles

Berthod Motors - \$18,749/1 vehicle

- Proposal Two: Glenwood Ford - \$119,134/5 vehicles

Berthod Motors - \$125,669/8 vehicles

A motion was made by Commissioner Houpt made a motion to approve Proposal One with a not to exceed price of \$284,064 that includes the Hybrid vehicles. Commissioner McCown seconded.

A discussion was held on the hybrids and the Board suggested these vehicles might not need to be replaced as often as the others therefore we would have the option of driving these hybrid vehicles until they payout. We don't have to trade them on the same schedule that we do a normal vehicle and then the maintenance costs will need to be monitored. If you have to replace the battery in one of these vehicles then you've lost your efficiency in driving another three years. A battery change out is about \$4500. Marvin added that to date none have been changed out. There is a 90,000-mile warranty.

Tim said that all the ½ tons are flex fuel and next year the ¾ tons will be the same.

In favor: Houpt – aye McCown – aye Martin - aye

WEED MANAGEMENT - VOLUNTEER WORK DAY CDOT RIFLE REST AREA – APRIL 21, 2007 – STEVE ANTHONY

1. ***Staff is requesting the County sign as an official partner for the event and the county allocates \$1,500 to help purchase trees. This would come out of existing Vegetation Management budget.***

Steve said they will be working at the Rifle Rest Area, Lyons Pond, and asked the Board to approve the \$1500.

The Commissioners support this event and didn't need to make a motion since Steve has the funds in his budget for 2007.

2. ***Memorandum of Understanding: Colorado Department of Agriculture and Garfield County. By signing this MOU it would enable Garfield County to conduct inspection of registered nurseries and to issue stop sale orders for prohibited noxious weeds. Staff is seeking direction from the Board on this issue.***

The Board was okay for Steve to have the ability to respond to calls or complaints of something that is being sold and they could deal with it or leave it status quo and contact the State.

Commissioner Houpt asked if Steve would have the resources to do this.

Steve said if it stayed at one or two complaints a year it wouldn't be a problem.

Commissioner McCown would like to see us have that ability and there may be a time when the inspector from Delta is in the 4-corners and not available for several days so in order to expedite it would be beneficial for us to have the ability, we could still refer to the State but this would give us the option to step in and handle something so it didn't continue. He would support this concept.

Carolyn commented that this is an unfunded mandate and no money attached to it and if it comes to a motion and the Board wants to approve it the document requires you to officially designate Steve Anthony as the person under the Contract who is responsible for the stop work order, it does empower Steve if the State finds him well-trained enough to issue stop work order. The State will do the court procedure if it has to happen.

This is basically would let Steve red-tag the nursery.

Commissioner McCown inquired if it has to be an individual or can it be our Vegetation Manager.

Chairman Martin said in the contract it does say they will provide the vegetation manager of the department and states designate one employee. He believes we need to take the lead and be the first on in the State to do it. Steve is well recognized in the weed management programs.

Carolyn noted that there is a 30-day notice required to get out of this contract.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the MOA between the Colorado Department of Agriculture and Garfield County and that our director is appointed as the contact or point person of authority and that the Chair be authorized to sign.

In favor: Houpt – aye Martin – aye McCown - aye

WEED COST SHARE PROGRAMS REVIEW NEW WEED COST SHARE PROGRAMS

Steve submitted an attachment to the Board and gave them a good idea of the percentage of reimbursement proposed for the various programs and deadlines.

Cheatgrass program – the Board had budgeted \$22,000 for 2007 and hoping this new program could help with some wildfire mitigation encouraging landowners to treat some cheat grass and hopefully minimize some of the wildfire risks in the County. There are two options.

Two options for the Cheatgrass program are available.

- *A portion of the budgeted funds (\$10,000) could be used to purchase the herbicide Plateau and resale to landowners, Garco would pick up 25% of the costs. The cost to the landowner would be \$70/gal. The rate per acre is 6-8 ounces per acre so the material cost to the landowner would be \$3.30 to \$4.35 per acre. It is not the intent of this program to compete with the private sector or to get into the herbicide resale business. Plateau is only available to give. Agencies, who in turn may offer it for resale. The plan is to take order for the Plateau until July 13, 2007, then in August makes it available to landowners. Tentatively an evening meeting for interested landowners is schedule in Silt in April.*
- *There are other non-Plateau options for cheatgrass management. If a landowner is interested in alternatives, the landowner may apply to the weed cost-share fund. The remaining portion (\$10,000) of the cheatgrass budget could go to the weed cost share program.*

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Steve’s proposal is to resell this at 25% of the cost and it cost \$280 and we propose to resell it at \$70.00 and the use rate is 6 to 8 ounces per acre so you’re looking at a material cost of \$3.00 to \$4.00 per acre. We don’t want to get into having a business at our shop where we are competing with anyone, we would set it up so they would have to go through the entire format and set up a site visit with us. We would go out and they would sign up for the program and then one-time a year, one day in August we would make that available and they would pick it up. That’s one way. Another way would be to roll some of the cheatgrass money into the cost share program. There are other methods to treat the cheatgrass so this would give the landowners two options.

Don asked about the material that you would resell to the private sector, does it require any specialized training by the user.

Steve said it doesn’t require that but what they have set up is, we have invited the company to send a representative from BASF and set a date and try to have an educational weed meeting in the evening once a year and the date has been set for April 12th and he will talk about this. This is a way to publicize this program as well.

Is an applicators license needed.

Steve – no, it is not a restrictive substance.

Don asked if this is a material that would require special storage or control.

Steve said nothing out of the ordinary as to how we store our other materials.

Carolyn asked how long Steve would store this prior to going to individuals.

Steve would like to have the deadline for the plateau as July 13 and they have until then to apply the material and then give it 2-3 weeks to come and then pick a day, notify the landowners to come by August 5 to pick it up and then they would treat the cheatgrass in September and October.

There is a twin called Plateau that is used extensively in the south east for Peanut farmers and they ratchet the price upwards. It is two to three times higher so everyone was buying Plateau and said no more. It is an economics issue.

Steve could make it a conditional use of coming to the educational program in order for the landowner to use it. He feels it is important enough to link these two together.

Commissioner McCown – you may have folks that attended the educational program last year and did not favor having them come back every year.

Steve reminded the Board they will have site visits.

Carolyn asked if Steve would only be selling to individuals or to professional applicators.

Steve said some individuals would not apply it themselves and hire a contractor to apply it. We could make it simple and sell to the individual and then they hire someone and provide the services.

Carolyn – what if some of the private sector applicators come and want to buy a lot.

Steve said they would have to go through the landowners.

Commissioner McCown – you have the site visit and the educational meeting would prevent this.

The Board approved this program.

The Tamarisk/Russian-olive program

To date, it has been publicized that Garfield Count will pay for 100% of the cost of the cutting. This may include the State Wildland Inmate Fire Team (SWIFT) crew from the Rifle Correctional Facility or a private contractor. There are private contractors on the western slope that have experience using machinery and equipment on tamarisk and Russian olive removal.

Points to discuss:

a.) The landowner shall determine the method used

b.) Is it the desire of the Board to fund chemical treatment also – Yes.

Steve said they have published it somewhat at Ag Day, the week before last but mentioned we would provide reimbursement for the cutting and need to discuss this with the board. Steve feels that we need to give the landowners a couple of options in case the SWIFT crew would be tied up with a wildfire. Steve would like the option of having the landowner determine how they want to do it on their land. The question would be going to the chemical treatment, is the Board’s desire to fund all of that as well, 100%.

Commissioner McCown – it doesn’t do any good to cut it if we don’t treat it so it would not be in our best interest to pay for the cutting and then not ensure it is treated.

Chairman Martin also favored ensuring it is treated.

c.) The SWIFT crew may be able to chop the slash in some, but not all instances. Is it the desire of the board to fund chipping where practical?

Yes.

d.) There will be slash piles. They will be the responsibility of the landowner. We will work in conjunction with the County Environmental Health Department to provide information on smoke management and where to obtain air proper burn permits.

Yes.

Carolyn asked the Board to leave this up to Steve and her to figure out whether or not we can create one master document to cover all of these different things and make sure we have the indemnity and release for the County and the other organization involved. If the Board wants to see those she can bring them back. The Board was comfortable with this arrangement and stated this did not need to come back to them on the consent agenda.

- ***Tamarisk Coalition/Garfield County Agreement – Steve Anthony and Carolyn Dahlgren***

Steve and Carolyn submitted the contract for signature

Amount and Method of Payment:

The BOCC shall pay the contractor an amount not to exceed One Hundred Five Thousand Dollars (\$105,000) consisting of the \$95,000 DOLA Grant and \$10,000.00 in Garfield County funds.

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Steve presented the DOLA grant and Carolyn said she spoke to Tim Carlson and this is a good draft but Carolyn has some changes that need to be made and Tim also does not have contract authority for the organization so this would have to be replaced with the Vice President. The document is otherwise the way the Board directed the CA to construct it with just the DOLA flow through money plus the \$10,000 the Board budgeted and not any of the other governmental entities money and there's an IGA associated. The organization does not own any vehicles and use their personal vehicles and reimburse the employees GSA rates and require the employees to have insurance. He is asking that the liability insurance be dropped out of the contract.

Carolyn stated that Chairman Martin has already been authorized to sign the contract but the board had not seen it with what they directed not to include the other governmental and private sources. The Board approved the changes be made and didn't need to come back on the consent agenda.

- **WEED MANAGEMENT - 2007 Mosquito Control contract – Steve Anthony**

To establish a contract with a qualified contractor to provide larval and adult mosquito surveillance and larval and adult mosquito control for mosquito breeding areas on public and private property with emphasis on West Nile Virus vectors.

Steve explained that Garfield County is genuinely concerned for the welfare of its citizens and employees. This concern and the potential for spread of the West Nile Virus by infected mosquitoes are the catalyst for the RFP.

Garfield County's population of 50,676 consists of 2958 square miles located in northwest Colorado. In order to determine the best qualified contractor to provide larval and adult mosquito surveillance and control of breeding areas, a selection criteria was established and requests for proposals were sent out.

We received two responsive proposals. Both firms were invited to come to the County to interview with the Selection Committee and the two interviews were scored in the areas of established criteria. The team consisted of Tom Whitmore, Parks Director for the City of Rifle who was representing the municipalities, Steve Anthony the Garfield County Vegetation Manager, and Jim Rada the Garfield County Environmental Health officer.

After tabulation of the criteria and discussion among the Selection Committee members and a unanimous choice was made to recommend the award to Colorado Mosquito Control for a not to exceed amount of \$111,750.00.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the 2007 Mosquito Control Contract with Colorado Mosquito Control in an amount not to exceed \$111,750.

In favor: Houpt – aye McCown – aye Martin - aye

- **FINANCE - DISCUSSION OF GARFIELD COUNTY REPRESENTATION IN SMALL CLAIMS COURT – BOB PRENDERGAST**

Small Claims Court Summons from Garfield County to Mr. Paul Gruner who failed to pay Landfill Charges on October 27, 2006 in the amount of \$1,801.92. Carolyn Dahlgren requested I have the BOCC approve my representation of Garfield County in Small Claims Court for this issue.

Discussion was held and the Board favored recovering as much as possible.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve Bob Prendergast to represent Garfield County in small claims court for some of the items mentioned in the Board's packet.

Carolyn stated the request came to her in 2003 and then that request went away and here it is again in 2007. For the most part Garfield County to the degree that it has been involved in the collections actions has done so through District Court. Small claims court allows your designated person without an attorney to prosecute under a certain dollar amount and to do so with form documents that are available through the State Judicial System. Carolyn checked with several other counties and this is the procedure they use to collect funds in overpayments with DSS and is getting ready to use County Court for their storm water drainage collection fees. Chaffee County also uses this process. One concern is getting stuck in County Court and it's not clear if we could immediately if the defendant shows up with a lawyer, get the action sent up to County Court much less all the way up to District Court. What does happen, if the defendant shows up with a lawyer, then Bob has the option of having one of us come over and help him prosecute the case in small claims court. The whole idea of small claims court is that normal human beings without their lawyers are supposed to be able to sit down and work something out. If the Board wants the Controller to start collecting monies due in this case it's the landfill, we would need you to designate him both him individually and his position and need some direction from the board on whether or not you want to just keep this with landfill or if you want Bob to branch out to other situations in which monies are due.

Commissioner McCown would favor Bob in this instance and we are not trying to collect 3 times the amount due as you can do, we are attempting to get our money back and it would be a good test and then we can discuss it later if we want to branch out to other problem areas we may be having on collections.

Commissioner Houpt agreed.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to move forward with this and Bob be appointed or the Controller as our point person that would take these to the small claims court.

In favor: Houpt – aye McCown – aye Martin - aye

Landfill Ticket - Carolyn asked permission to include the \$25.00 filing fee if the court charges us and the Sheriff's cost of service and if need be the cost to enforce the judgment. She requested another motion to allow them to include costs.

Commissioner Houpt so moved; Commissioner McCown seconded.

Chairman Martin – that is \$162.00 plus.

Carolyn asked if Bob was to charge interest as he could under the Statute.

Commissioner McCown – wants us to recover all costs that we've lost and if that would include interest, no problem with that. Filing fees and any other fees we might occur we should get back. Let's go forward and see how we do.

Carolyn said Bob will come back and report on this issue.

In favor: Houpt – aye McCown – aye Martin – aye

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CITIZENS NOT ON THE AGENDA ITEM

TRANSPORTATION AND TRAILS - Crvstal Trail

Ed reported that as of today, we have not allocated the money to the trails and suggested we could discuss this with Pitkin County on February 27th. We haven't been invoiced and the Board wants to put a hold on it until we clear it.

Don – when the request comes in that would require a new contract for this year.

Ex Session Item

Carolyn discussed a dual role as administrative review office acting HR Director and need to discuss this in Executive Session as well.

COUNTY SHERIFF UPDATE – Lou Vallario

Lou was not present but he did submit the report.

Chairman Martin stated under **Senate Bill 06-090** in reference to immigration and custom enforcement officer he has to report to us that for the total year of 2006 he had 1,341 ICE holds or arrests within his facility.

COUNTY ATTORNEY UPDATE – DON DEFORD

Executive Session: Litigation Update; Legal Advice – permit issuance for two roads, 221 and 306 that come up for discussion at 10:15; discuss and receive direction concerning contract negotiations for CR 204; direction and potential public action concerning the IGA with Rifle – Justice Center; provide legal advice on a 10:15 item regarding Affordable Housing; with a 10:15 item concerning the Satank Bridge; update on the Silt litigation; and an update on contract negotiations in Glenwood Springs for an IGA on the South Bridge.

For the road issues, Don requested Marvin and Jeff present; and Randy on a couple of other issues.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken:

None

COMMISSIONER REPORT

Commissioner Houpt – Met with Larry Dragon for an update on the trail – that process is moving along; Wednesday, gravel pit meeting with the mayors and asked staff to move forward to bring a draft proposal for a regulation to us; I-70 Coalition meeting on Thursday and CDOT is still in transition so a lot of their dates are still up in the air on the I-70 PIES; CCI meetings on Friday to discuss various bills in front of the legislature now. Tresi will be out of town at her Grandmother's birthday celebration of her 100th. Commissioner McCown – Gravel Pit meeting with the Mayors on Wednesday; Thursday Associated Governments; Northwest Colorado in Meeker; this week Jesse and I are going to coordinate a meeting with Chevron regarding County Road 204.

Chairman Martin – All three at the gravel pit roundtable; that evening followed up with the Roaring Fork Conservancy in regard to the health for the river and also their activities – they're evaluation, focus group and they will also be requesting out planning department send a referral if there's a large development along the Roaring Fork River they would like to share their science. Followed up with a State of the County in Rifle at the Brickyard and thanked Jesse, Ed and Dale for being there as well supplying that information; in Denver there was one issue that we did run into and that was the Department of Local Affairs who informed us that the Governor is tentatively capping the federal mineral leasing at \$99million and taking all the spill over and putting into balancing the state budget. They are also looking at numerous items on the severance tax as well as some other issues and we're waiting for a presentation from Mr. Colby so we can also appear. I have also been asked along with Rep of CCI General Government which is a Rio Blanco representative to be there and Mr. Torres Archuleta is also going to be there. We will hopefully be in front of the budget committee in reference to that. Also represented the County on Saturday evening and presented numerous awards along with the Sheriff to the Club Scouts and Boy Scouts of Pack 225. Human Service Awards at the Hotel Colorado is tonight and I will be there. Public lands and steering committees in Denver on Thursday and Friday.

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-fund Transfers
- d. Changes to Prior Warrant Lists
- e. Authorize the Chairman to sign the Special Use Permit and Resolution of Approval for "Storage and Material Handling of Natural Resources" allowing the utilization of an existing industrial pond for temporary storage of water used in drilling operations of natural gas. Applicants are Gene and Gail Mulvihill – Craig Richardson

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the consent agenda absent b & c.

In favor: Houpt – aye McCown – aye Martin - aye

PUBLIC MEETINGS:

ROAD AND BRIDGE - SATANK BRIDGE ASSESSMENT RISK REPORT – ERNIE KOLLAR

Jeff Jackel and John Hoffman were present and submitted a letter from Ernest Kollar Engineers, Inc. John presented a brief background on this project saying that in 2002, the Chairman of the Carbondale Trails Committee, John Hoffman, wrote and submitted a grant to the Colorado Historical Society requesting \$10,000 for an engineered historic structure assessment of the Satank Bridge. A bridge assessment report was submitted to the state and the grant was closed out in 2004.

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John Hoffman received a second grant for \$89,100. Instead of Garfield County administering the grant and overseeing the bridge rehabilitation, the Town of Carbondale indicated they would act as the required municipal “grant recipient” for this second successful grant application submittal.

John Hoffman worked with Tom Bleskan, who specialty is bridge timber work, getting grant estimates and it was estimated to cost \$63,325. John Hoffman’s company, Roaring Forge, was going to fabricate and provide needed steel and metal components for the bridge rehabilitation at a cost of \$22,200. Tom Bleskan withdrew late last year as he was unable to obtain affordable liability insurance. Another set back was the need for a crane to remove the temp. bridge. Cost \$40,000. John received two Probable cost estimates (not bids) from Mueller Const. Service - \$277,257 with a \$30,000 contingency built into the estimate. John also receives a probable cost estimate from another – John Farnum, \$118,600. This figure does not include Crane Cost \$40,000, cleaning of bearing rollers, sand blasting etc.....

John developed a job list with a probable cost of \$163,000. The job list does not include construction of a new wing wall, not does it include engineering fees or any project contingency money. John and Jeff Jackel met with a rep. from the State Historic Society on January 23, 2007 who indicated they will not consider a 2nd extension request (due March 31st) unless we have a general contractor bid award in hand.

Request: Unless we can make up the anticipated financial shortfall for this project, which appears to be approximately \$80,000, it is my recommendation that the Town of Carbondale Terminate our grant contract with the state due to the project budget shortfall. After we have more accurate bridge estimates, John Hoffman could resubmit another grant application to the Historical Society. If a second application is submitted requesting additional state funding, and if the application is awarded, I would like to see the grant applicant be Garfield County and that the Garfield County Road & Bridge Department administer this Satank Bridge rehabilitation project instead of the Town of Carbondale.

Discussion was held and a decision was made to discuss this with the Town of Carbondale and have them contact the State, return the \$89,100 in grant money and apply at the next grant process where a new grant will be submitted asking for additional dollars.

Commissioner Houpt wants to make sure that cost estimates are accurate before submitting a new grant application.

Jeff said they will find out when the next grant submittal is and believes it to be a fall application.

AIRPORT - DEVELOPMENT REVIEW/UPDATES/REQUESTS – BRIAN CONDIE

Brian submitted a review of the Garfield County Airport Project saying he was hired as the Airport Manager in May of 2002 and in June of 2002 we had the first Airport users meeting where we invited all the tenants, the public, the pilots to give us their ideas of what they needed or would like to see at the Airport. We came up with a list of 13 projects a lot of which helped to improve the traffic and revenues at the Airport. Most of those were safety related, a lot were capacity related and of those 13 projects, two are in progress at the present time - the Airport Administration Office and the D-III upgrade. The only one we didn’t get to is the relocating the east access road which we talked about and will address here in the new projects. A lot has been accomplished in the last 5 years. On January 9th of this year we had another open house Airport User Meeting where we again brought in the FAA, the State, the County administration, we invited the tenants and the public out to get their input once again on what they would like to see in the next 5 years at Garfield Airport. The list submitted to the Board are the projects they requested or that would improve our Airport. Brian reviewed the project list and presented this in a Power Point. The items discussed are listed below and Brian stated that he would be requesting or would improve our Airport. Brian stated he would be requesting approval of Items 1, 2, 3, & 4 today. One project Brian was working on was the grooving of the runway. One item on the project list was Airport safety improvements and we’ve done a lot of work to improve the Airport. The project Brian was working on was the runway grooving and we had allocated about \$75,000 to do that. The project came in at 50% to 200% over that mark and since we only have it for 5 more years he decided not to pursue the runway grooving and then yesterday we had another jet go off the runway and in talking with the pilot and Justin Carver – this pilot landed long so grooving would not have helped this individual. Brian did make a mandatory statement that whenever the runway is wet, ice or snow, that we advise the pilots they were landing downhill on a slick runway and today we had several pilots choose to go to zero 8 and land uphill. Information is the way we will address that safety concern with aircraft sliding off the runway.

1) Runway 8/26 Upgrade to D-III – This was originally slated at \$20 million back in 2003 and now it’s up to \$30 million. The meeting with the FAA last month we addressed the shortfall of the \$8 million and how it was not on the CIP and we were within the 5-year range of that. The major thing is the FAA put on the CIP and gave us the additional \$8 million to complete this project in 2012. This is on their plan as well as ours. The new completion date is 2012. Currently the FAA will pay 95% of the project – that ends this year and may go back to 90/10. That project is moving forward and the environmental assessment will be completed in the next few months. We will move forward with the engineering this year and next year we have funds to upgrade the west end of the Airport Road, and in 2009 we will address the east end; 2010 we will need to wait and pool that money for 2011 and 2012 so we can get a larger chunk of the project done. 2010 is not scheduled for any cash outlay for the project.

2) WAAS/ODALS – Brian included some information this for the Board. We are open 24 hours a day now that some safety improvements have been made. We have a remote communication channel so pilots can talk to Denver center all the way to the ground and we have Rifle reservations so when you can’t get reservations to the other airports in the area you can always get to Rifle. This has been done to increase capacity. The next major thing is to increase our instrument approaches minimums which is what the lower wide area augmentation system would do. Currently we have a mountain radar system being looked at and funded mostly by the state. We have a portion that we are funding. This is supposed to go in the 2009 ski season – this will give Denver radar coverage at our airport all the way to the ground and increase our input of traffic as well. If we can get a lower instrument approach then the traffic will continue to increase. Brian added the FAA forecast for the next several years and the very light jets are coming out for the type of customer passenger that comes to our airport. Our airport is positioned very well to accommodate them with hangar space and safe flight into a mountain region at night. This WAAS approach, Brian needs to go back to Oklahoma City and talk with them and see the feasibility of getting the approach into our existing runway.

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We talked about waiting until the new runway because we just have to re-do it in 4 – 5 years. The consensus was if we can get a lower approach now then they have done the work in the valley and to tweak it will not be that much harder and we know we can get lower minimums. This also gives us 4 – 5 years of lower minimums assuming the runway project is completed on schedule in 2012. If it's not then we have 6 – 7 years of improved traffic and flow into the area. That project would be around \$100,000 completed. So Brian will request to go back to Oklahoma City and see what the feasibility of getting this done in the next year.

3) Land/Easements Acquisition – the land we need to acquire is listed and we have the appraisals back for the land and we have funding from the FAA this year to purchase that land. We've already authorized Peter Muller's group to negotiate the purchase with that and the direction given to Ed and Brian was to a talk with Mr. Howard on his parcel to see if he would donate that to the Airport safety upgrade. We did meet with Bob Howard and he was more than happy to donate the parcels that we need and the navigation easement on the east end for the airport safety upgrade. Carolyn is working on the documents for that. We also discussed the parcel of land for airport development as far as hangars go and that was not tied into the airport safety development and Ed and Brian reached an agreement with Mr. Howard that we would get the 2-acres and the original block – one would be donated and the other we would purchase at a reduced price. We do have funding for that and one acre we will purchase for \$90,000. We do have funds in the budget to purchase land from Bob Howard and this is one of the requests today.

Navigation easements – the price has been set for this to the east and west and we will look at that and as far as the money lasts, we will make offers to the owners for navigation easements over their property. The review appraisals are supposed to be by the end of February.

4) Airport Manager's Office – Randy, Tim, and Brian are working jointly on this project. We would like to put that where Precision Aircraft maintenance building is right now and we'll talk about a land swap with the Rifle Jet Center when they come up. If we can put it on 3FL we need authorization to have Hangar 26 removed and like to put it out to bid. We will try to get bids for the steel down to the ground and if we don't get any bids Randy said we should put this into the original contract for the new building and have it taken down all the way to the grounds. He is putting in a wash bay to meet environmental concerns. The cost is \$1,540,000.

5) Box Hangar Taxi-lane – On 5FL we have approved Mr. Woolridge's concept to put a hangar in-between Rifle Jet Center No. 3 and AV Tech (Zulu Gulf) and the question was how he would gain access and we came up with a cost of \$87,761 to build a taxi-lane from the ramp down to the access road. Mr. Woolridge wants to put an additional 2 hangars on that same taxi-lane. Funding this – 2 individuals are ready to build their hangars and this is the only thing of all these projects that Brain does not have funding for – funding options would be to get a supplemental from the Commissioners or to have the 3 individuals split that cost and then credit it back to them over the next 7 – 8 years. We have done that in the past with the Rifle Jet Center.

6) T-Hangar Access Road – 1400 feet x 20 feet wide. For a cost of \$172,579. This will be a project for 2010.

7) Straighten East Access Road – 1430 feet with 20 foot surface for a cost of \$170,861. This is not on the request list here today.

8) Public Restroom – this is under the water master plan, we ran the numbers out to give water and sanitary out to the general aviation area. The worst case scenario was about \$500,000 and John Savage said he could do it for about \$250,000 so \$250,000 to provide 40 people with water was prohibitive so it was about \$12,000 for each hangar which is another \$120,000 for his complex and it would not be worth it to him. The question we have is can't put 40 hangars up there without some kind of service. We can extend the lines for the fire hydrants and a water spigot to meet the fire requirements but we need a 24-hour restroom for them and that is where Brian came up with taking the wash-bay funds out of him administration office and put it over by the self-fueler so that the \$100,000 for the wash bay now gets rolled into two additional restrooms put in there, an outdoor wash bay that will now service 100's of people each year instead of 40 people occasionally. That request in rough numbers would cost \$159,500. My request is to add that public restroom to the general aviation area in the building with my administration office and make that one contract.

9) BLM Helipads – received a 20-year lease on the building – put up one helipad and add into the lease – need support facilities. Cost \$276,222.

10) Aircraft Preheat Stations – Cost \$1,000 – this will be in the 2012 new Master Plan.

Brian stated we can complete these projects in the next 5 years then 2012 we will come up with a new list. From that, the summary is to request authorization to purchase the development land from Mr. Howard for \$90,000; authorization to remove Hangar 2060 from 3FL either by bid or from the Airport office; approval of the Box Hangar Taxi-lane construction and have the County fund that with a supplemental and approval to put a public restroom and wash bay out as part of Brian's airport office.

Commissioner McCown – what you are asking us for is an additional \$87,761.

Brain stated there will be additional costs to add the restrooms and a wash bay, about \$50,000.

A motion was made by Commissioner McCown that we authorize Items 1, 2, 3 & 4 that were mentioned, which is the authorization to purchase the hangar development land from Mr. Howard, authorization to remove Hangar 2060 from 3FL; approve Box Hangar Taxi-lane construction and to approve the public restroom for general aviation area funding with the Airport Office. Commissioner Houpt seconded.

In favor: Houpt – aye Martin – aye McCown – aye

AIRPORT - RIFLE JET CENTER PARCEL EXCHANGE – Brian Condie, Airport Manager and Justin Carver with the Rifle Jet Center were present.

Brian stated they are trying to finalize the release of land that they lease currently back to the County so that we can use it for development and then give them the land that Brian's office is on now for a larger hangar. The Rifle Jet Center leases 3FL and 9FL- 9FL was for a hangar and 3FL was for a terminal building. In discussions we have found they need hangar space more than a terminal building and that's spot is not large enough for the hangar size they need but it would be adequate for an administration office. Sky Griffith had come and asked them if they could put a 135 foot hangar for a Gulf Stream and they agreed to give that back if it was amenable to the County so that piece of land will not sit vacant, they will pick it up as soon as we can sign the paper work with Sky Griffin we would like to release it from the Rifle Jet Center. In moving the

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administration office to 3FL Brain can stay in his office until this is built and not have to get a temporary office which is nice. Then we would release 1FL Flight Line, to the Rifle Jet Center 250 x 250 to put up a \$30,000 sq foot hangar. The Rifle Jet center discussed their offer to give us \$100,000 to remove building 2060 and they would like to extent that offer to remove the two modular buildings on 1FL with a payment schedule to be December 31, 2007 and December 31, 2008 two payments of \$50,000 each. The use of the buildings on 1FLA, Brian might let them use the old terminal building where the BLM – it’s not acceptable for the public and needs to go away. We did not discuss any penalty or consequence if they did not build within 10 years so we have the option of taking that land back. We can look at other airports but they are all different.

Commissioner McCown confirmed that both parties are in agreement with these exchanges.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt we authorize the action between the Rife Jet Center and the Garfield County Airport 5 items as mentioned.

In favor: Houpt – aye McCown – aye Martin - aye

AIRPORT - WOODWARD HANGAR PROJECT REQUEST – Brian Condie and Bob Woodward were present.

Brian submitted the concept plan.

Robert stated he wanted to build two hangars at the Garfield County Regional Airport for my own personal use.

Brian identified the parcels as B-2 and B-3 on the Box Hangar Taxi-lane at the very end behind Hangar 3 and AV Tech. They are shown on the exhibit submitted to the Board.

Brian stated this is a concept plan so we’re not entering into a lease agreement, we are agreeing with the concept and allowing him to go forward and spend money so the request is to approve the Woolward Hangar Concept on parcel 12 B2 and 12 B3.

Commissioner Houpt so moved; Commissioner McCown seconded.

Commissioner McCown asked how much of 12B does this utilize, the percent of the property. 12-B is a very large parcel and will it render the rest of that useless.

Brian – this is more than 1/2, 50,000 sq feet and we have about 40,000 sq ft left. Parcel 12 B1 is accessible through the Jet Center and all they would have to do is get a right of way which they have talked to the Jet Center before, and the Jet Center is amenable to that. The other is 12 B4 and that’s accessible by the existing T-Hangars. Those two parcels are not land-locked yet and these are the only two left in the commercial area.

Robert said this is something that he and Brian haven’t discussed was the expense of the new taxi-way that will serve his two hangars and the other hangar and he said he is more than willing to pay his 2/3rds of the cost of that and take abated rent to recover that.

Chairman Martin – that will the details of the lease and concept and working with Brian – that would be alright.

Robert complimented Brian as he’s been very easy and professional and had an entire packet of information and I have hangars in three other locations and this is by far the easiest and friendliest area to work with yet and one of the most professional packages that the Commissioners require to be met.

In favor: Houpt – aye McCown – aye Martin - aye

AIRPORT - ZULU GOLF LEASE ASSIGNMENT TO AVTECH – Brian Condie and Chris Locher Zulu Golf Aviation, LLC seeking approval from the BOCC to assign it’s current lease hold agreement between Zulu Golf Aviation, LLC and the Garfield County Airport to the company that currently is doing business in the hangar on the lease hold property. The name of that entity is AvTech, LLC. The responsible part for both Zulu Gold Aviation, LLC and AvTech, LLC is Christopher M. Pfeifer, with contact information as follows: 205 S. Mill St., Suite 301B, Aspen. A draft was presented to Brian Condie and Carolyn Dahlgren for approval. Zulu Golf Aviation, LLC would like to amend the current least to protect its future rights to perform maintenance operations at this location (which is subject to the \$250.00 activity fee) and supplied a copy of that amendment.

Brian said if Zulu Golf is going to assume AV Tech’s lease we would like to amend Zulu Golf’s lease first to allow them to do maintenance then allow the assignment of Zulu Golf to AV Tech.

Carolyn stated that these are related companies, overlapping ownership so the first document would need to done would be the amendment to the current lease under Zulu Golf and then secondarily the assignment and the underlying lease with Zulu Golf of course requires that the Board approve the assignment, otherwise it’s for profit LLC dealing with each other. Carolyn has been working with Zulu Golf and AV Tech’s attorney and we do have a first draft but they weren’t good enough to get in the packets. They are straight-forward but there were some fill in the blanks about whether a hangar expansion would be required or optional and fill in the blanks about names so as we move forward she wants direction about how the Commissioners want to see the documents.

Commissioner McCown made a motion that we approve the lease amendment to Zulu Golf allowing Air Frame and Power Plant repair and specialized aircraft repair services as listed in the Airport Minimum Standards. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown said he would also approve the assignment of the lease to AV Tech from Zulu Golf once it has been prepared.

Carolyn – there is one other piece of the first amendment and that would be to allow Zulu Golf and then AV Tech LLC to expand the size of the hangar by about 1400 square feet. Brian said it was 10 x 60 presently. It is storage and cleaning bays and they would not be adding any sewer or water. It would just be increasing the size of their hangar.

Commissioner McCown amended his motion to include that condition.

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – aye

Clarification was made to have these on the Consent Agenda when completed.

AFFORDABLE HOUSING - DISCUSSION/DIRECTION GLENWOOD MEADOWS AFFORDABLE HOUSING

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Arnie Porath, Spruce Realty Group (Developer), Geneva Powell, Garfield County Housing Authority Director and Don DeFord were present.

Don presented the fact that he had submitted to Arnie the list of conditions made by the Board and there were two items that Arnie responded. The letter from Arnie was submitted and contained the following response: In response to conditions submitted to Arnie Porath directly related to the last discussion regarding the Glenwood Meadows Affordable Housing Project, Arnie addressed and refined two of the conditions as:

Condition 2 – “the payment to the Housing Authority will be based on an amount of \$12,500 per unit and shall not be paid by the Housing Authority to the developers until a Certificate of Occupancy has been issued for the subject unit.”

Response: Pursuant to standard construction practices, the development will receive a CP on each building when completed. Upon the completion of each building and the HA’s acknowledgement that a Certificate of Occupancy has been issued, the developers request the appropriate amount of funds (“the number of units specific to a building” x \$12,500) will be transferred to the partnership for payment of development costs. There are 6 residential buildings in the development with 20 units in each building. The delivery of a building’s certificate of occupancy would result in the release of \$250,000.00.

Condition 8 – All units that are the subject of the County agreement with the HA shall be made available solely to potential residents, at least one of whom per unit must be employed within Garfield County and employment status established at the time of application. Additionally the agreement with the HA will permit rental of all subject units to individuals who are not employed, of those individuals or families can demonstrate Garfield county residence continuously for at least 30 days prior to the date of application.

Condition 9 – “As well as verifying appropriate employment of all residents.”

Pursuant to Title 26 IRS 1.42.9-(a) general rule – If a residential rental unit in a building is not for use by the general public, the unit is not eligible for section 42 credit.

Glenwood Meadows Apartment Community if financed in part by the IRS Low-Income Housing Tax Credit program. IRS Section 42 – as such, we are governed by the rules, regulations and guidelines established by the Internal Revenue Service and the United States Department of Housing and Urban Development. I have attached excerpts from both the IRS Code of Federal Regulations Title 26, Volume 1 and the HUD Occupancy Handbook.

Discussion was held: Don stated that there was the possibility of having a preference for employment in Garfield County but not a blank refusal to accept if not. \

Geneva explained that HUD allows a preference and went into detail as to how the HA allows for preferences.

Commissioner Houpt was okay with a preference given to those employed in Garfield County but also wants to include the disabled and retired who do not work.

Commissioner McCown understood the IRS restriction but would like the preference of employment in Garfield County to be reviewed annually.

For the first time in these discussions it was apparent that the HA does not have the staff to manage the entire 120 units and will only be managing 25 to 30 units. Geneva explained that were two types of housing they manage: Housing Choice and Project Based. She added they have 435 vouchers for Garfield County at the present time.

The Board was under the understanding that all 120 units would be managed by Geneva and the preference would apply to all 120 units.

Geneva explained further that TANF clients from the Department of Human Services have preference over others but they are recertified annually.

Don reviewed the conditions for clarification: The conditions I set out were the \$1.5 million is a not to exceed at \$12,500 a unit. Arnie had raised an issue with that per unit payment. Do you want it by building rather than unit is this what you are saying?

Arnie – that’s the way, the certificates will be issued by building.

Don – I didn’t have a problem leaving it the way it is and just however many.

Arnie – we may have some pre-leasing but we wouldn’t move anybody in until that entire building was complete.

Don – that’s fine, it just means you get that many units all at one time.

Commissioners agreed this is fine.

Don – there is a requirement for review of construction plans that I would leave in and stated we already have received a full set of construction plans; I have the geo tech report in hand that I will provide to the engineer. Arnie has given us both of those. They will comply with their own representations.

Don – they will be available solely as rental units, no subleasing, then to the critical issues of what I wrote as mandatory conditions of employment by a Garfield County employer or residence within the County for 30-days prior to application if no one is able working in the family.

The Board expressed they wished to change this term to “preference”.

Don – backing up, Tresi mentioned something about disabled individuals; I did not include that as a preference.

Chairman Martin – individuals who are not employed due to disability or whatever.

Commissioner Houpt – it doesn’t matter. If they are retired, or In school full time. Is that too general, Geneva?

Geneva – I think it would work; I was trying to think of a similar way. I know the intent of the Board is to house our workforce for Garfield County but we don’t want it to be a determinant for the elderly and disabled that are no longer in the workforce.

Commissioner McCown – so those would be not working – you either or, or not working.

Commissioner Houpt – so that’s why we went to the general language in the last meeting because we were getting caught up in language and so we went to the easiest statement we could fine that would include those people including the folks in the TANF program. These are people who qualify for your vouchers who are not working at the time they receive aid.

Geneva – but would you want a person employed at RE1 school district to have preference over a disabled person?

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Commissioner Hought – that would be the same preference.

Chairman Martin – and it is going to be your point criteria on how you go ahead and establish which is eligible above the other and that's the weighing factor.

Don – and the last condition was the verification of the income and employment annually.\

Commissioner McCown – at time of lease review.

Arnie – mandatory for us.

Don – so, if you wish to change those conditions we discussed.

Commissioner Hought – so moved; Commissioner McCown – second.

In favor of the changes: Hought – aye; Martin – aye; McCown – aye

ROAD AND BRIDGE - ROCKY MOUNTAIN HOTSHOT & TRANSPORTATION, INC -

**CONSIDER REQUEST FOR DRIVEWAY ACCESS PERMIT ON CR 221 (GREEN LANE) -- --
HARTERT, THOMAS J. AND GEIGER, CHRISTOPHER L.**

Thomas J. Hartert, representing the client and Christopher L. Geiger were present. He is here today as their client, Rocky Mountain Hotshot & Transportation, Inc. cannot accept the seven condition the BOCC set forth in their letter dated January 22, 2007. The conditions are as follows:

a. An accel/decel lane will be constructed at the intersection of CR 223 (Peterson Lane) and Highway 6 & 24 on Highway 6 & 24 to improve current safety condition to a commercial standard.

b. The portion of CR 223 (Peterson Lane) from the intersection of Highway 6 & 24 to the intersection of CR 221 (Green Lane) will structurally be rebuilt to accommodate commercial traffic. The length of this section is 0.07 miles.

c. The intersection at CR 221 (Green Lane) and CR 223 (Peterson Lane) must be redesigned and widened to accommodate commercial traffic.

d. The entire length of CR 221 (Green Lane) from the intersection of CR 223 (Peterson Lane) to the intersection of CR 210 (Mile Pond Road) to include the intersection of CR 221 and CR 210 will be widened and structurally rebuilt to accommodate traffic. The length of this section of road is 0.95 miles.

e. The section of CR 210 (Mile Pond Road) from the intersection of CR 221 (Green Lane) to the intersection of Highway 6 & 24 will be widened and structurally rebuilt to accommodate commercial traffic. The length of this section of road is 0.96 miles.

f. An accel/decel lane will be constructed at the intersection of CR 210 (Mile Pond Road) and Highway 6 & 24 on Highway 6 & 24 to improve current design standards.

g. Pursuant to the conditions set forth above, you must submit a full set of engineered construction plans setting forth a design that adequately addresses all of the conditions set forth above. Those plans must be approved by both the Garfield County Road & Department and the Garfield County Engineer prior to commencement of construction.

The Request today is to appeal the conditional approval.

Discussion was held.

Don DeFord explained that access to Highway 6 was denied by CDOT and access to CR 221 was denied by the county. Conclusion: Road and Bridge would issue the permit with conditions that would allow safe use of the CR 221 for commercial use. However, the conditions were not acceptable and they are here to appeal to the Board.

Thomas Hartert of Balcomb and Green, Tiffany Wood and Ed Graves from Rocky Mountain Hotshots were present

Tom explained they were caught between two jurisdictions, the County and CDOT. He wanted to make it clear that they were not trying to have this 13 acre property re-zoned. He requested the conditions be lifted and it wasn't fair to request the property owners to improve the entire road.

Tiffany explained they had 8 trucks, 4 being used off-site and they came in each week. The trucks are not loaded when they come to the site. The trucks don't go down the road loaded.

Commissioner McCown explained the issue is you can't access any job site without crossing Hwy 6 & 24. They must exhaust administrative procedures.

Don – the property is zoned for commercial uses – no way to require limited use – additional uses in property could lead the state requiring us to make improvements.

Tom – could be limited by use – identify why it can't be used as commercial property – two roads – how to get use off CR 221.

Chairman Martin suggested a detail report why CR 221 is not acceptable – cost too much to repair, maintain and widen. The legal access is Hwy 6 & 24 – means new access permits.

Don – appeal of the denial for a road permit.

Commissioner McCown explained that the County is willing to do whatever we can – this is 22 feet of roadway and no shoulders.

Charlie Willman, representing Dubois the seller said he understands the problem with the truck traffic and the problem we get into is that CDOT is not going to allow access as it's a matter of cost. From the owner's position, we can't sell this property to anybody and it's a valuable piece of property, because nobody will give us an access permit and if we lose this sale others may be interested but it will be the same argument and his client will lose a valuable property right. This puts Charlie in a bind that he doesn't want to be in. It almost has to be a "no way, no how, no cost" we aren't going to do it. And Charlie doesn't know how to solve this problem and feels Don can draft something to overcome this issue.

Chairman Martin – one of the aspects is the safety and the historical use of that road and then trying to adapt it to modern day commercial use and that's a safety issue we have to address. It just cannot be done. That's our finding.

Charlie understands what the Commissioners are trying to do and not trying to create problems but this is a valuable property right and something needs to be done.

Commissioner McCown – we're all trying to get to the same end, it's just a matter of safety and didn't know if a Resolution prohibiting commercial access to that road would do it – no problem drafting one if that's where we need to go but not sure that will help.

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Don – first of all if you’re inclined then you need to deny their appeal by motion. Then the Board would probably want to direct Don to prepare a letter from the Chair communicating that to denial and then set out in that the reasons why you’re denying it.

Chairman Martin – correct.

Don suggested the conditions because it doesn’t seem that the Board, listening to all three of you that you’re frankly that keen about even going to those conditions.

Commissioner McCown – there would have to be significant right of way acquisition to implement most of the conditions that Road and Bridge applied because what we own on that road is between the fences and it’s significantly less than 60 foot and we’re dealing with an irrigation ditches that cause a problem, so it is what it is – it’s not a good road – it’s all we own – it’s perfectly fine for light residential traffic but it is clearly a safety issue and it is not physically constructed to meet the needs of commercial traffic and we have no means of expanding that because of the right of way restrictions. There are your reasons.

Commissioner McCown made a motion that we deny the request of the appeal of the applicant on a driveway permit on County Road 221 and that the conditions that I just noted be listed as conditions of denial and we will do what we can to help them gain their access from CDOT. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – aye

CITIZENS APPEARING NOT ON THE AGENDA

BUILDING AND PLANNING - PINE STONE APPLICATION - Mr. Richard Dally – Cattle Creek –

Pine Stone application for a Special Use Permit

Mr. Dally requested the Commissioners continue the scheduled public hearing on February 20 until more information could be obtained. He stated that they have had virtually no notice until exactly 3 days ago. He is one of three of a group of about 75 of us that have tried to quickly communicate with and have prepared some affidavits that are signed and about 75 affidavits are being circulated. This is a 78 page SUP application.

Chairman Martin stated the Board has not seen the application and if it is being forwarded to us we can’t take testimony on it until we open the public hearing.

Mr. Dally - understood and all he is asking for is to be noted that we would like some additional time to prepare and gather our organization of evidence to do so. It’s on the docket next Tuesday and we are under prepared and beg for some time to do so.

Chairman Martin – asked if he has talked to the staff. He has had conversations with counsel for the applicant – Mike Sawyer at Leavenworth and Karp advised Mike that he would be here today to beg for a continuance. We have reviewed staff’s recommendation to have a full review and inquiry on this matter and my understanding that this was not ruled upon but is here for next week. We would like this to go back to a full fact review and have asked for that in what he presented today.

Don DeFord stated he had no familiarity with this application at all but said it was difficult to grant this request exparte and not have the applicant represented here and suggested that the individual seeking the continuance should file a written request and didn’t know that it could be considered until right before the hearing and that would the appropriate time to consider it.

Commissioner McCown – that would have to be with the agreement of all parties, otherwise we would have to open it and then this Board would have to grant a continuance without renote for the purpose of finding more information and garnering more information.

Don – that is correct and that is the proper time to ask for the continuance.

Mr. Dally stated they were in a state of emergency and trying to be courteous and let you know.

Commissioner McCown noted that he was aware of the significant expense to the applicant to notice a land use application and this would require an additional notice if you get it postponed or continued unless we open the public hearing. If we open the public hearing and then grant the continuance it would just be a continuance of that public hearing and not require renoticing that land use.

ROAD AND BRIDGE – CR 306 TEMPORARY WATER LINE WITHIN COUNTY RIGHT-OF-WAY – MARVIN STEPHENS AND JAKE MALL – COUNTY ROAD 306

Marvin Stephens and Jake Mall were present. A letter was supplied to the board regarding this request of

Noble Energy, Robin Hill-Richardson, senior landman.

Noble is requesting to run a temporary 4-inch poly water line south along CR 306 – Spring Creek Road from their water collection station to their Richardson 35M pad. This will run along the west side of CR 306 within the County ROW. The length of the line is approximately 7850 feet. The assumed ROW is 30 feet but without an actual survey we do not know the actual center line of the road. The driving surface is 22 feet wide with a chip seal surface and the line will be placed along the west side of the road. The installation of this water line will eliminate 1300 plus tractor trailer loads of water being hauled on CR 306. The safety factors of this many tractor trailer loads not being onto the road is a plus for the other users of CR 306. With the frost coming out of the ground this is also a plus for the road as these tractor trailer units each weight approximately 80,000 pounds.

Jake added that the water line will be removed any time they request it to be moved and for the reasons stated Garfield County Road and Bridge is requesting approval of this temporary water line.

Jake said this is something we have done since 1990’s – we’ve let these companies run temporary water lines along our road because of the fact that everyone is tickled about reducing the amount of truck traffic.

Commissioner Houpt asked if this was a permit already approved.

Jake – we held them up as soon as we heard there was a controversy. One thing we always do is request that the company gives notice to all the residents along those roads and we’ve never had a complaint – everyone has always happy. This is the first time we’ve had a complaint so he called and put a stop and we are before you today with the request. It has not been issued.

Chairman Martin – if issued it would have conditions.

Cecil Raspberry – 6881 CR 306 in Parachute and received a letter from Nobles saying this has been approved and that’s what upset everyone – we’ve been putting up with the water trucks and now we’re having to put up with a water line laid on the side of the road and that road is extremely narrow and if you get two 18 wheelers passing which is normal in front of his property line, they will end up on that hose and that’s what we’re trying to find out is who will be liable for it and who would take care of the responsibility of making sure the

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water line stays in tack and not blown apart. We would like to know as well if the Board can find out what the pressure rating will be on these lines as we're running up about 200 feet elevation.

Marvin said his first impression was that it was fresh water but it not. It is processed water.

Cecil – it is oily water and will be in Spring Creek before they could even get there to shut it off and it would be in the Colorado River within 15 minutes. This is not going to be something that you could respond to in time.

Jake asked Amanda Jacobs from Cordilleran Compliance to come today and she has all the water testing numbers for that water.

Cecil – the letter we received stated temporary – what does temporary mean – 30 days, 6 months, 3 years? It will be cutting off at least 25 acres of my land that I'm trying to fence now and this water line will be laying right against where I'm trying to fence and if I hit this thing accidentally and it breaks loose, I will be right on top of it and asked if it would be dangerous enough to endanger lives if it does go. Will they mark it where traffic can stay off of it; we have 18 wheelers that get in the ditch now? I know it will cut down the truck traffic but not sure the water line is the answer to cutting down the trucks versus the hazard it will cause going down through there.

John Marrow – 6186 306 Road – most of the concerns were addressed by Cecil. It will run through our property 2,000 feet and if its not good water it could do a lot of damage to what's there and Spring Creek starts just below there.

Dorothy Neuroth – 6186 CR 306 – this presents quite a few problems – we don't know the PSI, nor the position of the line, dig a barrow ditch, just the geographic location is a big problem – we have big rigs that are over 30 tons and pulling up on our land now when they've moving rigs – a rig move is substantial – we are looking at this as Noble's way of getting around several issues – this is cost saving measure for this energy company – we've been round and round with them as you know about the evaporation pond and this is dirty water – this is not something – and we want to know why it has to be transported down to this particular pad – is this dirty water coming out of federal lands because they are drilling down on BLM lands and you denied that permit for that evaporation pond. Yes, it will cut down on some traffic but not entirely. Why didn't they have this in place – this is a company that has a history of scrambling and then they want the landowners to give them what they want – the County only has so much right of way and then they are encroaching on us and we're getting ready to move our fences and Jake Mall said it would be on the west side but it's going to cross driveways. If it was on the west side of the road that would put it up against – butted right up against the fence line and there's only about a foot of two right there so, you have an issue here also in this language – temporary – for a gas company that could mean 15 to 30 years. This is haphazard and while on the subject Road and Bridge is telling the gas company they need setbacks of 40 feet to turn the rigs onto the property to get to these gas pads, well that's 40 feet that's coming out of the landowner so now why aren't they requiring them to have so much on this – here is a department that's wily nily letting this gas company do whatever they want and we're finding out about it at the last minute. We're the ones that question this – we didn't have a hearing – the Colorado State Gas Commission requires these gas companies to give 30-days written notice prior to entering a landowner's land to commence drilling and this is after they have gotten a lease. You don't hand out a letter saying we are going to lay a temporary pipe line within the next 10 days, doesn't say what it's going to entail blab blab blab. This is Road and Bridge and this is what we're paying for with our tax dollars and there are setting down rules and regs that we have to go by for our entry way. We just heard this from the last people so let's set up some rules and regs for these gas companies because they are impacting these roads tremendously and they will be on us.

Chairman Martin – there is a statute that requires us to allow utilities or these types of pipelines in our barrow ditch or rights of way in one way or another and so we have to go by the State Statute as well – we will address that later.

Scott Knox – 7101 CR 306 – all three of us own both sides of the road where this pipeline is going. I went out and measured between fence posts 32 foot is a good measurement from one side of the road to the other, chip seal is 24 to 26 foot so that leaves you about 1 ½ to 2 foot on the inside of what you're assumed right of way is which any of these roads that are chip seal there is no berm anymore it's as wide as you can make it with the chip seal and we have trucks in those ditches daily – they run the ditch as much... and there's no room to put pipeline unless they come on the inside of the fences and then might as well get an easement from us through there which we've pretty much denied up and down that hill and that's why it's come to the county to put it there. They do have an alternative they just run a pipeline down through easement property – it would be more pipe but they have an alternate they can get it from these two points down the pipeline access they just had so it would appear to me that is short term anyway until a truck runs over it and then it would shut down, so we're trying to preempt the fact of a disaster on there – this all loads into a field on the Bosley property at the bottom of Spring Creek where all this irrigated land out of Spring Creek is and that's where it would end up – all in those hay fields and they're no way to get it shut off in time that it wouldn't end up there if it did rupture. That's our big concern – it will get ruptured, it's just a matter of when and it's not carrying river water – its carrying produced water.

Amanda Jacobs from Cordilleran – as far as the water issue this is an issue that did come up in Noble's pursuant of an evaporation facility that has been since moved to Mesa County because of landowner concerns, so just to be clear, Noble is very aware of the landowner concerns here. The typical constituents in this water, no specifics on the 35 M but specifics on the 1274 which is located in close proximity to this well so we're dealing with very same water if not the same. Yes, there are trace constituents of hydro carbons and it is produced water coming from down hole. But those constituents are being separated at the well pad to get as much of the hydro carbon out as possible because it's not in Noble's interest to have it in the water anyway. In addition to the trace constituents these are measurements in parts per million and you have 11,700 ppm of chlorides, 10 ppm of sulfates, 2 ppm of total iron; .2 ppm of ferrous iron; 1,180 ppm of bi-carbonate, zero ppm of carbonate. 200 ppm of potassium, 6,874 ppm of sodium, 460 ppm of calcium, 270 of magnesium, and 20,696 ppm of total dissolved solids. Hopefully this sheds some light on what is in the water. Commissioner Houpt – after listening to the property owners talking about the physical constraints in that area, we probably can assume at some point that this pipe could break. If it does what will this then do to the creek, the fields, to nearby water wells – what kind of concerns does this produced water bring with it?

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Amanda – honestly I can’t answer that question at this time – she is not sure of the psi being talked about in this pipeline.

Marvin – there is an alternate route they could use – would need more pipe.

Amanda – yes that is correct to the best of her understanding.

Commissioner Houpt would like to look at alternatives.

Marvin suggested the alternate route and the traffic would be off of it and he has some concerns being it is a narrow road and doesn’t see how the trucks can keep from getting into the ditch.

Chairman Martin – that’s down through the Hyrups?

Marvin – yes and would like to see Noble pursue that route. No permit would be needed if it goes on the Hyrups. But if a permit is requested Marvin would have other answers and another discussion on that issue.

Jake – we definitely would have them install valves at intervals so if there is a break we could shut down.

Marvin – we will also need to know the time frame.

Dorothy Neuroth – Noble had an accident on the Murray property and a pipe burst and his leg was severed. They brought in Flight for Life and we don’t have any idea how much the psi would be on it and a poly pipe could be devastating.

Chairman Martin asked if this incident was reported to Jesse at all.

Dorothy said it was in January.

It was a Halliburton employee. – Jesse was not notified and will look into that as well.

Commissioner Houpt assured Dorothy that as of what was heard today, this pipe would not be going in her road.

Chairman Martin will wait for a research back from Marvin and Jake and if there are any other continuing issues and if we need to go with a permit or not.

REGULAR AGENDA PUBLIC HEARINGS:

CLERK & RECORDER - LIQUOR LICENSE - Transfer of Ownership for Napal Restaurant – Applicant, Lohani, Sarita S. – Jean Alberico

Chairman Martin swore in the speakers.

Transfer of ownership for transfer of Hotel and Restaurant Liquor License. Applicant Sarita S Lohani was present.

Jean submitted the public notice from the newspaper and the application materials. This application was submitted on January 25, 2007.

In determining the notification, Sarita had not brought in the sign posted by Jean in the window of the restaurant but clarified she would do so the following day.

Jean explained that the restaurant has been in operation for several years without any incidents and Sarita has been in a partnership until now. Sarita is the only owner at the present time.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the transfer of ownership for Napal Restaurant as submitted.

In favor: Houpt – aye McCown – aye Martin - aye

ASSESSOR - ABATEMENT – CHATMAS, ROBERT – WOLF CREEK RIFLE, INC. - LISAWARDER

Chairman Martin swore in the speakers.

Lisa Warder presented saying this parcel is a 15,000 SF lot located on steep hillside. Due to the steep terrain it was discounted and valued at \$117,000 as a 10000 SF vacant lot in 2005 and 2006. The adjacent lot is a 15,600 SF lot which was conservatively valued at \$50,000 due to the steep terrain in 2005 and 2006. In the interest of consistency Parcel 2185-091-22-002 should have been valued at \$50,000 also.

Schedule R031151 – abatement for \$1,167.92

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the abatement, Schedule R031151 for \$1,167.92.

In favor: Houpt – aye McCown – aye Martin - aye

ASSESSOR - ABATEMENT – TPI PETROLEUM, INC. – LISA WARDNER

Chairman Martin swore in the speakers.

Lisa Warder was present and stated that the taxpayer was notified by letter of this hearing date and time.

Schedule No. P310652 for tax year 2004 – Abatement refund \$1,038.90

Petitioner states the taxes assessed against the above property, for property tax year 2005, are incorrect for the following reasons:

The determination of the actual value of the Property by the Assessor is erroneous and otherwise improper because it does not accurately reflect the actual value of the property for property tax purposes as required by the provisions of C.R.S. 39-1-103 and 39-1-104, as amended.

The actual value of the property should be reduced from the Assessor’s actual value of \$77,620 to the correct actual value of the property as of July 1, 2003, which is \$22,300 as determined by the factors described in C.R.S. 30-1-101 and 39-1-103 and as amended. Petitioner will supplement.

The applicant requests an administrative denial as they plan to appear and consolidate all cases in Douglas County.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to deny the appeal.

In favor: Houpt – aye McCown – aye Martin - aye

ASSESSOR - ABATEMENT – OVERLIN PARK LLC – LISA WARDER

Schedule No. R312446 for tax year 2006 – Abatement refund \$3,130.08

Petitioner states the taxes assessed against the above property for the property tax year 2006 are incorrect for the following reasons:

This parcel has been split into Overlin Park Town Home Lots. This parcel number should have been deleted at the time of the split. However, it was left active due to a clerical error.

The 2006 tax abatement is for \$3,130.08 for Schedule R312446.

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A motion was made by Commissioner McCown and seconded by Commissioner Hought to approve the abatement for Schedule R312446 for \$3,130.08.

In favor: Hought – aye McCown – aye Martin – aye

**SHERIFF – INTERNATIONAL FIRE CODE OF 2003 CONTINUED PUBLIC HEARING RE:
CONSIDERATION OF ADOPTION OF GARFIELD COUNTY ORDINANCE NO. 2006-1 –
ORDINANCE AMENDING ORDINANCE 2005-1 AS SUCH ADOPTED THE INTERNATIONAL
FIRE CODE OF 2003 – GLENWOOD SPRINGS FIRE PROTECTION DISTRICT**

Ron Biggers – Glenwood Fire Department, Andy Swaller, Building Code Official and Don DeFord were present.

Andy submitted a memorandum regarding permanent and temporary tanks as applied to bulk plants or other fuel storage areas. He recommended a policy to be adopted to review, amend and present the proposed amendments.

Barney Mulligan submitted some comments regarding the amendments to the IFC of 2003.

The discussion centered around open burning, size of tanks, sprinklers and addressable system, sprinkler and detection systems, and the definition of limited fire flow from Section 9.03.02.

Partial discussion and motion

Don – subject to the exception set forth below there is a presumption that burning permits will not be issued from May to October – it doesn’t seem like an absolute prohibition the way this is set up.

Commissioner Hought liked this safeguard sentence.

Commissioner McCown – you can say any open burning that occurs between May 1st and October is at the discretion of the chief. And it requires a permit for any of them anyway.

Commissioner Hought - you can say any open burning that occurs between May 1st and October unless permitted by the chief and you still maintain Glenwood Fire Department District’s language that they really have been tied to. It seems like this is pretty important language for you guys.

Don – going to that sentence we’ve been discussing over and over, should that read “open burning permits will not be issued between May 1st and October 31st unless an exception is issued by the fire code official or fire chief.

Board agreed.

Don – and leave everything else the same.

Next one is the fire flow

Andy – staff’s discussion on this is at the discretion of the entire western slope is hard to have access to a lot of places and with the code provisions, 5.03 and 5.08 at least give something someone can read to figure out where access is a problem, slopes everything else rather than someone’s general discretion. It might be too stringent in some cases and then the fire department can negotiate the access and the sprinkler system. They say alternative modes of fire protection, could be a water tank and not necessarily a sprinkler system.

Ron – we put it in there because the idea is to let people know up front that we want limit those things or it will be an issue or a condition for them to build and where’s your section, 5.03 and 5.08

Andy – as a code person, architects, engineers, owners can find it in a book it is better than trying to find it in an amendment that might be on a website and then having to call the fire district and then try and get clarification.

Ron – the thing is you want to go by strict by the code which we can do, fire access roads 20 feet wide

Andy- that opens the negotiations with them on various things – at least it is somewhere written rather than arbitrary put on a piece of paper.

Ron – the thing is we could stick by the code and say well they have to make a 20 foot wide road and then Fred Jarman comes and says they are not allowed to make a 25 foot road up there.

Chairman Martin – you mean on the platform itself based upon the zoning and the use?

Ron – yes.

Chairman Martin – there are some of those property rights where it’s a 9 foot wide or 8 foot wide road in there for 100 years.

Ron – by our request to have that in there, it gives them a heads up instead of looking at the code again and saying well we can’t do a 20 foot road – but by having the amendment in there it says well maybe if we talk to the fire people we can do something smaller or come to agreements with them to have that in there and they can still build. Vice versa it goes the other way for us and we get a plan and someone wants to build something and they can’t meet these things we can say, well, by our amendment we can work with you on bringing that down and it does put that portion in writing as opposed to – cause again, I don’t have anything in writing about that, how can you do that.

People are not always from this area trying to build in our area that wants it in a black and white situation.

Andy – at the discretion of really is in writing in the code is providing you with something and you can always discuss it later. The code does provide the fire people the ability to make their own judgments.

Commissioner Hought – it is not always clear as to the type of building that people do either.

Commissioner McCown – if you get a set of prints in for a house out in the county, do you have to refer those to Ron?

Andy – no only commercial projects.

Commissioner McCown – when does this come into play on a house that’s in an area that may have a 12 foot wide road?

Andy – it actually doesn’t. Actually the way the code is written nothing applies to residential under 1 and 2 family dwellings.

Commissioner McCown – it’s commercial in the county that this would come into play in the district.

Chairman Martin – and under commercial you would refer that to Ron anyway.

Andy – correct.

Commissioner Hought – so you would have your discretion, so why is there still a problem.

Commissioner McCown – I can’t understand there would be anything commercial in the county that wouldn’t have an adequately wide road to meet the commercial requirements in our land use codes. Why would we need this amendment?

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Andy – to me as a building official it would make me nervous to have everything at my discretion. I would much rather have everything in a book and in writing and I could refer to it rather than at the sole discretion of....

Commissioner McCown – worst case scenario, they could require it on a commercial building in their fire district and someone right across the property line from that district could build without it. It would be under the Sheriff’s purview and looking in the fire code without the amendment it wouldn’t have that requirement. That’s how amendments tend to fragment your code when you’re working with one on one side of the road and one on the other or across the road.

Andy – of different counties.

Commissioner McCown – in our county would be the confusing part because we all know how fragmented the fire districts are going up the Roaring Fork Valley.

Chairman Martin – so the consensus is not to put the amendment in.

Commissioner Houpt – is this going to make a huge difference.

Ron – well the idea is to try and get consistent with what we have in Glenwood. We have that in Glenwood, so....

Chairman Martin – and it doesn’t apply to the commercial review that he gets now. That was the argument. What’s the 3rd item?

Don – the size of the tanks. It says a permit shall be obtained from the fire code official for storage of keeping volatile or flammable liquids in excess of 5 gallons in any one building and 10 gallons on any premises.

Commissioner McCown – that one is unrealistic. At any one time I don’t have more than 10 gallons on my property.

Chairman Martin – trying to cut on fire hazards.

Chairman Martin – these were the three items we needed to discuss that were different than the recommendations and the negotiations

Commissioner Houpt – we are beyond the open burn thing. We found some language for that; we got stuck on the fire alarm.

Chairman Martin – either include it or not.

Commissioner McCown – I’ll be the first to admit I think it’s impractical but if they’re going to adopt it so that it is consistent with the City and it’s the same district I don’t know how you can dilute it within a district that’s going to make it awfully tough – I again I say it’ll come back to us if there’s problems with it and we can address it. I don’t live within this district so it’s real easy for me to say, if it were my district I’d be quite a bit more vocal about some of these things.

Chairman Martin – I’m in the city.

Don – well I focused on Andy’s memo of the February 5th to see if we could reach a motion to authorize approval of an ordinance amending the International Fire Code as previously adopted under Ordinance 2006-1 in the form that Andy recommended in that memo.

Commissioner McCown- is the fire district giving any different in credibility between a municipal area and a rural area by adopting the same fire code – they’re not – they’re actually putting the same conditions in an area where you live that would apply on Grand Avenue.

Commissioner Houpt – did you guys discuss that when you were going through this because there are some varying differences.

Ron – well in the County portion there is not a lot of commercial too much more unless something happens up Four Mile and a little bit of commercial discussed toward New Creation Church but most of it is going to be residential PUD type of things which would come before you review anyway for regulations.

Chairman Martin – there’s about 200 to 300 square feet of ...

Ron – there is a chunk of property out there by the airport that’s still County.

Commissioner McCown made a motion to close the public hearing; Commissioner Houpt seconded. In favor:

Houpt – aye; Martin – aye; McCown – aye.

Commissioner McCown – Don, do you have the verbiage you need on the open burning statute?

Don – yes if you want to add that change to the open burning, I have that.

Commissioner McCown – Number 3 – I’m going to jump to the alarm system I think there is too much discretion in the verbiage in the alarm system, I want to leave that like it is in the existing fire code on the addressable system; quantities of the tanks, once it was explained, I still think it’s going to be laborious for some construction sites but I’m willing to leave that at a 1,000 gallons and sure we will hear the first time they get an amendment, maybe the chief has the power to grant an exception to that too; the limited fire flow – really struggling with that, given the same conditions and storing 10 gallons maximum at a location of any kind, that’s unrealistic, living in a quasi rural area you’ll spend more gas running into town filling up your 5 gallon cans if you only have 5 gallons at a time, so I’m in favor of not adding that amendment as well.

Commissioner Houpt – is that the full amendment?

Commissioner McCown – yes. Storage is under the flow as I understood it. I don’t have that information in front of me.

Commissioner Houpt – it’s actually the permanent and temporary tanks includes the

Commissioner McCown – okay that’s the one we would put the minimum on, I can’t live with the 10 gallon.

Chairman Martin – not to exceed the 1000 gallon.

Commissioner Houpt –so you would take the 10 gallon out?

Commissioner McCown – uh huh.

Chairman Martin – adopting all the other recommendations by Andy?

Don – on the access what was the decision. That’s not in?

Chairman Martin – no.

Commissioner McCown –that was my motion now whether that’s the end result of not, but we have to get something started. The access was the one on definition of limited fire flow and access related to sprinkler systems being adequate requiring sprinkler systems.

Commissioner Houpt – and do you want the original code language?

Commissioner McCown – yes.

Commissioner Houpt – I’ll second your motion.

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Chairman Martin – is that clarification enough in reference to each of those steps for you Don?

Understanding what we have in front of us? Looks like it is an ever going living document anyway so we will address it several times.

Commissioner McCown – if we didn’t do it right, people will tell us pretty quick.

Chairman Martin - on both side of the issue.

In favor: Houpt – aye McCown – aye Martin - aye

PUBLIC HEARINGS:

BUILDING AND PLANNING: DRAKE – SUP - CONSIDER A SPECIAL USE PERMIT FOR A TWO-FAMILY DWELLING UNIT IN THE AARD ZONE DISTRICT LOCATED AT 5323 COUNTY ROAD 100, CARBONDALE, CO – APPLICANTS – DRAKE, WILLIAM AND MARTHA – DAVID PESNICHAK

David Pesnichak, Carolyn Dahlgren and William and Martha Drake were present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

The proposed units will be attached and physically held within the same building. The existing driveway is off CR 100 and will be used as access to the proposed units.

Referrals: Carbondale and Rural Fire Protection District: Bill Gavette of the Carbondale and Rural Fire Protection district has indicated the fire equipment access and water availability is adequate on the site (See Exhibit F). Exhibits included:

- A. Proof of Mail Receipts
- B. Proof of Publication
- C. Garfield County Zoning Resolution of 1978, as amended (The Zoning Code)
- D. Staff Memorandum
- E. Application
- F. Letter from Bill Gavette of Carbondale and Rural Fire Protection District, dated January 27, 2007.

Chairman Martin entered Exhibits A-F into the record.

1. DESCRIPTION OF THE PROPOSAL:

The applicant requests the Board of County Commissioners grant a Special Use Permit (SUP) for a Two-Family Dwelling located on a 35.2 acre parcel located as 5325 County Road 100. The proposed units will be attached and physically held within the same building. The existing driveway is off County Road 100 and will be used as access to the proposed units.

RECOMMENDATION

Staff recommends **APPROVAL**, with the following conditions:

- 1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
- 2. All lighting associated with the dwelling units shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
- 3. The applicant shall obtain any applicable Garfield County access, building and grading permits.
- 4. The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended, and shall meet all building code requirements.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit for as proposed for William F. Drake with the four conditions of staff.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - ENCANA OIL AND GAS - CONSIDER A SPECIAL USE PERMIT FOR A SATELLITE WATER GATHERING FACILITY LOCATED 4 MILES SOUTH OF THE CITY OF RIFLE AND 1.75 MILES WEST OF COUNTY ROAD 319 – APPLICANT – ENCANA OIL AND GAS (USA) INC. – DAVID PESNICHAK

David Pesnichak, Carolyn Dahlgren and EnCana Oil representative Jimmy Smith were present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Exhibits included:

- A. Proof of Mail Receipts
- B. Proof of Publication
- C. Garfield County Zoning Resolution of 1978, as amended (the zoning Code)
- D. Staff Memorandum
- E. Application
- F. Memo from the County Road and Bridge Department dated 10/9/06
- G. Memo from the County Vegetation Management, Steve Anthony dated 10/26/06 (New Exhibits Since December 4, 2006 Public Hearing)
- H. Letter of Authorization dated December 27, 2005
- I. Surface Use Agreement dated December 27, 2006
- J. Revegetation Plan
- K. Storm Water Site Plan dated December 12, 2006
- L. Email from Steve Anthony of Garfield County Vegetation Management dated January 30, 2007

DESCRIPTION OF THE PROPOSAL

The Building and Planning Department received a Special Use Permit (SUP) application for “Processing and Material Handling of Natural Resource” for a Satellite Water Gathering Facility on property owned by Juan Suarez and operated by EnCana Oil & Gas USA, Inc located on a 3 acre surface lease area four miles south of the City of Rifle and 1.75 miles west of Garfield County Road 319. The proposed facility will be installed in the Grass Mesa area on the existing M34 well pad in Section 34, Township 6 South, and Range 93 West.

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This application had previously appeared before the Board on December 4, 2006, but was dismissed for technical reasons. More specifically, the Applicant had not provided a letter authorizing EnCana Oil and Gas to pursue this application. Since December 4, Staff has received a signed letter of authorization as well as an updated Surface Use Agreement (See Exhibits H and I). In addition, the Applicant has modified the application in the following ways:

- Downsized the surface use disturbance area from the existing 3 acres to 0.8 acres following completion of a second well on the pad which is scheduled for this year (2007);
- Submitted a Reclamation Plan outlining abandonment procedures and timeframe for the site, an updated site plan, Vegetation and Noxious Weed Management Plan, and reseeding varieties;
- Storm water site plan.

More specifically, the Applicant, represented by Wagon Wheel Consulting, plans to utilize one of the two existing tanks as the proposed water storage tank for this project. The other existing tank will be used as a production (oil/condensate) storage tank. There will also be a need for two additional tanks, to be installed adjacent to the existing tanks, as a result of the second well to be drilling in 2007. In summary, the Applicant is seeking approval for the conversion of one of the existing 400 barrel storage tanks to a water storage tank. Piping will be installed to carry the produced water to an existing four (4) inch steel pipeline which terminates at the Benzel Water Storage and Evaporation Facility. The piping from the storage tank to the Benzel Water Storage and Evaporation Facility will be completely gravity fed and will not require any pumps. Any hydrocarbons contained in the water will be separated at the Benzel Storage and Evaporation Facility. This unmanned facility is expected to operate seven days per week, 365 days per year. However, deliveries will be restricted to day light hours. Since this facility is unmanned, no sewer, potable water or lighting will be necessary for this project.

The Applicant has identified the following actions to take place on the existing 3 acre pad to downsize the disturbed area to the proposed 0.8 acres:

- Conversion to water storage of one of the existing tanks;
- Installation of piping to connect to the existing water transfer pipeline;
- Painting of tank and associated surface piping to match surrounding terrain;
- Utilization of existing pad materials to construct berm around 0.8 acre site;
- Installation of fence at the toe of the berm slope around the outside perimeter of the berm;
- Re-contouring of all disturbed areas outside of the 0.8 acre site;
- Replacement of topsoil over reclaimed area;
- Reseeding of reclaimed area as per Vegetation Plan (See Exhibit B in Revegetation Packet);
 - Monitor vegetation growth and reseed as necessary.

Associated Pipelines

The Applicant proposes to construct approximately 13,367 feet of 4” steel pipeline to connect the produced water gathering facility with the Benzel #2 Disposal Facility located in Section 26, Township 6S, Range 93W. The proposed pipeline would tie into an existing 7,145 foot pipeline to finish the connection between the water gathering facility on pad M34 and the Benzel #2 Disposal Facility. In accordance with section 9.07.02 of the Zoning Resolution of 1978 as amended, since the proposed pipeline is less than 4” in diameter and less than five (5) miles in length, it is not required to obtain a Development Review Permit.

BACKGROUND

Referral to Planning Commission

As an oversight from the recent staff turnover in the department, this application was inadvertently scheduled for a public hearing before the BOCC without first getting the Board’s direction on referring the application to the Planning Commission. At the Board’s discretion, this application may still be referred to the Planning Commission for their recommendation. However, staff feels that this application is simple, straight forward and in the overall best interest of the County as well as neighboring land owners. To this end, Staff recommends that the Board move forward with a motion on this item during the scheduled public hearing.

SITE DESCRIPTION

The proposed site where the water gathering facility is proposed to be located is situated on a relatively flat dry area just south of Rifle. The well pad is located on approximately 3 acres (to be decreased to 0.8 acres) operated by EnCana and owned by Juan Suarez. The area where the water gathering facility is to be located is surrounded by fairly steep decline in elevation to the southwest and to the north and east toward Rifle.

The proposed water gathering system is considered to be an unmanned facility. The operation of the facility requires no water or sanitation services since it is an unmanned operation.

The application states that the water gathering facility, once constructed, is expected to generate approximately 3 trips per day into and out of the facility. Heavy-haul trucks are expected to make 3 round-trips per week to the facility.

The Garfield County Road and Bridge Department has no comments or requests for this application. The road to the M34 well pad site is an existing road and the County does not foresee a major increase in traffic flow after the construction period and the water gathering site is online. No road improvements are necessary as a result of the water gathering facility.

Overall, although Staff feels that the figures represented by the Applicant are high; Staff does believe, however, that the installation of this facility will result in fewer vehicle miles traveled on county and private roads. This is based on the fact that waste production water must otherwise be trucked down off Grass Mesa to the Benzel treatment facility. By using the water gathering facility, the waste production water can be collected in a centralized location on Grass Mesa and gravity fed the extra miles to the Benzel treatment facility and hence reduces air pollution, road impacts and congestion on CR 319.

The proposed use will have relatively limited impact to surrounding properties since it is situated in a remote private location which is currently utilized for gas drilling operations. The surrounding residential properties are large with about 35 acres each. This well pad is visible but at a distance from the existing residences and the conversion of one, 400 barrel water tank will not present a substantial visible impact to the neighborhood. Further, the proposed water tank will not be visible from any public County roadways. While no lighting is

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proposed, any future lighting shall be directed inward and downward. The Applicant plans to paint all the equipment beige in order to better blend in with the surrounding environment.

The proposed use is to handle only already produced water from surrounding natural gas wells. No anticipated depletion or pollution of surface run-off, stream flow or groundwater is expected. However, as the water being used at this facility will contain hydrocarbons, a spill could have dangerous consequences. The spill prevention plan that has been submitted is general and not specific to the site. Staff recommends that the applicant supply a site specific Spill Prevention Countermeasure and Control plan (SPCC) prior to the issuance of the Special Use Permit which demonstrates that the berming proposed is adequate to contain the contents of the 400 barrel water containment tank.

The Applicant is proposing to store the produced water within an “enclosed, steel tank and will then be gravity transferred through an existing, buried, pipeline; therefore no vapor emissions are anticipated.”

The Applicant is proposing to follow the Grass Mesa Homeowners Association rules regarding Magnesium Chloride on the roads to mitigate dust.

Since the water will be gravity fed to the Benzel Processing Facility, smoke and fumes, with the exception of the trucks dropping water off it is not expected to be an issue. Although there will be an overall reduction of vehicle traffic miles, this facility will create some noise, smoke and vibration occurring with these vehicles. However, since this traffic already exists in the area, an overall area-wide reduction in noise, smoke and vibration is expected.

The Applicant is proposing to paint the tank and associated equipment to blend with the environment which will help minimize visual impacts. No other visual or glare reducing mechanisms are proposed.

Since the proposed water gathering facility is to be located on an existing well pad, additional disturbance to wildlife and vegetation is expected to be minimal. It is anticipated that no additional vegetation will be disturbed as a result of this facility. In addition, once the second well is drilled on the pad in 2007, the overall disturbance size is to be reduced from the existing 3 acres to 0.8 acres.

As stated earlier, implementing this facility will ultimately result in fewer vehicle miles on County roads. Thus, although vehicle trips to and from this particular pad will increase, the overall impact to county infrastructure will decrease since these water hauling trucks will not have to make the trip all the way down to the Benzel Water Treatment Facility.

Since the water gathering facility is located on an existing well pad, the overall land impact will be minimal. Although the surrounding homes are within visual range of this well pad, they are at a significant distance that this added facility is not expected to impact the neighboring properties adversely.

Since the December 4, 2006 meeting, the Applicant has prepared a Reclamation Plan which includes abandonment procedures for the equipment on the well pad. Garfield County’s Vegetation Management has reviewed the prepared documents and has found them to be adequate.

In addition, Garfield County Vegetation Management recommends that a security of \$10,000 be provided for revegetation of a 3 acre disturbance area in 5-10 years.

The security shall be held by Garfield County until vegetation has been successfully reestablished according to the Reclamation Standards in the Garfield County Weed Management Plan. It is the responsibility of the Applicant to contact the County, upon successful revegetation establishment, to request an inspection for bond release consideration.

In the past, the Board has required, as a condition of approval that *“A sufficient monetary security, determined by the Board of County Commissioners, to ensure rehabilitation of the site once operation has ceased shall be provided by the Applicant.”*

The Board may wish to consider some type of security intended to address proper reclamation, closure and abandonment of such facility.

Should the Board approve the request for the water gathering facility, Staff suggests the industrial performance standards be considered conditions of approval as they are specifically intended to ensure that any industrial use such as the proposed water gathering facility function in accordance with the proper best management practices and within the parameters of the State Statutes.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in truck traffic on nearby public and private roadways, 3) the fact that the site itself will be situated on an existing well pad with an active gas operation, 4) and that the unmanned facility will not create any noise, vibration, dust or exhaust over and above the impacts of vehicles disposing of the produced water into the gathering tank and associated pipeline, Staff recommends the Board approve the request for a Special Use Permit for Processing and Material Handling of Natural Resources for a Satellite Water Gathering Facility on Grass Mesa with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. That the Applicant shall comply with the fire protection provisions included in the rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC) and the International Fire Code as the Code pertains to the operation of this facility.
4. Following the drilling and completion of a second well for the EnCana M34 well pad, the applicant shall downsize the well pad from the existing 3 acres to 0.8 acres. This downsizing shall be in accordance with the Reclamation Standards in the Garfield County Weed Management Plan.
5. Prior to the issuance of a Special Use Permit, the Applicant shall provide Garfield County with a \$10,000 revegetation security for the 3 acre parcel based on a 5-10 year timeframe. The security shall be held by Garfield County until all reclamation and revegetation procedures are complete and vegetation has been successfully reestablished according to the Reclamation Standards in the Garfield County Weed Management Plan. It is the responsibility of the Applicant to contact

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the County, upon successful revegetation establishment, to request an inspection for bond release consideration.

6. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.
7. Vibration generated: every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
8. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
9. *Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.*
10. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.
11. If applicable, the Applicant shall provide a copy of the appropriate bond supplied to the Colorado Oil and Gas Conservation Commission (COGCC) intended to guarantee reclamation of the Satellite Water Gathering Facility site once the life of the Satellite Water Gathering Facility and Pipelines has ended prior to the issuance of a Special Use Permit. If the COGCC does not require reclamation and revegetation bonding, the applicant shall work with County Staff to establish a security appropriate to guarantee reclamation and revegetation of the Satellite Water Gathering Facility.
12. That all proper building permits are obtained for the structures associated with the operation of the Satellite Water Gathering Facility prior to the issuance of a Special Use Permit.
13. The Applicant shall submit a site specific Spill Prevention Countermeasure and Control plan (SPCC) which will demonstrate how any spilled fluids up to the maximum amount of fluids held on the site will be contained to prevent contamination of both surface and ground water prior to the issuance of a Special Use Permit.
14. Deliveries to the water storage facility shall only occur during daylight hours.

David said there is an increase in traffic to this location from other well pads on Grass mesa in the surrounding area. A real accurate estimate was not available and David referred to the applicant.

Commissioner McCown asked about his haul road to the west to the BLM.

David - Road 319 and David pointed out the site. Staff feels this will lead in a decrease in miles on CR as it will allow water to flow down instead by truck.

Commissioner McCown – the traffic will have to come to this site to get off the mesa. The road off of the mesa is beyond this site to get back to CR 319 and then back down to Benzel Evaporation Treatment plant.

Commissioner Houpt clarified that the Applicant and Board had reviewed this application entirely at the other hearing and continued this hearing.

Carolyn – this is not a continued public hearing rather a renoticed hearing because we had issue with the owner of the property.

Commissioner Houpt – wants all details of this project on public record.

Applicant: Jimmy Smith addressed the issues. Traffic associated with this project, the number of trucks has not changed from the prior hearing – 8 to 10 truck trips per day into this site. Currently the same or more trips are currently occurring and referred to the map showing the well pads within the area and asked the Board to visualize trucks coming to those well pads traveling south as that this the approved truck route Mr. McCown was talking about going off the hill into Section 4 and onto CR 319. More than half of the water being hauled by truck off Grass Mesa passes either directly by or near the site that's proposed in Section 34. EnCana's proposal and to associate miles with that we do feel this is a critical issue, currently approximately 96 miles of trucking occurs under current conditions and this new route where trucks will stop and Section 34 at this pad and unload and water being transferred eliminates approximately 53 miles of that 96 that's going full length of the mesa off the mesa and across 319. Currently they carry all the water off the mesa to Hunter Mesa, the CR impacted is this very short distance on 319 to where it exists and to the Hunter Mesa facility. Now they will unload at Section 34 and eliminate 56% of the miles. EnCana has plans to position a truck on Grass Mesa and leave it there so it's not accessing up and down the mesa it will be an 80 barrel bobtail truck that will haul 8 – 10 loads into this facility on a daily basis. The pipeline that is associated with this project is an existing pipeline, EnCana went through the process of the watershed process with the Town of Rifle associated with it and a new section of pipe was laid and a liner was pulled in the existing pipe to improve the integrity of it. As far as the tankage, currently as the picture shows, there were two tanks associated with the well. Both accumulated produced water. Now that we have agreed with Mr. Suarez to reduce the size of the site to the 1.8 acres then that eliminated the potential setting of additional tanks on the 3 acre portion. We're going to convert one of the existing tanks into the water transfer tanks and there will be no additional tanks set associated with this project. We did on the site plan show 4 tanks – those two additional tanks will be associated with the new well that's proposed not with this facility. As far as transferring water off the mesa there will be no additional tankage required.

Michael Meskin – 0255 Coyote Trail – directly across from this new facility, everyone gains on this except for me. It literally destroys my property which is zoned agricultural. This whole area is Ag, EnCana along with Mr. Suarez to who received monetary reimbursement for this application from EnCana basically sold out and now you're doing a commercial application across from my residential property with my pigs and horses. It's totally unfair – they say only 8 – 10 trips – I have no guarantee of that and even 8 – 10 trips with a double tandem trailer trucks that come up right by my ranch and dirt, noise, the whole shot and unfortunately the way this is situation he is the only person who really takes a hit here. I appeal to the County Commissioners that

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because I'm a mouse in a giant land my only saving grace if it you guys save me otherwise my property takes a beating and so does my life stock. EnCana gains, Suarez to get monetary reimbursement, stockholders do really good – I lose. It screws up my husbandry. I do not trust 8 to 10 trips. No guarantee – a water storage facility means you bring water to a facility and then you open up the pipe and down goes the water, then another truck to fill up the thing and it's a non-ending thing day and night. These trucks come up day and night right now, at 5:30 this morning there was trucks.

Commissioner Houpt asked the distance from Michael's home to the road.

Michael – 100 yards to the facility, maybe 120 yards. The homes to the south don't really have a problem.

Jimmy explained the site on the map and pointed out the location of the Meskin property. Commissioner Houpt asked if hours of use would help Michael.

Michael stated no. He accepts the current conditions as they are now of whatever traffic we have but this really changes the whole scope of everything. This is a commercial venture and not 8 to 10 double tanker trucks – as fast as they can turn that water you have to bring more water into those tanks.

Jimmy came up with the 8 – 10 trucks – currently his assessment of what is going on up there is absolute correct and mentioned the tandem trucks currently hauling water completely off the mesa, EnCana intends to use the 80 barrel bobtail truck and leave is on their property to do that water hauling, so 8 – 10 tandem trucks will go away and be replaced by one bobtail truck. We need to keep in mind that this project is not eliminating the total truckage that's going to take place on the Mesa. There are trucks now that are associated with drilling activities and other activities that are going to the Mesa, and EnCana is not denying that.

Commissioner Houpt – asked how Jimmy came up with the 8 – 10 trucks.

Jimmy – the volume of water that is currently handled by tandem trucks going complexly off the Mesa, those trucks that are currently going by him will haul that short distance to this site so the actual truck numbers going on and off the Mesa is approximately slightly less than ½ of what the trucks trips are now so if you take the volume and 140 barrels and put that in an 80 barrel bobtail truck then there's going to be an increase in the number of total trips but those trips are short distance and not affecting the entire area of Grass Mesa.

Commissioner Houpt – are you going to see an increase in drilling activity in this area?

Jimmy Smith - The only additional well is on Section 34 on this pad for this 2007 period. In the future drilling activity he couldn't answer.

Michael Meskin – the last meeting he attended was the Grass Mesa Homeowners there were more than one well slated to be drilled on Grass Mesa in the 2007 year, this one I know about but there are more in the surrounding Grass Mesa vicinity scheduled for 2007. All this increases truck traffic.

Jimmy – knows on the one well on this pad.

Commissioner Houpt asked if there was some mitigation that would shield Michael's house.

Michael – that's destroying the open space even more.

Commissioner McCown – EnCana projects 140 wells in 2007.

Chairman Martin – it's the movement of traffic that causes the animal disturbance which is hard of the animals.

Michael – my animals will be on the east side this spring and facing the roads and the trucks. This isn't fair especially in an Ag area. It's zoned for Ag which is animals.

Jimmy – with a proposed activity and current situation up there, this is a monetary gain to EnCana of course but we also see it as gain to the residents of those trucks not traveling the full length of the Mesa and utilizing the existing pipeline they constructed there to try and divert the water.

Chairman Martin the road being used is that BLM, Grass Mesa HOA, county road or private.

Jimmy – the current access up to the Mesa is across Benzel and BLM property.

Chairman Martin – a private road as well as BLM road that's being utilized and that's affecting – you live on a homeowner's road?

Michael – they also use that road when the other road is inaccessible without permission. I've reported 4 trucks in the last 2 days since mud season started up there and when you talk to EnCana they say no but I got the license numbers, stopped the trucks and got the look of the driver “well I didn't know.” A double tandem driver knows where he is going. It's a problem. Jimmy is a friend of mine. This really impacts me and in a way he said it shortens the load for the whole area but I'm a human being too and I have rights and it is zoned Ag and this is commercial and think my rights should take precedence – absolutely without a doubt – without going to get attorney's. They can and I'm going to lose – if you don't do something I automatically lose, I don't have enough money to go against these people.

Commissioner Houpt – you've stated one of the huge growing predicaments of people are finding themselves in with Garfield County – living in a rural residential area in an Ag zoned area and increased energy development activity coming into our county. And the wells are permitted by the state and this activity can be regulated and we should and then there are things that we can't and the pattern of movement of drilling activity is really in the state's hands.

Michael – this particular project is strictly a financial decision by EnCana to save hauling, which obviously will save millions of dollars with this project, that's why I have to appeal to you – they will go to any length to do this and you are the only ones who say they can't.

Commissioner Houpt – is there a way they can do this that will put pipeline in place in use that wouldn't destroy your quality of life or your business?

Michael – don't see how – if I saw something, I would have gone to EnCana. This was supposed to be heard in December, and I was here – it was called off – all I can do is what I'm doing.

Chairman Martin asked if there was an agreement with Grass Mesa folks to use this road.

Jimmy – they are charged as a property owner within the HOA in doing business.

Chairman Martin – asked if there was a dust suppression portion of that.

Jimmy – yes.

Michael – it's a back and forth thing – the HOA say you owe and EnCana says no so it's a compromise at every given moment – for each truck you report using the road the more EnCana pops for some more grading equipment. You bring a double tandem truck around those curves up our Grass Mesa road and you just rip the road to shreds with mud and chains. Everyone in Grass Mesa uses this road to get up and down so everyone is

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with me on the road – this is just a personal thing because most of Grass Mesa are lucky and not faced with this particular water storage problem.

Commissioner Houpt – if this is a project that’s approved, are there some conditions that would help you. We talked about potential limited hours of use or road conditions in terms of dust.

Michael – dust comes up at night and animals eat dust at night and during the day. It’s not a good place.

Commissioner McCown – the last condition says deliveries will only occur during daylight hours.

Michael – these are not EnCana’s trucks – they subcontract basically and subcontractors really only care about money. You get a load and if you can get by with a load at 11 p.m. then you do it – they do it right now. They take a chance.

Jimmy would not deny that is happening – EnCana does have enforcement codes in place with the contractor’s agreement to help prevent this but would not sit here and deny that it is not happening from time to time. Realistically the condition that Commissioner Houpt suggested putting on these deliveries of 8 – 5 is very limiting to the process, EnCana may or may not agree and couldn’t speak on their behalf. The hours it takes to load that water, haul it to the site and can be determined by weather conditions, the same amount of water has to be moved so there are various conditions that it could pick – the water could be hauled completely by noon depending on the water available on one day.

Chairman Martin – it may be an operational conflict or a safety issue you may have within that well which would then cause greater concern in reference to the relief of the pressure.

Jimmy – need to be cognizant of is if we make conditions for one site and not to minimize Mr. Meskin’s concerns at all, but do we just actually move that condition to someone else’s back door to become their problem. The operation up there has and will continue no doubt – EnCana is making good efforts with improvements needed but good efforts to minimize the impact as far as the trucking and the number of tanks they originally proposed to put on site and their willingness to reduce the acreage – those need to be credited to EnCana in making those efforts.

Commissioner Houpt – absolutely but this is a rural area that EnCana works in and people need to have a portion of their live back and that’s where I think limited work hours are needed.

Commissioner McCown – if you limit the work hours of this will cause this particular system to operate from 8 – 5 or 9 – 4 and if that doesn’t allow for all of the water that’s needed to be hauled then you’re going to start to have tankers accumulating the water and hauling it off to so we’re going to have both systems running. If we’re going to permit this, it needs to function so that to alleviate the impacts of the additional trucks. If you’re going to do both I think you’re ignoring the possibility of reducing truck traffic with this one.

Jimmy – speaking on EnCana’s behalf, he said they have always been and continue to be if there are any additional mitigating opportunities that they haven’t addressed that would help Mr. Meskin or any other landowner, they would be more than willing to work with him to consider those.

More discussion with Mr. Meskin, the fact of continued subcontractors violating the rules, and what can he do.

Commissioner McCown – with the power of the checkbook you can do a great deal. This still didn’t satisfy Mr. Meskin.

Mr. Meskin – I accept EnCana, I accept drilling – this impacts me too much.

Commissioner Houpt – summer daylight hours are significantly different from winter daylight hours so if you’re judging the productivity of this on winter daylight hours we could limit those hours.

Commissioner McCown – we can limit the hours but if the limited hours don’t allow for the adequate water to be gathered and deposited to site then you’ll have water trucks that we don’t have the purview to permit running off there as well – so you’ll have both operations as well.

Commissioner Houpt – then in that case we would be looking at more than the projected trucks.

Jimmy – these numbers were based on projected volumes, current and projected volumes so these numbers to my knowledge are accurate.

Michel Meskin – these numbers are totally subjective – he took it out of the air.

Commissioner McCown – if he took the gallons coming off of there now and put it into a 10 wheeler tank truck as opposed to doubles and that’s how many tank trucks it would take under the 10 wheel configuration the smaller bobtail configuration that’s going off now.

Jimmy – and if you were to sit up there an monitor how many trucks come down a given road during a given day there may be potentially be more trucks than what I’ve noted here but those trucks may not be coming to this site – there are other activities taken place that require trucks.

Michel – why does EnCana have to have a water collection plant?

Commissioner Houpt – they want to do it to get trucks off the longer road and it does impact you- no doubt about that but if you count the number of homes that trucks drive by to get down to their treatment facility it exceeds that and I hate the fact that there are victims.

Michael – you’re doing the theory that the end justifies the means? Kiss off Michael – save 19 and kiss of Michael. That’s like convicting people that are innocent.

Commissioner Houpt is not comfortable just using the daylight hours.

David – put some background to the daylight hours – that came not only to reduce the impacts to neighboring property owners but also that 8 – 5 there are dark period in the winter time and saying daylight hours versus a set time would prevent the facility from needing to put in lights which would have further impacts.

Commissioner Houpt – but during the summer you could have trucks running from 5 in the morning till 10 at night.

Jimmy – for the purpose of this particular facility I would say that is more apt to happen on current conditions than under the proposed because the trucks are traveling the additional 53 miles and the daylight conditions may very well allow them doing that now where with this facility that could be reduced as far as the time of day necessary to haul this.

Commissioner McCown suggested 7 to 6 – that’s a load an hour.

Commissioner McCown asked David about the vegetation bond and if it was based on .8 acres?

David – it is based on 3-acres because that’s what is currently disturbed.

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Commissioner McCown – what is currently disturbed is a well site that’s under the purview of the COGCC, our special use permit is .8 of an acre which would allow for this water gathering facility within that 3-acre site and just asking if that is a bit drastic on our bonding for .8 of an acre.

David – it is more than we would charge for .8 of an acre, as history, it was the recommendation in the initial staff report in December. We received the bond last week so prior to formal approval of this we received the bond based on that staff report.

Commissioner McCown – not sure the precedence that we are setting if the next application that comes in for an SUP we allow a 5-acre disturbance for \$1500 per acre and we charge \$10,000 for .8 of an acre because it’s a gas company. We have to be more consistent in applying our reclamation fees county-wide than what we may be doing in some instances.

David agreed and there wasn’t sufficient time to deal with that before this hearing so it to be decided here.

Commissioner McCown made a motion to close the public hearing. Commissioner Houpt – seconded. Motion carried.

Commissioner McCown made a motion to approve the request for a Special Use Permit for a satellite water gathering facility with the 14 conditions listed by staff changing the time on condition 14 to 7 am to 6 pm.

Commissioner Houpt seconded for discussion. She voiced concerns about the impacts of the traffic pattern and how many trips a day we’re actually looking at and as we continue to have these come to us regularly we really need to look at that impact of not just of the site or how we’re going to regulate current rules and what is the feasibility of these facilities in an agricultural area.

Chairman Martin stated this is difficult. The HOA needs to coordinate with the Sheriff and the Company to regulate current rules – there is a safety factor issue here.

In favor: Martin – aye McCown – aye Opposed: Houpt – aye

Commissioner Houpt would like to look at pipelines rules and regulations.

Executive Session – Silt Litigation, County Road 204 and Chevron

Jeff Nelson was needed.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into Executive Session to discuss the aforementioned items.

In favor: Houpt – aye Martin – aye McCown - aye

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session. Motion carried.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

FEBRUARY 20, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, February 20, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

COUNTY MANAGER UPDATE – ED GREEN

FAIR – COLORADO WEST PRODUCTIONS CONTRACT – JESSE SMITH

Contractor – Gabe Chenoweth, President, Colorado West Promotions Inc. and Jesse Smith presented.

Contractor shall demonstrate contractual liability coverage supporting the indemnity provision of this Agreement, either through policy language or by waiver of exclusion. Services of the Contractor shall commence on the 1st day of April, 2007 and shall be completed by the 31st of October, 2007.

The amount to be expended shall not exceed Thirty Five Thousand Dollars (\$35,000.00)

Jesse said the contract you have in front of you is exactly the same as last years contract with the dates changed and the entertainment changed. Otherwise there are no changes on the contract.

Commissioner Martin – Was everyone satisfied with the outcome last year referencing this contract?

Jesse stated that everything was satisfied in reference to bill paid, made a little bit of money for the fair board? The concert did not make money but it came very close to breaking even and they think that’s a building process

Commissioner McCown –The big part of it is that 65% of the proceeds go to a scholarship program. That’s the big winner of the program. I make a motion we approve the purchase of the service agreement with Colorado West Promotions, Inc. for the entertainment at Fair. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - aye

HUMAN RESROUCES – INSURANCE - CEBT PLAN BEGINNING IN JULY OF 2007 – CHANGES, RENEWAL

Ed stated that starting in July, there will be adjustments in the coverage of our three plans. This is the result of deliberations by the CEBT board that opted to adjust their coverage’s to align more closely with industry. The overall cost of coverage will increase by 15% as well in July. As in past years, is it the desire of the Commi8ssioners to absorb the employee portion of the increase until the following January? Normally, that cost is in the neighborhood of \$25,000.

The overall increase of 15% will be mitigated by the fact that CEBT is going to declare a payment holiday in December (an 8.3% savings in cost for the year). As you know, the last time we had a payment holiday; we immediately passed their portion of the savings on to employees and reflected the total savings in that month’s check. As an alternative, to reduce the administrative effort and cost of passing that saving on to employees immediately, we suggest the savings be applied to the premium adjustment for 2009 and be spread

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evenly over the entire year. In that way we will reduce the overall impact of the rate increase to employees in 2008 from 15% to around 7%.

Ed said he and Frank Herman met about a week ago with CEBT and he provided this information on the renewal effective July 1, 2007. This is for our health benefits.

Commissioner Houpt – this is a huge change.

Ed – As I pointed out in my write up I provided you, the CEBT board met about a month ago and their interest was in aligning with the industry standards. Probably the biggest change is they had done 90/10 on all of the PPO's in the past and most of industry is at 80/20. So they opted to go 80/20 as well and that increases our cost. No doubt about it. The maximum out of pocket expenses went up for all three PPO's that we participated in. It's not a lot about \$1,000 for one and about \$1,100 for two and \$1,750 for

Commissioner Houpt – I thought it was quite a bit considering where it started out. The percentage of increase was high for one year so I'm just wondering if this is a trend.

Ed – I don't think so. I think this was a pretty unique action by their board particularly going from the 90/10 to the 80/20. I think that they deliberated long and hard on it. So I don't see it as a trend. The other key issue in addition to the out of pocket changes that you see there is the co-pays on the mail order drugs and those they adjusted according to industry standards as well. The overall increase as you see is 15% for next year that will be mitigated by an 8.3% savings due to a payment holiday in December. So in that effect it will be less than 7% for next year.

Commissioner Houpt – Given these changes is this still the best direction we can go?

Ed – No question about it. I think by far this is the best deal.

Commissioner Houpt – I think it's interesting they increased the co-pays on prescriptions when nationally were trying to bring down the cost of prescription drugs. Are they having a tough time staying alive?

Ed – No, not at all. No, as I said, all of these changes were made to align with industry. They're not having a problem at all they have a very healthy fund balance as a matter of fact that's the reason we have the December holiday. Our biggest problem is experience. We still have a lot of high cost of incidents. Some in excess of \$100,000.00. And this year the board also helped us out in that regard because they opted to spread the risk on 100 plus incidents to all the participants, otherwise it would have been 17%. As far as our claims experience is concerned and we are at 110 verses the standard of 100, that's the reason were getting nailed with 15% increase. If our experience was anywhere below 100 we'd be faced with an increase of normally 7 or 8% and it would be totally mitigated by the December Holiday. It's our problem.

Commissioner McCown – What is the structure of CEBT?

Ed – What do you mean?

Commissioner Martin – The company its self, is it non-profit?

Ed - Yes

Commissioner McCown – I guess I have to be concerned with why they feel they have to align with the industry. If their sole purpose is to serve entities such as our selves and they have a significant fund balance available, why do they have to follow that trend? Just because they are a non for profit entity and it shouldn't be their goal to compete with industry.

Ed – I can't answer that question.

Commissioner McCown – Your not on the board, I realize that. That's the problem I have with the whole concept.

Commissioner Houpt – That's the problem I have too and it might be worth a letter to the board

Commissioner McCown – If it wasn't for political entities, there would not be a CEBT.

Ed – All I can say it's a much better deal than what we had with the County Health

Commissioner McCown – I will agree, but I think that this needs monitoring and I was really pushing their trends and logic and where they're going with this and why. I think we as participants have a right to know that since they are an entity that was created to serve us.

Ed – I will write a letter and get a response. What I showed at the bottom showed as actions required of the Board today is first off do you want to continue with CEBT starting with July 2007?

Commissioner Martin – I do

Ed – Second of all do you want to continue with all three PPO's, the I, II and III? Do you want to agree to carry the additional cost until January of 2008, as we have in the past and as I indicated in my write up that cost usually about \$25,000 to do that? Another issue we've got to decide upon is what to do with the saving from the December Holiday as you know last time we gave it immediately back to the employees in that month and basically turned off the switches in our computer system and it was a real pain. What I would suggest this time is and I think it would be more helpful to employees, is just spread that savings over all of 2008 so that we end up just a 7% or so increase to the employee, rather than giving them one big savings in December and then having 15% all next year, and then let me sign all this documents that's associated with it.

Action required of Board:

1. Agree to continue with CEBT as our carrier for the next year beginning in July of 2007.
2. Agree to continue with all three PPO plans. PPO I, II and III.
3. Agree to continue to provide PPO III to employees at no cost.
4. Agree to cover the additional cost to employees until January, 2008
5. Agree to spread the December holiday savings for employees evenly over the ensuing year, representing roughly a 7% increase versus a 15% increase
6. Allow the County Manager to sign the necessary implementing documents.

Ed – So those are the action items

Commissioner McCown - #5 troubles me a little bit because next year there may be another 17% increase and were applying an 8% savings that we have that we have funded 6 months of through the entire year.

Ed – What we're doing is we're just staggering it.

Commissioner McCown – We're fronting the \$25,000 normally and then we're applying the free month to next years' rates which could go up again another 15 – 17 – 25%.

Ed – That's in the ensuing year.

Commissioner McCown – I know it is but then we would have to carry that balance through the first of the year while were still giving back the decrease. Why not apply it to rate increase?

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Ed –That’s what I’m suggesting

Commissioner McCown – Well you are but your doing it evenly before we even know what the rate increase is in July.

Ed – Oh, I see so what do you want to apply the entire savings in the first 6 months?

Commissioner McCown – That’s the only sure number you have. Because the game plan changes in July. What if we don’t even go with this entity next year?

Commissioner Houpt – Well if we go with four and five, I don’t think timing will be problematic because we would be carrying those increases anywhere from July to January. It’s a real problem having all of these different cycles, but it is what it is.

Ed – We really only have two credible alternatives, there is a third - that’s self insurance, unless you get to 800,000 people its pure suicide.

Commissioner Martin – We have seen that numerous times.

Ed – Yes, you’ve seen it in organizations around here. The two options are CEBT or the County health pool. The County health pool is still in big trouble.

Commissioner Houpt – I make a motion to continue CEBT with all of your recommended proposals, but I want to add to that that we send a letter that requires them to respond to the questions that we’re having about the actions they took this year with respect to coming in line with the industry. I agree completely with Larry, this is a non-profit and I’m not quite sure what their reasoning is behind doing that if they are doing such a great job that they can give everyone a month’s reprieve. That makes no sense to me at all. So I will make the motion that can follow through. Commissioner McCown seconded.

Commissioner Martin – We have a motion and a second, with the 7th item in reference to a letter and then the questions.

In favor: Houpt – aye McCown – aye Martin – aye

Ed – Did you want me to write that letter or do you want to sign it?

Commissioner Martin – I’ll sign it, we’ll go over it.

AIRPORT - OUT OF STATE TRAVEL EXPENSE REQUEST FOR BRIAN CONDIE

Dale submitted the request and stated this is the FAA annual conference, topics include airspace, airport construction, and environmental issues, AIP funding and regulations. Departure date is April 16, 2007 and returning April 19, 2007.

This is an annual training event not to exceed \$1,397.00

Brian - First one is Oklahoma City, we talked about the WASP instrument approach into the airport. We have set up that meeting since last time we talked. It’s a one day trip on the 7th. This will be composed of several hour-long meetings with the individuals in the FAA that will steer us in the right direction and let us know if this is something we should pursue right. We want to get a new instrument approach, hopefully the mountain radar by the 2008/2009 ski season.

Commissioner McCown – I make a motion we approve the out of state travel to the WASP meeting with the FAA in Oklahoma for the amount not to exceed \$326.00.

Commissioner Houpt – Seconded.

In favor: Houpt – aye McCown – aye Martin - aye

Brian said the second request is the second annual FAA Northwest Mountain region conference in Seattle.

We go and learn the new trend, funding and changes that are possible. Also, the requirements for construction and issues that we have had in the region in the past. They just gave us \$8 million dollars and it would be nice if we go up and support them.

Dale – The other part of this, is I talked to Travis Faline, the Director of Aeronautics last week and we had Feared and I alluded to this earlier, the reauthorization in the FAA is going to take on a different form.

Where we have enjoyed the 95/5 on the funding, they’re looking at going back to a 90/10 and it’s commercial aviation driven and it will be at the expense of general aviation. I think that some amount of arm twisting back into Washington is appropriate on this. The National Association of State Airport executives are taking the lead on this of which Travis Faline is currently the President of that association.

Commissioner McCown – So it’s safe to assume the state won’t be there with 5% either?

Dale – It’s not safe to assume anything right now. You know all bets are exactly off. Until we know what the five year funding level is going to be.

Commissioner McCown – Do we know they’re going to land at 90? It could go to 80/20.

Dale – It could but 90 is the plan.

Ed – I don’t think we have ever seen it below 90, have we?

Dale – No, 90 is traditional. The Federal government is more broke now than they have been in a while.

Commissioner McCown – I make a motion we approve the out of state travel to Seattle to the FAA and their conference, April 16th through the 19th, the amount not to exceed \$1,397.00

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – aye

AIRPORT - REQUEST TO LEASE PARCEL 12 B-4 – APPLICANT: EVANS, SHANE

Brian Condie submitted Hanger Construction Concept plans for Parcel 12 B-4. Purpose use: aircraft hangar, office, and restroom. Proposed timetable for development plan: anticipate within 6 months of lease agreement.

Shane Evans– I’d like to express my appreciation for Brian’s time here. Interested in construction of a hangar on a parcel identified with Brian. Drawing before you, with a brief outline, very conceptual, but what they were able to put together in a short time. Will get something more formal in the development plan. The proposal is currently for and approximately is 85 X 100 hangar on the parcel as noted. We would like to include within the building an office and a restroom area. Our hope is to complete the work within 6 months or so after signing the lease.

Brian – This is a private hangar not commercial. Carolyn and I working on a lease, few more bugs in it. Him or the entity would retain ownership of the hangar and renegotiate a new lease at the end of the term or sell it. This is a private hangar development

Carolyn – This is a concept the BOCC approved quite a while ago, on the difference between private, non-commercial and all of our commercial operators out of here.

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Commissioner McCown – On the parcel map that your showing, looks like the dark line is apparently with the other property where the proposed hangar is, I’m assuming the line will be readjusted back to the line 20 foot off center?

Brian – We have development guidelines; they tell us the offsets to the building. We have a building envelope and this whole back lot was a building envelope. When Bob Woodward came in initially we had him meet those requirements for the offsets and set backs from the lease property. When Shane came in he wanted a larger hangar, only way to do that was to take some area off the back of Bobs and rearrange the front taxi way and cut that off. The object free area and move Bobs parking to the front, allowing more room in back for Shane to build a larger hangar.

Commissioner McCown – That was my question it will still allow development on the other parcel that was requested.

Brian – We’re pretty flexible if we can get it to work, we’ll move the lines around and get the hangar they want.

Commissioner Martin – Questions?

Commissioner McCown – I make a motion we move forward with the lease to Shane Evans and once legal gets it all drawn up, get signed.

Commissioner Houpt – Second

Commissioner Martin – Motioned is seconded.

Brian – Clarification, this is a concept plan, the development guys will bring back.

Commissioner Martin – We approve the concept.

AIRPORT - APPROVAL AMENDMENT FOR RIFLE AIR – DATED OCTOBER 26, 2005

Brian Condie submitted the Land Lease and Operating Agreement for Rifle Air, LLC, dba Rifle Jet Center.

Carolyn said the Board approved this massive document and Mr. Martin was authorized to sign it in October, 2005. Brian and I continued to work with Rifle Jet Center, what they did was to take on two different leases. Corporate Air Services and the Flight department and you all approved certain changes in each one of the underlying documents. This brings all of documents. Together, we won’t have to look at history. Everything will be right here. A couple of changes made that were different on than the underlying forms. We want to make sure you’re okay with those differences before Mr. Martin signs. One, airport manager agreed with a request of Rifle Jet Center, he would be willing to discuss all proposed changes and rates with them, which he always does. But they wanted in the document itself. They wanted an obligation on the part of the airport manager to advise them when lease rates, fee charges were coming before you on an agenda. Nothing done behind your back everything has to be done in a public meeting. They wanted to make sure they had notice of that Public Meeting. Brian has no problem with that, needed to be brought back to you as it is addition language in your form document. Biggest commercial operator out there and they will be involved in public meetings having to do with changes of rates and fees. Second item, Unintentionally, I created an ambiguity in notice times in the remedy section of the document. It has to do with statute on getting folks out of possession if they refuse to give up possession of the leased property. The statutory notice is Three (3) days. The longer notice periods were proposed, because this is a commercial lease and a governmental contract. Rifle Jet Center, their lawyer and I have worked through case law and I believe we have come up with a document that’s clear, even though the case law on the issue of notice is not clear. What you don’t see in your packet, turn to 14, remedies following default. You have a redlined version we have a completed corrected version. The other thing we added is the language in Capitol D, bankruptcy or other insolvencies, states we all recognize bankruptcy law won’t let us get rid of lease just because the operator is in bankruptcy. It specifically gives you the right to move in and operate the airport should the operator be insolvent. We added that same language on abandonment. Again just to make totally clear that should Rifle Air or any other fixed base operator that takes on this lease in the future, abandon their operations. It is absolutely clear that you as BOCC can walk in there and operate the fixed base operation. Probably that would be seen under the case law as Landlords mitigation. There’s probably a federal law over ride. We don’t want have to litigate that. We want to make sure you can operate the airport no matter what’s going on. Those are changes that we made. Their lawyer and our lawyer agree that we have a better remedies paragraph, although we can’t say its bullet-proof under Colorado law. We can tell you that it’s understandable by both your side and their side. All the other changes were editorial. We needed to make sure you were okay with these two changes before we got John to sign them.

Brian – Currently I review the airport rates and charges every year. If I have a recommendation, I take it to the tenants first at the airport user meeting and get their input. From their input, come up with a recommendation for you. The concern they have is if I’m not here in 20 years from now the new airport manager may not do that, they would like a two week notice on the lease. We don’t have a problem with that. We want to work together with our tenants to make the airport better. Next one, on operation of the airport, we don’t want a company that is experiencing financial difficulties to inhibit our ability to operate the airport and more specifically sell fuel. We want to be able to take that operation back to keep the airport running properly.

Commissioner Martin – Is there a discussion on those changes?

Commissioner McCown – I have no problem with it.

Carolyn - I would appreciate a motion since it’s different than the underlying forms, it is a change.

Commissioner McCown – I make a motion that the Chair be authorized to sign the new and improved version of the Operator Land Lease and Operation Agreement with Rifle Air LLC. Commissioner Houpt – Seconded.

In favor: Houpt – aye McCown – aye Martin – aye

Insurance - Clarification

Ed – the sheet I just gave out just now is what I talked about earlier, the summary of the financial experience. PPO I the ratio is at 110.77. That’s where we got hit in order to have any nominal rate increase you have to go below 100. It’s all of our older employees.

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COMMISSIONERS PITKIN COUNTY JOINT MEETING to be on February 27, 2007. Subjects include Crystal Trail, concerning a Citizen Concern and the Transits regarding The Traveler, potentially RFTA transportation from Rifle to Eagle and information to Planning, Area Agency on Aging, Affordable Housing Commissioner Martin – A transit study going on should include the Traveler and the routes from Rifle to Glenwood Springs and a possibility of going on to Eagle. Wondered if we need to talk about that particular study, see if we need to join in. If there's any benefit to us, I'd throw that out there, have a presentation there. That study is going forward. That information would be very valuable to our planning office as well as any kind of transportation plans we may need. The meeting with Area Agency on Aging and I'm sure that is one of the issues we're going to have to discuss is the Traveler and how were going to handle that. I thought maybe if that plays in there maybe we could discuss that.

Ed – Anything related to Affordable Housing that you would discuss. I guess the issues I'm thinking of is them building affordable housing in Garfield.

Commissioner Houpt – I think its worth discussing it.

RAIL

Ed – Received a call from Bernie Zimmer, used to be a commissioner. He's now on a Front Range committee for rail. They're doing an I-25 & I-70 corridor study. The proposal they have is to use existing rail systems for transit. He's looking for grant money he wants about 20 grand from us.

Commissioner Houpt – I think we need to be a little careful about that right now. If you look at the existing rails that would serve the I-70 corridor, you wouldn't have a very practical rail system for people traveling through the mountains.

Ed – What he said, they would use existing system were it was practical and build new where it was impractical.

Commissioner Martin – Right, that's the task force that they are doing. But their focus is conventional or traditional rail. It would be real expensive.

Ed – The issue is the tunnel

Commissioner Houpt – They started out with, in their provisions for saving transit corridors through CDOT for PEIS right now for the I-70 corridor. These guys just started out looking at I-25; it's really easy to say traditional makes sense. I think it's really important, there are so many groups working it. There's going to be the governor's transportation group that's going to be looking at funding for transit. There's the I-70 corridor collation, CDOT's working on. I didn't know they were still locked into the traditional rail for the I-70 corridor.

Ed – They are I just wanted to forewarn you.

Commissioner McCown – Which would make it multi-mode. They could move freight and products to market as well.

COUNTY ATTORNEY UPDATE – CAROLYN DAHLGREN

Executive Session: Litigation Update; Legal Advice -Litigation update on Silt roads, Sheriff personnel issue, Board of Assessment Appeals item for Safeway stores, Contract negotiation on Chevron, Interpretation of Zoning and Subdivisions specific regulations in regard to Pinyon Woods and Pine Stone, Statutory interpretation annexation another item on the agenda.

Commissioner McCown I make a motion to go into Executive Session and discuss the items mentioned by the county attorney. Commissioner Houpt seconded.

Commissioner Martin – I also had two items in reference to zoning and zone compliance; outside the agenda.

Commissioner McCown – I will include those in the Executive Session.

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session. In favor: Houpt – aye McCown – aye Martin - aye

Actions:

Reference to executive session, a letter to Silt?

Carolyn- We need authority from the BOCC for you to sign a letter to be drafted by the Building and Planning department regarding specific annexation into the town of Silt that we call River Park.

Commissioner Houpt – so moved. Commissioner McCown – Second

In favor: Houpt – aye McCown – aye Martin - aye

TREASURER - CONSIDERATION/APPROVAL – RESOLUTION ESTABLISHING THE SALES TAX DISTRIBUTION FUND

Carolyn – We're not actually asking for any action today. When the Treasurer and Patsy sat down with Mr. DeFord last week, it became apparent to the three of them that we need one more sit-down with our auditors. The auditors really want this resolution but there's a question as to whether the money we're talking about is a special revenue fund or an agency fund. Patsy can explain that to you, but Mr. DeFord asked that you read this and consider it. The issue is with the October 2000 resolution; it has not been literally followed. The question that is being presented to you, if we continue this in March, is whether or not you want to cancel, repeal that resolution and stay in line with the more recent way that we have handled this money.

Patsy – I think the more important of the two is the second thing that Ms. Dahlgren mentioned and that is what's marked as Exhibit B with this resolution since several years we have not been following that breakdown. The fair and the fairgrounds were removed before I started doing budget. I don't know at what point we stopped doing that, but for the last couple of years we have not split the 12.5% of the sales tax according to resolution. And so that is something that needs to be addressed by each of you. And then the other one, the first thing Ms Dahlgren mentioned, I don't know for your purposes if it means that much to you it has to do with how these sales tax dollars flow thru Garfield County. Our auditors are saying that is needs to be an agency fund. And an agency fund does not have revenue or expenses. It doesn't flow through the books that way. You bring in as a liability and then when you send it out you release that liability. In discussing with Mr. DeFord I was of the impression, bottom line with him is no, he thinks that the statues require this be handled as a special revenue fund. Those are two very distinctly different funds. That's something we want to visit with our auditors about and make sure that the resolution, as it is right now, it is designed the way a special revenue fund would be set up, not an agency fund and again our auditors specifically said the sales tax distribution fund needs to be an agency fund. And so until we can get that

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resolved and make sure that resolution is written with the proper language we're not going to be seeking approval. But again for your purposes, it still flows in and out. But how it flows in and out is the question. Commissioner McCown – Regarding the interpretation of the resolution 2000-81 and it is not being followed. I think action was taken by this Board sometime around 2004 and whether it was done in the form of a resolution or

just by a vote to change that distribution formula, whereas the fair and the fairgrounds fortune went into the Human Services section.

Commissioner Martin – That was an action by this board.

Commissioner Houpt – I thought there was a resolution.

Commissioner McCown – Yeah I did too. Somewhere out there I think there's a resolution that supersedes this resolution.

Georgia – Do you think that resolution was done at the time of the budget? Just to give us an idea of where to research.

Commissioner McCown – You know Georgia, I don't remember when it was done.

Georgia – I have a feeling it was done around the budget time and we can research that.

Patsy – We couldn't find a resolution repealing this resolution.

Commissioner Houpt – We had a great deal of discussion on that and that's why I was thinking we had a resolution.

Jesse – It was not done at the time of the approval of the Budget. It was done like in August. It was done as direction as to how they wanted that budget put together.

Carolyn – Would that be to your recollection, August, 2003 because you were working on 2004 budget?

Jesse – It would have been either 3 or 4.

Commissioner McCown – I think it would have been 4. The year of 2004.

Georgia – It could possibly not be a resolution but just minutes? Our goal here is not to rush putting this together, but to put something together that will give us a basis for every year on doing the sales tax correctly. And the 3 offices are working closely making sure all the concerns are addressed.

Carolyn – Is March 12th okay with you?

Commissioner Martin – That's fine.

Commissioner McCown – And that is again that change was made with some reservation that it going untested, since this was a vote of the public on how this particular distribution was going to be set up. And this board did in fact make that change to it. Because at the time of the election I think it did denote how the funds were to be distributed.

Commissioner Houpt – I think it was closer to the wording of that vote. You might want to look at all the documents that are connected with this.

Patsy – That's what we been attempting to do. To bring all the documents in so that this resolution is taken into consideration everything else that has been approved either by the electors or the BOCC. And that's exactly what we're looking to do so that were not in front of you in a year and saying, oh remember that resolution for the sales tax distribution fund, we were wrong. We're making every attempt to not do that.

Commissioner Houpt – So the title will come back to us later?

Carolyn – Mary Lynn and I will work with the Clerk and Records office to get all of these minutes together. Finance director, treasurer and the county attorney will meet with the auditors and if March 12th doesn't work we'll let you know. That's when we hope to be back with you.

GIS GARCO GIS PARCEL DATA – DISTRIBUTION POLICIES–Rob Hykys – Carolyn Dahlgren

Rob Hykys and Carolyn Dahlgren were present.

Rob presented the following material in the Board's packet of information:

The goal of the following data distribution and pricing policies is to encourage the exchange of GIS data between agencies among tax-paying entities in Garfield County that use the GARCO GIS Parcel Data, while also charging a reasonable fee to private entities to partially offset the cost of Assessor's and IT staff time incurred to generate so users that could realize a fiscal benefit from the data pay to help offset a portion of the significant costs of the GARCO GIS Parcel Data.

The following policies describe how the County arrived at its pricing schedule for different user groups, and the requirements that must be followed by users of GARCO GIS Parcel Data. These policies apply to GARCO GIS Parcel Data only, and they do not apply to GIS data downloads available free of charge from the County's website, www.garfield-county.com in accordance with the online data download agreement.

- 1.0 Municipalities within Garfield County; local municipal governments are eligible to receive GARCO GIS Parcel Data free of charge, under the condition that municipalities receiving data agree to provide any GIS or CAD data they create or which they own free of charge to the County. Sales taxes and property taxes collected within the municipalities indirectly contributed funds for GARCO GIS Parcel Data CAD conversion and compilation. Therefore, residents and their municipal governments should not be "charged twice" for the data. Intergovernmental cooperation toward the development of GIS data layers presents a greater benefit to Garfield County residents than would be the case if the County charged municipalities for the data. The County shall retain ownership of the data. Municipalities shall not re-distribute GARCO GIS Parcel Data.
- 2.0 County and municipal governments outside of Garfield County boundaries; Counties and municipalities located outside of Garfield County are eligible to receive GARCO GIS Parcel Data free of charge, under the condition that they agree to provide digital data of equal quality and value to Garfield County free of charge. The County shall retain ownership of its data, and the receiving agency shall not re-distribute GARCO GIS Parcel Data.
- 3.0 State and Federal agencies; State of Colorado and Federal agencies are eligible to receive GARCO GIS Parcel Data free of charge, under the condition that those agencies receiving data agree to provide any GIS or CAD data they create or which they own free of charge to the County. This policy is in place because a significant amount of the data contained in the County's GIS database was provided free of charge to the County from several agencies, including the Department of Local Affairs, Department of Transportation, Division of Wildlife,

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Division of Water Resources, U.S. Geological Survey, U.S. Forest Service, and the Bureau of Land Management. Garfield County wants to exchange data freely with these agencies in the future in order to update its database and benefit from the new GIS data layers that these agencies produce in the future. GARCO GIS Parcel Data shall be for the internal use, only, of State and federal Agencies. The County shall retain ownership of its data and the receiving agency shall not redistribute GARCO GIS Parcel Data.

- 4.0 *Private contractors* are working under contract to Garfield County, municipalities within Garfield County, or other public agencies; Private contractors working under contract to Garfield County, municipalities within Garfield County, or other public entities described in this document are eligible to receive GARCO GIS Parcel Data for the contracted project free of charge. This data shall be used strictly for the purposes of completing the contracted project and shall not be used for additional projects. Such private contractors shall not re-distribute GARCO GIS Parcel Data.
- 5.0 *Private, for-profit entities* and private citizens; Private, for-profit entities and private citizens are required to pay for GARCO GIS Parcel Data. Entities, which purchase GARCO GIS Parcel Data, are prohibited from reselling the data to third parties or otherwise providing the data to third parties. Examples of private entities subject to this policy include realtors, land title companies, development companies, engineering firms, surveying firms, construction companies, ski areas, architectural firms, and planning firms. The County may exchange the GARCO GIS Parcel Data free of charge if data of similar quality and value is exchanged with the County free of charge. The GIS manager shall determine whether the data sought to be exchanged is of similar value and quality.
- 6.0 *Non-profit entities*; Non-profit entities are eligible for receiving Garfield County data free of charge if the use of the data will assist with a County or municipal project within the County. Contractors working for non-profit entities will be subject to the requirements described in Policy 4.0. If, at the GIS manager's discretion, it is determined that no benefit will be realized by the County with distribution of the data, the County may charge the requesting non-profit entity for that data in accordance with policy 5.0. The GIS manager may also waive data fees if providing data to the requesting non-profit organization is deemed to be of benefit to the residents of Garfield County.
- 7.0 *Special District*; Special taxing districts, which do not contribute monies to the Garfield County general fund, such as metro districts and school districts, are required to pay for GARCO GIS Parcel Data. Emergency service providers, organized as special districts, are subject to policy 8.0. Special Taxing Districts shall not re-distribute GARCO GIS Parcel Data.
- 8.0 *Emergency Services Providers*; Emergency Service Providers, including law enforcement, fire districts; ambulance districts, search and rescue organizations, and County Dispatch Services will be provided GARCO GIS Parcel Data free of charge. Emergency services providers shall not re-distribute GARCO GIS Parcel Data.
- 9.0 *Sourcing of Data*; All external users of GARCO GIS Parcel Data shall credit Garfield County. Hard-copy maps, digital maps, and other documents produced by using GARCO GIS Parcel Data, no matter the format, shall have a notation shown on the document sourcing the GARCO GIS Parcel Data to Garfield County in the following form: "GARCO GIS Parcel Data, © Garfield County, 2007"
- 10.0 *Time and Materials Charges*; The County reserves the right to charge any of the above users for staff time on an hourly basis for additional, custom digital mapping services such as digital media, packaging and shipping represent additional costs.

Rob Hykys – Last month sought the Boards approval to go forward with GIS distribution, Parcel Data. Rob submitted two documents for approval. He said these were based on Eagle Counties policies. He also attached a purchase order with a data use agreement that needs to be signed by the user on the back, acknowledging that they accept the policies as described here. This can be provided on paper or on the web site.

Commissioner Houpt – voiced her concern regarding the inconsistency she saw in the different manner in which we treat special districts. Even to non-profits and counties and municipalities that our outside of the area. Everyone else gets special consideration and has fees waived, but special districts even within our own county boarders don't.

Rob responded saying that he believes districts that receive money from the county are the ones that are charged. Otherwise they would be charged double if they were contributing to the tax. For example the school district takes money from the tax fund, doesn't contribute and for that reason they haven't really paid an equal share of the Data.

Commissioner Houpt – At the same time, if you have a municipality outside of our county, that comes for information we're offering them the ability to have that service.

Rob – In exchange for their data.

Commissioner Houpt – But a non-profit doesn't have any data to offer and they have the potential to have their fees waived.

Rob – The wording of non profit entities is by saying it will be free of charge if the use of the data will assist with a county or a municipal project within the county.

Commissioner Houpt – And what if that's true with special district?

Carolyn – It's your decision.

Commissioner Houpt – I see it as being treated differently.

Ed – It does say if you're a special district involved in emergency services then you go to number 8.

Commissioner McCown – School district Tres?

Commissioner Houpt – school districts are an example?

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Rob – I think the intention is not to make a profit or to receive money from these entities, it to protect the various entities being charged twice for them. It's measured by whether or not they contribute to the taxes; that's the intention.

Commissioner Houpt – How would that be the case with a non-profit entity?

Rob – Only if they're doing a project for the county, then they're given the data free of charge. We changed the wording from the original document, which said "any non-profit entity". We narrowed it down.

Commissioner Houpt – It says deemed to be a benefit. When would you see a situation that the special district's project wasn't deemed to be a benefit? Am I beating this to death?

Carolyn – No, special districts seem to be a much smaller section of the county. A project for which they are using our data is for this amount of our citizens instead of the entire Garfield County.

Commissioner Houpt – That wouldn't be true for the library district.

Commissioner McCown – If your only concern was the Parachute library. We've got so many special districts in the county, you have ditch companies, cemeteries districts, and etc. that this would be a one size fits all programs. If your concern is the Library and the school, name those specifically as exempt from this and move on.

Commissioner Houpt – I do see your point.

Ed – If you give to schools, do you want all of the students to have access to this data?

Commissioner Houpt – No this is project specific isn't it?

Commissioner McCown – Well it could be project specific?

Commissioner Martin – I think they need to go through their administration to do this.

Commissioner Houpt – I'm not talking about that. I'm talking about special projects that benefit Garfield County. Aren't we talking about larger scale project?

Rob – Yes, unless the school district purchases the GIS systems, I don't think we need to be concerned about them asking for the data.

Commissioner Houpt – I'm not suggesting that we suddenly are supplying the circular materials that are very significant to the school district. There is something that the school district has to do to benefit anyway. A new building wouldn't they need some of the data if they were constructing a new building.

Rob – A more recent example is they wanted to know names and addresses for school bus routes.

Commissioner Houpt – So school bus routes certainly benefit.

Commissioner McCown – So do we provide that service for them or do they buy the GIS equipment required to access this, so we give it to them.

Rob – Everyone who purchases this data computation has to have a GIS.

Commissioner McCown – If they're not purchasing it, how do they get it?

Rob – Everyone who purchases this data computation has to have a GIS user.

Commissioner McCown – But if they're not purchasing it how do they get it? If we're waving the charge, that's part of the question here.

Commissioner Martin – You have to do the research and supply it to them.

Commissioner Houpt – Is that true of each entity, we're giving it to the world except for the school district.

Carolyn – I don't know the facts of this, the on the ground business aspects of this. Are the schools districts and the libraries using our GIS parcel data system? Or are they just purchasing addresses from across the street from the assessor's office? I don't know that schools and libraries want this.

Rob – It's not likely but it could change, but we could change our agreement as well. Really the concern is commercial use.

Commissioner Martin – Right.

Commissioner Houpt – Let's start out with your wording and if we find that this is really problematic for school districts and libraries, go from there and if there is a special district we're forgetting on top of that, and then let's stay on top of it.

Carolyn – That seems practical to me. A lot of this we had to base on another county that has longer experience.

Martin – John Gorman do you have anything to add?

John Gorman – Not at this time. My understanding of this is that the biggest users would be commercial users who can use this data in their business. I think it's great that we would be able to provide that, but I do think that they should share in the cost of producing this data and keeping the data current.

Commissioner Houpt – I'm going to agonize over this so when a request comes in from the school district or another district if what they're doing is significant to the residents of our county. Do you have the flexibility in this policy to allow some opportunity for them or just to the non-profit?

Carolyn – We'd have to come back to you the way it's written now. And I can bet if we don't hear about it one of you will hear. And somebody else will agenda it if we don't. I'm sure Rob will hear somebody's concern and then we would bring it back to you and ask you to amend your policy if it makes sense to you and the assessor's office. That's my take on it in terms of drafting policies.

Commissioner Houpt – We're drafting policies; we'll see if it flies.

Carolyn – Right now we don't think it's a flaw, but we will find out

Commissioner Martin – You won't know until we put it in motion. Let's put it in motion.

Commissioner McCown – I make a motion we approve the presentation before us today with the GIS Parcel Data and distribution policies and the purchase order daily use agreement as presented. Commissioner Houpt - Second

In favor: Houpt – aye Martin – aye McCown – aye

Rob Hykys- Part two, this would require the boards approved signature. It is a Federal Copy Right Protection for the Data Compilation. Data Compilation is created from public information, assessor's data base and the mass data.

Carolyn – Public Domain but the artistry that went into the artistry itself and particular arrangement of it, is copyright able under US law. The copyright exists as soon as it's created and put into a medium where it is readable. In this case it's an electronic medium. You put little © sign and the date on it to give notice so that

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you get your common law and state remedies should anybody infringe. If you want access to Federal law, if you want to get attorney fees, statutory damages without having to prove how many hours the Assessors office when into to creating this computation, how many hours of IT, what your machinery cost you and the hardware and software, then you have to register. This is a business decision, how much protection do you want to afford. It doesn't cost very much. What we are protecting is called it in the trade - thin intellectual property because it's the computation not the data itself. But it does give you access to Federal court and the ability to go after infringes in a situation where you would want to do this such as if there's a big commercial worker who is swiping the work that's gone on in these two offices. That's probably when you would be saying to Mr. DeFord and me, go get those guys. We can't do that in Federal court and with the ease that the statute provides unless it's been registered. It's simple, but do you want to do it. I can't begin to give you a guess on whether or not you're ever going to have to do this.

Commissioner McCown – Pretty Cheap insurance.

Commissioner Martin – It is. It's an insurance policy

Carolyn – Is it \$45.

Rob – Something like that, \$45 or \$50.

Carolyn – And of course this is a work made for hire, this gentleman doesn't get to claim his copyright under his own name. All of this work has been done for the Board of County Commissioners. So the owner of the intellectual property is the County, not any one individual.

Commissioner Martin – And I think that's safe.

Commissioner McCown – I make a motion we move forward with the copyright agreement and the Chairman to sign.

Commissioner Hought – Second.

In favor: Hought – aye Martin – aye McCown - aye

A motion was made by Commissioner McCown and seconded by Commissioner Hought

In favor: Hought – aye McCown – aye Martin – aye

CONSIDERATION/APPROVAL OF RESOLUTION AUTHORIZING THE GARFIELD COUNTY ASSESSOR TO REVIEW AND SETTLE CERTAIN PETITIONS FOR ABATEMENT OR REFUND OF TAXES AND REPEALING RESOLUTION 96-13

Carolyn set out the provisions of the fund saying this is for consideration and approval of the resolution authorizing the Garfield County Assessor to review and settle certain petitions for abatement. For the assessor, this is basically a resolution changing names. This says I understand consistently been your policy over the years that your assessor settles certain petitions for abatement and this is an update resolution.

John Gorman – I have seen it and I agree with. It may or may not have been the intention of the Board at the time this previous resolution was passed, to give not only the current sitting Assessor the authority to handle those smaller abatements, but it didn't say that authority was give to successors of that sitting assessor.

Carolyn – And the one change that was made by Mr. DeFord and again I'm assuming it was in conversation with Mr. Gorman was on page 2, paragraph one, small letter "d", subsection D, that the assessor would report to you on an annual basis rather than on a six months basis.

Commissioner Hought – I'll make the motion that we approve the resolution authorizing the Garfield County Assessor to review and settle certain petitions for abatement, or refund of taxes and repealing resolution 96-13.

Commissioner McCown – Second

In favor: Hought – aye McCown – aye Martin - aye

CONSIDERATION/APPROVAL OF IGA WITH CITY OF RIFLE RE; PUBLIC SAFETY COMPLEX – AKA – JUSTICE CENTER/POLICE COURT FACILITY

Carolyn Dahlgren presented this for Don.

The City has determined it has a need for additional office and administrative space for the City of Rifle Police Department and the Rifle Municipal Court.

The County has determined it has a need for additional office space of the Garfield County Sheriff's Office located in Rifle and for the Garfield County Court in Rifle and its related facilities.

Both parties have determined it will be more efficient and cost-effective for each entity's operations and service to the public to share in the cost of designing and constructing Public Safety Complex.

The project will be located at 18th Street and Whiteriver Avenue in Rifle, Colorado on property owned by the City (south side of 18th Street – the "City Property") and the County (north side of 18th Street – the "County Property") with that portion of 18th Street between both properties to serve as parking and common area. The City's facilities will be approximately 19,775 square feet and the County's facilities will be approximately 16,000 square feet. The total cost of the City's portion of the Project is between \$4,100,000 and \$4,600,000, of which \$1,000,000 will be paid with a grant from the Colorado Department of Local Affairs ("DOLA") through its Energy and Mineral Impact Assistance Program. The total cost of the County's portion of the Project is approximately \$3,100,000, of which \$600,000 will be paid with a DOLA grant.

Carolyn – Mr. DeFord asked me to ask you to authorize John to sign a document that is substantially similar because he is aware this document has some typos in it. Randy was going to show up with Exhibit A from his conversations with Mr. Neu at the city council meeting Wednesday night and we're assuming the City and County are pretty close on this one.

Randy – My understanding is the City reviewed it, but they only had a few comments, nothing major.

Exhibit A is basically the aerial showing the potential footprint locations on our property and theirs.

Carolyn – the issue for the County is that the buildings stay out of our remediation field and that was the only situation that Mr. DeFord could see that you would not be willing to authorize John's signature if the City Counsel on Wednesday says we the buildings are to be out in the remediation well field. We don't think that is likely. Or, if they would say they wanted to move White River Road and that would get us into the remediation area. From your conversations with Jim we're all the same page about staying out of that well field aren't we?

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Randy – Yes, I think if anything that would be what’s under item 7 on page 3 in regards to potential relocation of mediation equipment.

Commissioner McCown – What we’re approving is basically what’s before us today and if there are any significant changes by counsel, it will have to come back here.

Randy – Basically, we want the Chairman to sign final approval.

Carolyn – With an exhibit A showing the buildings outside of the remediation area.

Commissioner McCown – I make a motion we approve the IGA with the City of Rifle regarding the public safety complex and that the Chair be authorized to sign it.

Commissioner Houpt – Seconded.

Ed – The only thing and I don’t know if it’s been resolved is it to make this work as a designed build, both the City Council and the Commissioners need to look at the concept of the design and then basically stay out of the way. I think John Hier was a little concerned about that and has going to have to talk to his counsel about that.

Commissioner Martin – That will be Wednesday and then we’ll know if there’s a major change or not and if it is then we’ll have to have another agreement.

Ed – I don’t think they understand how a design build is built.

Commissioner Martin – With that warning in place, all those in favor.

In favor: Houpt – aye Martin – aye McCown – aye.

Randy will go forward it to him, with the corrected version. Without the typos

Carolyn - Asked Randy to call Jim.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt

In favor: Houpt – aye McCown – aye Martin – aye

COMMISSIONER REPORT

Commissioner Houpt – Thursday a meeting on aging, probably more specifically to discuss the future of the Traveler. Meeting with Congressman Salazar on Thursday, responding to questions on the Roan Plateau process. Next week meeting with Pitkin County on the 27th. At the end of the week, John and I leave for Washington, DC.

Commissioner McCown – Tomorrow, February 21st, Task force, Club 20’s Oil Shale meeting 9:30 AM in Grand Junction. Thursday, Northwest RAC in Grand Junction and Friday as part of the Northwest RAC. I will be leaving at 12:00, coming back and meeting with the CMC foundation members and some possible grantors for additional grants at the CMC campus.

Chairman Martin – Last week Human Service Awards was well attended; great presentations. Sat up front, gave out plaques, nice honor. We went to public lands, CCI on Friday numerous items there; received update on information and miss-information on severance tax, federal mineral leasing and property tax and how it plays out in Garfield County. Several senators still miss-understanding where that money goes and how it’s distributed. They just see the dollar sign and say that goes to Garfield County and not the distribution of it. Working on an explanation of exactly how much it is, where it goes to etc. so they can make determinations on the joint budget committee folk how it affects severance tax and mineral federal leasing.

Carolyn – Mr. Martin, on the Pitkin county meeting on the 27th, is that a joint meeting of Pitkin County and the BOCC? Do you want somebody from my office to attend?

Commissioner Martin – Oh yes. It will be at noon at the Hotel Colorado. If no other action we will take a short break.

CONSENT AGENDA

- a. Approve Bills
- b. Changes to Prior Warrant Lists
- c. Authorize the Chairman to sign the Special Use Permit for four communication facilities in the RL Zone District. Applicant is Chevron USA Inc. – David Pesnichak
- d. Authorize the Chairman to sign the Resolution of approval for SUP and SUP for a Two-Family Dwelling Unit in the ARRD Zone District – William F and Martha A. Drake – David Pesnichak
- e. Authorize the Chairman to sign the Resolution of Approval for SUP for Material Handling of Natural Resources including a satellite water gathering facility in the ARRD Zone District located on Grass Mesa and operated by EnCana Oil and Gas, Inc. – Applicant – Juan Suarez – David Pesnichak
- f. Authorize the Chairman to approve disbursement of funds by the Treasurer’s office to RFTA in the amount of \$750.00.
- g. Authorize the Chairman to sign the SUP for the Staging/Storage of Oil and Gas Equipment – Applicant is EnCana Oil & Gas USA, Inc. – Fred Jarman
- h. Approval of the January 8th, 10th and 15th minutes – Jean Alberico

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve items A through H on the Consent Agenda. In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES COMMISSION

SOLUTIONS AND RESOURCES FOR HUMAN SERVICES

Jackie Skramstad reported for the Commission and submitted handouts. The Committee is looking at solutions and resources. Housing tops our lists. Housing for employees, special populations including people with mental illness, developmental delays, senior housing. Health issues, this includes medical and mental health issues. Affordable health insurance, improved access to services, support for people with low income, increase bi-lingual. Methamphetamine abuse, air quality, water quality, environmental health, trails and parks. Growth at the west end of the county and this is one we will spend more time on next meeting. Interesting statistics pulled out of meeting we had in district 16, there were 47 new students since the winter break. The population growth in children in Garfield County, children 0 to 18 we’ve seen a 4.4% increase in the past year and the state wide average is 1.7%. Our current overall population for children 0 to 18 is 14,707. No Surprise summer and after school programming and ways to impact our children positively is one of

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highlights on our list. She spent time discussing transportation some of it between Parachute and the rest of the County, but also specialized transport, people with physical and mental health disabilities, seniors, transportation from hospitals to other services. Rifle does not have any transportation from one end of town to the other. Which, as it continues to grow it's creating more difficulty for those of us trying to provide services in that region. Child care, lack of affordable child care, lack of infant child care and also child care for people trying to work hours other than 9:00 to 5:00, Monday through Friday is another area of concern. Continue to talk about community integration and cultural integration, cultural diversity issues effects of current legislature on Human Services. Had some conversation about outreach and how to help people be aware of services. Suicide prevention and funding status, just keeping one another informed on what state and federal impacts are having on our funding. We wanted to bring this list to you so that if you had additional thoughts, ideas you could express today at meeting, I did included my e-mail for anyone's thoughts.

Commissioner Houpt – As we have discussed these are all issues very specific to what's happening around Garfield County. And all of you deal with these issues on a daily basis. To bring these forward in not just an informational load as you have been, with some solutions, potential partnerships some recommendations, who we need to lobby or where we need to go. Or whether we're on track. We have some fabulous programs going on. As we continue to grow so rapidly make sure were working together to keep resources up. Does that fit in with what you wanted to do?

Jackie – Absolutely, that's our next step, the entire Human Service Commission received this morning the same list. What our plan was, after receiving this list, is to go back to respective agencies or categories that we represent and continue to bring data.

Commissioner Martin- We'll sit and absorb everything and get back with you.

Jackie – Ed while you were out I put the humanitarians award dinner request in your binder. We're actually having official wrap-up at the end of the month. This is our projected budget it's an increase from last year. Traditionally the commissioners have contributed \$1,500. We are requesting \$2,000 this year this event continues to grow. We had 8 more nominations this year from last year. We were able to honor 11 of those in some fashion of the 40 nominations we had. It's an event we're really very proud of. John we appreciate your participations in this years event.

ADVOCATE SAFEHOUSE – FUNDING REQUEST - TO SUPPORT 2007 RURAL PHILANTHROPY DAYS – Julie Olsson

Julie said this event happens every 4 years in our area consisting of Summit Lake, Garfield, Pitkin and Eagle County. Four years ago it was in Vail Eagle County and four years prior to that it was in Glenwood Springs, Garfield County and now it's in Leadville, Lake County. It's an opportunity for all of the non-profits in those five areas to get together, meet funders, mostly foundations but certainly some state funders, corporate funders etc. We get to meet them and see if it's a good match for funding purposes.

Commissioner Martin – The request is for \$500.00 to come from Garfield County to support that?

Commissioner McCown – Would this be an appropriate funding for the Human Services grant that we're holding for request for not on the normal cycle?

Ed – Well it could I don't know the timing what the timing is. Is this something you need pretty quick?

Julie – The event is in June.

Commissioner Martin – We've got plenty of time to get that done.

Ed – We could integrate into our evaluations for the grant committee. Or can take out of miscellaneous.

Commissioner Houpt – Take out of miscellaneous and then it won't take away from the program.

Commissioner McCown - This is part of the program.

Commissioner Houpt – As long as we meet the deadlines that they need.

Julie – My sense is that it's in February, a week, this is that Friday right? When will you all be meeting for the grant?

Ed - I thought it was going to be in March.

Julie – If it's before or early May that would be fine.

Requesting \$500 for the 2007 Western Slope Rural Philanthropy Days events. Each commission in the five county area is being asked to contribute \$500 of support.

ADVOCATE SAFEHOUSE – HONORARY PROCLAMATION – JULIE Olsson

Julie presented the Proclamation recognizing the Advocate Safehouse.

Commissioner Houpt – We've read and we support it.

Commissioner Houpt made a motion that we support the proclamation that marks 20th anniversary of the Advocate Safehouse Project in Garfield County.

Commissioner McCown – Second

In favor: Houpt – aye; Martin – aye; McCown - aye

Commissioner Martin – suggested we could post this on our Website.

BOARD OF HUMAN SERVICES

APPROVAL OF EBT/EFT DISBURSEMENT FOR JANUARY 2007 – LYNN RENICK

EBT Disbursement – For the month of January 2007, client and provider disbursements for allocated programs, totaled \$268,956.14. Client benefits for Food Assistance and LEAP totaled \$120,024.79. Total EFT/EBT disbursements for January equaled \$398,880.93. A copy of the certification summary has been included in your packet and the department is requesting Board approval and signature.

Lynn – The electronic benefit transfer disbursements for the month of January, 2007 the total was \$398,880.93 and requesting the approval for the certification summary for January, 2007

Commissioner Houpt – So moved

Commissioner McCown – Second

In favor: Houpt – aye; Martin – aye; McCown – aye

2007 PLACEMENT CONTRACT CONSIDERATION AND APPROVAL – LYNN RENICK

The Department is requesting consideration and approval for the following 2007 out-of-home placement agreements and child specific addendums:

1. Agreement to Purchase with Kid's Crossing

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2. Child Specific Addendum with Kid's Crossing for State ID G289330 in the not-to-exceed amount of \$10,552.05
3. Child Specific Addendum with El Pueblo Boy's & Girls' Ranch for State ID Y497462 in the not-to-exceed amount of \$31,895.38.

Lynn – Actually it's grown to five out of placement contracts. I three listed in the written report, first of all they're an agreement to purchase kids crossing and a subsequent child specific addendum with kids crossing for state ID # G289330 in the not to exceed amount of \$10,552.05. Would you like me to continue this into one motion?

The third is a child specific addendum with El Pueblo Boys and Girls Ranch for state ID# Y497462 in the not to exceed amount of \$ 31,895.38. The two late additions with the child specific addendum with Griffiths Center for Children, state ID# Y414270 in the not to exceed amount of \$26,888.82. And the last one is a child specific addendum for Aerial Clinical Services Placement Agency for state ID# G301655 in the not to exceed amount of \$15,676.91. So we're requesting consideration and approval on those.

Commissioner McCown – I make a motion we approve the placement consideration as presented.

Commissioner Houpt – Second

In favor: Houpt – aye; Martin – aye; McCown - aye

PROGRAM UPDATES

- Colorado Health Care Policy and Financing reschedules its on-site annual certification visit and administrative/programmatic review of the Department's Single Entry Point Program. The review took place February 14 through 16. An on-site financial compliance audit for the SEP program will be scheduled within the next 30 days
- The Department has received information from the Department of Health Care Policy and financing that it appears the Single Entry Point Program provided \$54,343.75 in services over and above the forecast for SFY '06. The Department is awaiting confirmation on this figure from the State.
- A LEAP audit/review is scheduled to begin on March 6, 2007
- The Department is preparing a mid-year grant application for \$25,000 through the Promoting Safe and Stable Families (PSSF) program. The Colorado Department of Human Services contacted Garfield County regarding this opportunity. 30% above the grant amount will be in-kind towards PSSF coordination.

In Child Welfare, the Department has filled the Child Welfare Ongoing Manager position, two case worker positions and a Case Services Aide position; also a new Child Support Technician has been hired.

Lynn – Had our program audit with the single entry point that ended Friday afternoon and went very well. I received information from the state department of healthcare and financing that we provided 54,343/75 additional services last year. They have not confirmed that figure, hopefully when they do we will be getting a check to cover those additional services provided. We are having a financial audit with the next 30 days for the same time period. We are preparing a mid-year grant application for \$25,000.00 for promoting safe and stable families program. We do not need board approval on that but wanted to let you know that is a mid-year application. We do need to provide 30% over and above that for probably a co-coordinator but it would be with utilizing existing staff. It would not incur any additional cost at this point. Just a copy of other things there was a blue piece of paper; it has some interesting data that Jackie also discussed. Talked about child population and the growth between the two quarters, there were only two other counties that exceed that. Also referrals of child welfare in that same time frame there was an increase of 41.4% for Garfield County and the state average was .5%. Number of assessments that we provided was 28.1%, again the state average is 2.1% growth.

Commissioner McCown – Perhaps you didn't go far enough down on that list, your department apparently deserves significant kudos if you look at the very last item. That's program service cost ours went up 3.2% and statewide it went up 13% and we had a lot more involvement and still kept our costs, thank you to you and your staff.

Lynn – We hired new child welfare manager that will start on March 19th and we have two case workers starting, one today and a Case Services Aide that also started today as well. It's been helpful

Commissioner McCown – Does that mean you're nearing full staff?

Lynn – We're getting there. On March 12th at BOCC meeting, it's not a Board of Human Services day, but I would like to have Division Director & the Policy and Evaluation Section Chief of the Child State Support Division, John Burnhard & Larry Damon, come and actually provide the child support staff with an award. They would like to do it in your presence as well. It has to do with increase of support for a small county, which was actually Pitkin County but we do provide services to them.

BOARD OF HEALTH:

PUBLIC HEALTH - CDPHE MASTER CONTRACT – APPROVED INTERGOVERNMENT MASTER CONTRACT – WAIVER #154 – Mary Meisner

This contract shall be effective upon approval by the State Controller, or designee, or on 07/01/2007, whichever is later. The contract shall end on 06/30/2012. \$(ZERO COST MASTER CONTRACT)

The intent of this Master Contract is to set forth the general contract terms and conditions between the parties and to define how the parties will contract with each other in the future using the Task Order Contract process delineated in this Master Contract

Mary – The master contract is with The Colorado Department of Public Health and it's actually an umbrella for the task orders and other provisions that fall under this contract. There are no dollars attached it's just simply the contract language. Carolyn and I have reviewed the contract and there is some slight change in the language this year over last years. The master contract comes up for renewal every five years and the language changes are to be in line with Health Bill 1032 and then Amendment 41. And Amendment 41 has to do with conflict of interest and that's on page 6 of 15. I have no problems with the language no concerns in anyway we are in violation.

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Carolyn – Just tracks language of new amendment. The other change is on the Special provisions, paragraph 10 page 14 of 15 this tracks the AG’s opinion that the immigration laws are not applicable to enter governmental contracts. Don and I can’t figure out how the AG got there. There’s the continual weirdness of the Counties and the State contracting with each other. On one hand we are recognized as arms of the state and on the other hand they are asking us to function as independent contractors. For some reason this time around, in the special provisions and indemnification they took out the language to the extent authorized by law, the BOCC will indemnify the state. I haven’t spoken with the agent’s office; I suspect their answer will be whether or not we say that’s correct. There has been a fight over the years between the County Attorneys association and the AG’s office.

Commissioner Martin – And another one that they did, please do not modify the general format of this document. That’s their stance don’t be changing our document.

Commissioner McCown – So it just the dept of health’s interpretations that the legislation on IGA’s with them is exempt from the legal.

Carolyn – I don’t think so, I think the AG gave an opinion that all intergovernmental contracts, not just this department.

Commissioner McCown – But between a state and another entity or all intergovernmental between the county and a city, between the county and another county or is it just a state agency at the county?

Carolyn – My understanding is that it’s limited to a state agency and another governmental entity. I haven’t read the AG’s opinion.

Mary –And that’s my understanding as well.

Carolyn – I’ll check on that Larry but I think it was narrow.

Commissioner McCown – I make a motion we approve the intergovernmental master contract waiver number 154 with the Department of Public Health and Environment and the Chair be able to sign.

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – aye

PUBLIC HEALTH - 2007 GARFIELD COUNTY PUBLIC HEALTH ANNUAL COMMUNITY PLAN – MARY MEISNER

Commissioner McCown – Move we go into Board of Health

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – aye

Garfield County Public Health Community Health Plan including:

Air Quality – Goal – Develop and implement an effective, comprehensive air quality program.

Focus Area – Immunizations – Goal – Pandemic Flu Planning

Priority #1: Increase Immunizations Rates in Garfield County

Priority #2: Increase community awareness of substance abuse

Priority #3: Improve Pregnancy outcomes in Garfield County

Mary – This is our plan for 2007. It’s both in word and Excel, the state wanted their section in excel. One of the reasons in excel you have Priorities 1, 2 and 3 that is part of our contract. It has to be specific to the Maternal Child Health contract. Your air quality and other pieces are Homeland Security dollars are not a part of that prioritization.

Commissioner McCown – The priorities in the state portion may not be the true priorities of Garfield County.

Mary – Unless you have questions for me I did put the year-end progress report on our website. So you can access that.

Commissioner Martin – Have you monitored any hits, how many going to that site?

Mary – No, I haven’t. We have really worked on that Website. There’s a lot of information to about pan flu, things you can do to get your pan flu pantry ready. There’s a whole section on environmental health.

Commissioner Martin – We just keep advertising people go to that website get your information, if there’s questions, it’s also on there how to get in touch with the staff.

Commissioner McCown – I move we come out of public health.

Commissioner Houpt – Second

In favor of the changes: Houpt – aye; Martin – aye; McCown – aye.

PUBLIC MEETINGS:

OIL AND GAS - ENCANA OPERATIONS REPORT – DAVID GRISSO

Dave Grisso – Passed out Exhibit to BOCC and provided a power point presentation. We talked last year about coming in front of the board and presenting our plan every year. Even though it’s late February we actually just finalized it here recently. Anything I’ve left out today, because there are a few things were not quite finished on, I’ll be presenting at the Northwest Oil and Gas Forum, March 7th. Map shows our area of operation for EnCana and the Piceance Basin, it’s grown more; we haven’t pulled in the Rangley map. We do have some area of operation Southwest of Rangley. Apparently we have 17 drilling rigs operating for EnCana. Eight in the south, nine in the north. Last year we had 207 wells drilled in 2006, 107 for the south and 100 for the north. Just north of the interstate and south of the interstate. Eight work-over rigs working in the area, our current production is 390 million. On the South, two rigs running in Mamm Creek, S. Parachute which is what we call our high Mesa areas. There’s one rig in our Orchard field and 3 rigs in Divide Creek, which is a federal unit. For 07’ were planning 45 wells in Mamm Creek, 38 in Orchard, which the border starts about I70 on the north, Battlement Mountain on the south, Wallace Creek on the east and all the way to V Road over by DeBeque. Drilling 28 wells up on High Mesa, south Parachute side which drops into an area right behind Battlement. We will be completing 2 wells up on Uncle Bob Mountain in the Divide Creek federal unit and we’ve proposed 3 wells in Plateau field which is just east of the Town of Mesa.

Commissioner Houpt – All of these wells, how many are on existing well pads?

Dave – Most of these wells are on existing pads. We did a lot of drilling last year at Orchard, It’s a new unit and we drilled single well pads and we’ll be revisiting, a lot of those 38 you see in Orchard we probably already drilled about 18 of those this year because it’s a good winter time drilling operation. We were able to revisit pads and drill 5 to 6 wells. Mamm Creek I believe out of those 45 wells there’s only about 2 or 3 new pads. Mamm Creek is a mature field we’re just finishing the infield development. Divide Creek, both of those are on existing pads. Plateau those are all 3 new pads. South Parachute we are revisiting existing pads.

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So out of the whole deal, probably less than 5 new pads this year. 116 total. One program we have this year, and we haven't identified the exact wells. We're going to deepen 9 wells into a new horizon that we've been testing the last couple of years - deeper formation. They will be identified in spring. We're going to try and get 2 or 3 done early in the summer. If we get good results we'll do the total 9 planned for 2007. North of the highway we're going to run 9 Rigs as an average this year. All the drilling will be on the North Parachute ranch up County Road 215. New things we have going this year, we're taking delivery of 2 new coil tubing rigs. They were supposed to be here late last year, but have been delayed again; should be coming in the next month or two. We expect to lessen our drill time and smaller foot print on location. Possibly more wells, if we can work that out. We have a new rig up on Uncle Bob Mountain. New style rig like you see the other companies using. It's just made by somebody different; it's got a hydraulic iron rough neck, closed loop. North Piceance will be getting 3 new Patterson rigs, same kind of rig just newer automated rigs.

Brad – Referencing the Power Point, this is a picture of the Orchard compressor station and this is an older pictures. These are the 3 compressors that we put sound buildings over. At the Orchard compressor station the electric compressor is schedule to start in May. The actual delivery of the compressor is due to arrive any day. The sub-station is under construction and all of the foundation for the compressor is under construction. We have not started any of the sound building for the electric compressor yet. We did get the 3 buildings completed and the COGCC gave ground, came out last week and ran sound study. We were under the 50 decibel rating. One tough thing in that area is the back ground noise, because their base line reading was 48/8 without anything running on our facilities. We fell underneath the 50 dBa and we also brought our third party sound company out. They also ran a sound study basically found on top of the COGCC's rating. Dave called me and said that the NOAV that they had written was considered closed. We haven't gotten the formal letter back from them. They were happy with what they saw. Once we get the electric running we plan on shutting down some of our compression. Whether it's at the Orchard or the Wallace Creek or up on high Mesa area. What we will be doing for gathering lines in the field, because of the development in the Orchard unit, we will be adding some additional trunk lines this year. There are some surface lines installed originally when they first started drilling that field, we're going to eliminate those lines. A lot of that is on BLM land so we have to wait until the winter stipulations are over. In the Mamm Creek area with the drilling up on the Uncle Bob on the two Divide Creek wells, there may be some additional compression that we may need to add at Mamm Creek. Just depends on what happens. 36 inch pipeline is now in operation; our gas is being processed at Rifle and we're sending the gas up the 36 inch pipeline to deliver to the rex, Kinder Morgan owns the line that goes from Meeker all the way to Wyoming. So were selling processed gas up that line. The Enterprise has plans to be up and running by late summer. When that plant gets up and running, we will shut down the refrigeration unit at Rifle, the compression will remain and then we'll be shutting down the Logan's Wash facility also. None of our gas will be going to that point; it will all be going up the 36 inch pipe line. Right now were splitting the flow partially between the Logan's Wash and up the 36. We will be submitting for an SUP for the Middle Fork compressor station expansion. We want to add more compression up there. Not sure if turned it yet, were getting a sound study. Not sure on date when that was completely done.

Dave – One thing I wanted to cap up, we haven't really rounded this up the last couple of years. Part of our community reinvestment program EnCana donated \$540,000 to entities inside Garfield County last year.

What we have done on the West Slope is quit a bit more

Commissioner Houpt – You heard me say this so many times, the investment that you are making in mitigation is really what many people measure. I think your compressor station is a fine example of that. You may want to talk about that in conjunction with this kind of contribution. People are concerned about best practices, concerned about mitigation.

Dave – Next slide, this is something Jim and I talked about. Couple things we started this year and I beg for a little patience, not quite finished with research but will have more detail at the Northwest Oil and Gas forum. EnCana is a new member of the EPA Natural Gas Star Program. What that is, a voluntary program to reduce methane flaring and venting. To date we have replaced 40% of our pneumatic chemical and methanol pumps with, we call it a solar operated pump. That's not exactly true, it's got a battery and the solar panel just charges the battery. We reduced our flaring and venting volumes by 64% during completion operations through "green completion" practices. And that's not allowing any flow back through pressurized vessels. We started in 2006, which is a 07' regulation reducing our sulfur content of our diesel used on our rigs. 78% of diesel in 2006 was low sulfur diesel. 21% of diesel combusted in 2006 was ultra low sulfur, which resulted in an 87% reduction in sulfur dioxide emissions. Another program we have been working on for years, we've installed 38 voluntary combustors which have reduced our overall VOC's emission by 30% in the Mamm Creek field. And that's all voluntary, not state regulations. Regulations are changing as of April, 08. We have another 32 that we will be installing.

Commissioner Houpt – How is your communication with property owners going in terms of this planning process?

Dave – We have a new program were rolling out. Shawn Helm, Cher and I are involved. It's a pilot program they have done in Calgary - it's called Courtesy Matters. Travel planning, going down the road to make sure we're on the right roads, dust mitigation, land owner communications. Make sure they're aware of rig move or equipment moves. Putting the whole program together and forming a committee of whoever, public officials, land owners to create an oversight committee.

Shawn Helm–The Courtesy Matters Campaign is going to start out with a committee we're going to invite. Internal partners/external partners to be a part of, to identify the specific issues in areas where were going to be rolling it out. Make sure that everyone understands what the program is going to be about. The steps we need to take to make sure it gets where it needs to go and is successful. We want to make sure that the guys out in the field understand that as well. Actually were going to extend some invitations to you Tresi and several other people outside.

Commissioner Martin – I think Jesse Smith might need an invite as well

Dave – It's not anything we haven't been doing before its just putting it together in a package. Saying this is what were doing and like Shawn said to critique our selves from the outside and the inside.

Commissioner Martin – Any other questions?

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Carolyn – David was requested to give a copy of the Power Point to the Clerk and Recorder.

**PARKS - GRANT REQUEST - OFFICIAL REQUEST FOR GLENWOOD SPRINGS
WHITEWATER PARK FUNDING – CHRIS VOGT**

Chris Vogt, Brian Wright and Jason Carrey were present. Chris introduced himself as a business owner within the County and a member of the Glenwood Canyon Kayak, along with Brian Wright. Jason Carey is our Park Designer and also a member of our White Water Steering Committee. Glenwood Springs Mayor Bruce Christensen, Citizen Joe Mollica and our designer Jason Carey presented the Glenwood Springs Whitewater Park Project to the BOCC in the council chambers on October 9, 2006.

This letter serves as an official request on behalf of the Steering Committee for Garfield County financial support in the amount of \$200,000 for the Glenwood Springs Whitewater Park. We are filing for GOCO grant monies. We request a letter of support from the Garfield County Board of County Commissioners before the end of February 26, 2007 to include with the GOCO application.

We are seeking \$200,000 from GOCO. Currently, the City of Glenwood Springs has committed \$300,000, the Hot Springs Lodge and Pool has committed \$20,000 and we anticipate another \$77,000 in commitments from businesses and residents within the county. A \$200,000 commitment from Garfield County is essential to realizing this community asset. Everyone is invited to our inaugural event, The Glenwood Springs Whitewater Rodeo, on July 31 through August 3, 2008.

Commissioner Martin – We have the letter, says your going forward with grant request as well.

Our counsel had one question before we get started.

Carolyn – Sir I noticed your name was signed not as a representative of the City. Who is going to own this park? Will it be a not for profit entity?

Chris – No, it's strictly non-profit. It's going to be public.

Carolyn – Will it be owned by City?

Jason – City will own it. The city is applying for all the permits, city owns the land currently, and the city will also be responsible for maintenance.

Carolyn – That means if the Commissioners decide to go ahead with your funding request, or any portion thereof, we'll need an intergovernmental agreement with the City. Who's going to be libel for the safe operation and maintenance of this facility?

Commissioner Houpt – Can you elaborate on the different levels of funding? You have in your letter, but is it the

\$77,000 that you refer to money that has been committed already.

Chris – I believe so yes.

Jason – The hard money needs to come in November when we actually award a bid for construction on the project. We have a number of locals and businesses verbally commit support and money. As far as hard money goes, we only have \$5,000 from local we also have a substantial amount of rock material, which is a main construction material. It's been provided by different contractors and stockpiled at the airport. That's over \$40,000 worth of material. The Hot Springs Pool is verbally committed \$20,000 and there are a couple other verbal commitments that we are firming up. I think keystone for this project is to get the GOCO Grants. It's a two sided piece of paper; the GOCO Grant needs to see the budget and the support from the community to move forward. GOCO will fund 70% of the project. We have project broken into two phases: one is \$800,000.00 phase and then a future phase to do more park-type facilities on the adjacent park land. The Phase I for \$800,000 is all the in-stream, hydraulic structure and the bank work, everything needing to be done below the high water line. Then there will be future work installing bike paths, landscaping and parking areas.

Commissioner Houpt – How much are you requesting from GOCO?

Jason - \$200,000 is the limit for this particular grant we're going after. It's the limit for government sponsored project grant.

Commissioner Houpt – They only pay 70%?

Jason – The match requirement is 30%. Where requesting 25% of the first phase from GOCO. We anticipate going back; we deliberately separated this project for a number of reasons. One the length of time to get it constructed. Two the obvious break in funding opportunities. We anticipate going back to GOCO for phase 2, which is going to be more the land side park.

Commissioner Houpt – The money you're requesting right now, is this strictly for Phase I, or is it for both phases? The monies you indicated the City has given and the Hot Springs Pool.

Jason – These are for Phase I. We anticipate once Phase I, the in-stream structure, Kayak Park, bank scene is in place, it will be a bit of, and if you build it they will come. We'll understand what a white water park is; the community will understand the opportunities understand the impacts and the visual aesthetics of the project.

Commissioner Houpt – For Phase II what was your dollar figures for that or do you have one?

Jason – It's \$560,000. And I believe this is the same information we provided in October 9, 2006 when we had a presentation on White Water Park. We could certainly update that presentation if the board is interested. We didn't want to belabor your time today with that.

Commissioner Houpt – I just always have questions.

Carolyn – Mr. Martin, I would like to ask a question of Jason. My memory from the October meeting was at that point you were asking for some cash but also wanted some in kind support from the Commissioners. Has that changed now so that you're asking for straight forward cash contribution? And you don't want Road and Bridge involved?

Jason – The request is for cash. Now I think there are other opportunities to support the project further.

Commissioner Houpt – When I was talking to Joe, he's not here, isn't this a two-year commitment the \$200,000?

Jason – I believe the County's fiscal year is on the calendar year? The way it works out and the way we originally suggested to the County, our construction window for habitat reasons and flow reasons is basically December 1st thru March 15th with some staging on each end of that. That crosses over the fiscal year. We would like to award contract to a contractor November 1st or November 15th at the latest. At that time we would like to know our commitments, but we anticipate the contractor will work on 30- day net. For

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substantial completion of the project so it, that 2007 period will roll over into 2008. If that's the best way it works the timing of the monies then I think we can accommodate that.

Commissioner Houpt – You probably gave it to us but you didn't on paper. I don't think we anticipated the \$200,000 request and that's a lot of money. Some of the information was on the economics of having this kind of park, between your ranges. I see this as a real economic asset to the area as well. In your region. I don't remember those numbers.

Jason – We haven't done a particular economic study for this site but we reference a number of other cities who have economic success through this project. Talking with the Mayor of Reno he anticipates he receives ½ million dollars a year in free advertising, just from word of mouth and websites. The City of Golden, Town of Vail and the Town of Breckenridge, put together economic studies and the Town of Vail hosts an event, probably one of the keystone events. They claim \$2 million dollar revenue in a single weekend centered around the kayaking event. The City of Golden claims \$250,000 of revenue based on their white water park on an annual basis. Breckenridge claims something similar to that, but their study was done previously to the park being built. I don't know if they realize that and it brings me to the next point the reason that Breckenridge hasn't recognized it, their park is based on 100 CFS and rarely operates. This is a fantastic advantage to the Glenwood Springs White Water Park. We're designing for low flows at Glenwood, but these are higher flows than any other park sees. All the other parks their events are concentrated around peak run-off of memorial weekend, the first week of June and they all compete for that event. We anticipate an event in Glenwood could be staged the first weekend in August. The timing there in is to catch all the professional athletes heading and outdoor retailers headed to Salt Lake City, Utah for the annual outdoor retail show. The season of this Glenwood Springs White Water Park and the ability to attract a prolonged season is to be a destination for a prolonged season. I would guess this park has the opportunity to even be more successfully as an economic generator than any of the other parks that were built.

Commissioner Houpt – Ed we had talked about potential sources of funding for this project.

Ed – Conversation Trust, one traditionally used, we have 3 commitments coming out of that total each year, RFTA along with Crystal Trail, \$150,000 each year started the fund with \$112,000 this year and we'll end with \$117,000.

Commissioner Martin – We want to try to keep . . .

Ed – We have two major projects, the bridge \$300,000 and the other is the trail and as you know, they're \$600,000 short. You have almost \$1 million dollars in potential obligations already.

Commissioner Houpt – We haven't talked about the plans.

Ed – the other options is general fund.

Commissioner Houpt – \$15 million, is that the end balance?

Ed – We returned about \$3.2 million at the end of the year, just because we didn't spend as much as we projected.

Commissioner Houpt – Because of state laws we can't commit next year funds, were obligated to one year at a time. Given the discussion that I had with Joe earlier, I don't think we have \$200,000 to give you right now. We have all these projects, which require more money; it's really hard for us to dig into the budget. At this point it in our County doesn't have the funds for recreation. This is a really comprehensive partnership. Commissioner Houpt - I would like to make a motion to commit, in 2007, \$100,000 from Garfield County to go to The Glenwood Springs White Water Park project.

Ed – Conversation Trust?

Commissioner Martin – Yes, it would have to be conversation trust.

Commissioner McCown – Second

Martin - Clarification – There's a motion and a second for \$100,000 out of conversation trust fund dollars to go to the White Water Park. Discussion? Who is going to be the contract administrator in reference to this project?

Jason – City of Glenwood Springs

Commissioner Houpt – Part of that is writing up an IGA and understanding that the City will maintain this project throughout the life of it. We're just a partner.

Carolyn – Please discuss with your City attorney, the indemnification. Do you have time lines?

Jason – Yes we do.

Commissioner Martin – A 404 permit has been issued?

Jason – Permit has not been issued the public comment period closed two weeks ago. We anticipate, any day now a special conditions, which we'll meet. There was only one comment that was that White Water Park should not interfere with water rights that come from the state.

Commissioner Martin – Hasn't been challenged in water court yet?

Jason – We do not anticipate any challenge on water rights. Today's paper has a discussion on the topic. The design for White Water Park fits within existing transportation of water right to the Orchard Mesa. It helps secure water transporting thru this site. No water issue at this time.

Commissioner McCown – Is there any conflict of use at all once this is constructed with the existing use of the river by the rafters? If you're having an event scheduled in August, can people still float the river and fish, do the rafting thing and not interfere with this event?

Jason – Great question. An event would be highly concentrated one or two day, maybe a four day period. There maybe higher traffic at the site, but the one functional thing that explains it best, the reach is used pretty heavily for both fishers as well as white water enthusiast. As this point they put in at Two Rivers or upstream on the Roaring Fork or further up on the Colorado. The closest point put in is Two Rivers Park, next point to take out is downstream at South Canyon and South Canyon has a white water wave that is similar obstacle, similar use, similar type of navigation issue, similar type of use issue. We already have all those boats that go through that reach also navigate the South Canyon it will be a similar navigation at that point to the South Canyon.

Commissioner Martin – So the answer is no, they could go right on by.

Jason – Yes, and they already do it. It will be similar to existing conditions.

Commissioner McCown – Already a course set up in South Canyon?

Jason – Yes, a natural destination location where there's a big eddy.

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Commissioner McCown – And that could be developed into a white water park?

Chris – Not really with the natural design of what’s there now. It has a very small window and we have in a good season two weeks. A bad season five days with a flow window which is only 1000 CFS at the South Canyon.

Commissioner McCown – Isn’t that down stream from where you’re going to build?

Chris – Correct

Commissioner McCown – So why wouldn’t it be the same stream? And the same stream flow?

Jason – Because it’s the hydraulics. The hydraulic is just the amount of water, but the hydraulics is how the canal constricts or manipulates the water into a recreational feature or whatever type feature. So at this location we’re dealing with a site that has been channelized by I-70 construction, channelized by Devereux Road, by the Midland Avenue bridge construction. We going into this already disturbed area and manipulating the hydraulics with our design. At the South Canyon site it’s a natural occurring feature so in some respects we try to mimic the natural occurring feature. We have the opportunity to do it here is a man made structure.

Commissioner Martin – The other issue is that you have more outside of the river space, parking, viewing area and more amenities there as well as higher traffic area. Where South Canyon is limited, also has the railroad little bit closer etc.

Chris – It’s better planning for that reason too. We can hold more classes there and know that those features will be up.

Carolyn – Jason, as a follow-up to that, have you, the cities engineers, your group developed an absolute legal description to show the boundaries of this park? Both in water and up on the land?

Jason – As it is we have not described the structures legally and we can especially if that will be required in an intergovernmental agreement. We have the ability to do that but as it is, it’s entirely contained in properties already owned by the City.

Carolyn – And are you talking just about the in stream part of it or land as well?

Jason – And the land as well. We’re working with CDOT on a permit to cross the A line, for construction access. We do have some CDOT right-of-way issues that were currently addressing.

Commissioner Hought – This is a huge investment building this park. There’s been a lot of discussion and controversy over how best to protect and secure flow rates and I hope your conclusion isn’t the final one; it will be a work in progress. You may have to look very seriously at water rights. It’s been debated over this project; statewide people are looking at that.

Chris – I think the key for us is we’re definitely unique and we’re a non-consumptive use of water.

Commissioner Martin – Depends on priority.

Jason – Absolutely you’re correct and we are designing this structure not precluding the opportunity in the future. I think that article Dave Merritt alluded to that as well.

Commissioner Hought – I think you shouldn’t shut door.

Jason – Currently House Bill 1177 is a big topic here in Glenwood Springs and a major component of that is a non-consumptive use needs assessment. This is something that’s in line with the evolving legislature and understanding of the needs and uses of water on the Western Slope.

Commissioner Hought – In your use it’s fine. What happens if you build them and suddenly you have no protection of that flow?

Commissioner Martin – Higher or lower? Simply because of call and if they got a priority call, then it drops the river well below what you have designed. You’re going to have to live with it.

Jason – Currently we’re based on Orchard Mesa check call not that it couldn’t be sold to Wyoming or wherever they’re going to send water next.

Commissioner Martin – Probably down the Arkansas and the plateau on a diversion.

Jason – Pretty soon we’ll be able to pump it from the ocean.

Commissioner Martin – They already do that in Kuwait City

Jason – You’re absolutely right, but there’s no way to foretell the future and at this time we do not see the water rights issue as critical.

Commissioner Martin – And that’s where you and I differ. I see it as very critical; a lot of challenges to it in the future. There’s a motion on the floor.

In favor: Hought – aye Martin – aye Opposed: McCown - aye

Carolyn – Communicate with City Attorney, start drafting based on the BOCC’s IGA’s with RFTA, Pitkin County and Carbondale on trails. As a follow-up to what Ms. Hought said earlier we want the City to have all liability, we’re financial partners. Were not designing, not maintaining, were not approving the design.

PUBLIC HEARINGS:

FINANCE - DISCUSSION OF THE 1ST SUPPLEMENT TO THE 2007 APPROVED BUDGET AND THE 1ST AMENDED APPROPRIATION OF FUNDS – PATSY HERNANDEZ

Patsy submitted Exhibit A and submitted the notification posted Feb 18, 2007 Post Independent.

Commissioner Martin swore in Patsy.

Patsy explained the supplemental and amended appropriation of funds. My request is that you approve the supplement as presented and we can then make the changes in our financial system.

Commissioner Martin – Motion then to accept.

Commissioner Hought – So moved

Commissioner McCown – Second

In favor: Hought – aye Martin – aye McCown - aye

Commissioner Martin –Now that opens the door to talk about the two other requests.

Patsy – Next, you approved in the original 2007 budget approximately \$750,000 going into the various funds that hold staff, and the supplement you just approved is the amount that will go into the various applicable fund contingencies. Now I’m asking with the first contingency transfer request, to be allowed to move on a line item basis in the applicable funds, the budget from the contingency, where you have approved it, to move

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it in to the individual line items which will then be expensed as people are paid. This first one represents only the annual pay increases.

Commissioner Houpt – So moved

Commissioner McCown – Second.

In favor: Houpt – aye Martin – aye McCown - aye

Patsy – Third, what makes this different from the ones you just approved is action going to and from the contingency line items in the funds that’s driven from the PAR forms (Personal Action Request forms) that I have received from the beginning of the year - new hires, terminations etc.

Commissioner Houpt- I make a motion to approve.

Commissioner McCown – Second

In favor: Houpt – aye Martin – aye McCown - aye

Commissioner Martin –Ms. Dahlgren, point of order, would we need to go ahead and authorize the overall resolution of 2007 with those approved measures?

Carolyn – With all attached exhibits

Commissioner McCown – So moved

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin - aye

ASSESSOR - ABATEMENT – MORGAN, THEODORE AND CHERYL – LISA WARDER

Schedule No. R360846 for tax year 2005 – abatement refund \$1,620.62 and tax year 2006 for \$1,615.26

Commissioner Martin – This is a public hearing, correct? Was there a notification requirement other than to the party?

Lisa - No

Commissioner Martin – And that has been made?

Lisa – Yes

Commissioner Martin – And that has been made to the party? Swore in Lisa Warder

Lisa – This is abatement number 07134, this is a parcel, they have owned two parcels in Rifle, and one of parcels has been valued and taxed as commercially vacant land, since they have owned it. Property owner states the parcel is used in conjunction with his residence next store at 974 West Second Street in Rifle. I sent an appraiser out to check and also to check with the City of Rifle to make sure that the zoning did allow residential on that piece. Because it is used with his residence, we want to change assessment rate from 29% to 7.96%. Which will mean that he gets a break in 2005 & 2006 taxes? The 2005 tax amount is \$1620.62. The 2006 amount is \$1615.26.

Commissioner McCown – Your assessment is based solely on use not on zoning?

Lisa – Right, Colorado is a use state. It’s however the property is used.

Commissioner Martin – No other questions, no other testimony to consider

Commissioner McCown – Motion to close public hearing

Commissioner Houpt – Second

Commissioner Martin – All those in favor? All – Aye

Commissioner McCown – I make a motion to approve the abatement No. 07134005 in the amount of \$1620.20 and the year of ’06 in the amount of \$1615.26.

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – aye

PUBLIC MEETINGS:

BUILDING AND PLANNING - CONSIDER AN IMPACT REPORT FOR ANNEXATION OF A 54 ACRE PARCEL INTO THE TOWN OF SILT. SUBMITTED BY THE ESTATE OF ROGER MCFARLAND DIXON – CRAIG RICHARDSON

The Estate of Roger McFarland Dixon (the Estate) has submitted an application for annexation to the Town of Silt (Town). The subject property is a 54-acre parcel located between Interstate 70 and the Colorado River, north of the proposed Stillwater development. Municipalities are required to submit an annexation impact report to the BOCC for all annexations of parcels exceeding 10 acres in size (Colorado Revised Statutes 31-12-108.5). The Estate’s representative submitted this report to Garfield County on February 1, 2007.

The current use on the property is Agricultural, and will continue until a site specific development plan is approved by the Town. Utilities will be provided by the Town once the approved plan is in place. The applicant has requested the proposed annexation be zoned commercial.

Access to the property is from a city street identified as County Road 311, on the submitted maps. This road was annexed by the Town as part of Stillwater Ranch Annexation No. 1, filed March 19 2007. Staff finds the proposed annexation does not negatively impact Garfield County.

Craig – We received an impact report for annexation of a 54 acre parcel into the town of Silt. The estate representative submitted this to Garfield County on February 1, 2007 and the public hearing is scheduled with the Silt Board of Trustees on February 26, 2007. Staff finds this annexation does not impact Garfield County and if the Board agrees, staff will draft a letter to board of trustees.

Commissioner Martin – Any citizen with information on the subject? Counselor, come forward and be recognized.

Mike Sawyer – Leavenworth and Karp, 201 14th Street, my firm represents the estate of Roger Dixon. As the impact report states, were seeking to annex a parcel of approximately 54 acres in size, approximately 34 usable acres as a chunk of this property is in the Colorado River corridor into the town of Silt. We’ll be seeking commercial zoning for the property. The commercial zoning will be applied consistent with the town of Silt’s Riverside Preservation Ordinance. We feel the property can be annexed and developed in a responsible manner given its location. Property has access to C-DOT frontage road from I70. We don’t think there are any impacts to County services nor will it result in any de-annexation from school districts or other special districts.

Commissioner McCown – I make a motion we support the annexation of this property into the Town of Silt.

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – aye

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BUILDING AND PLANNING - CONSIDER PLAT AMENDMENT LOTS 3 & 4, ROCK CREEK SUBDIVISION – APPLICANT – MCVOY, MARGARET – MARV RAY

Marv Ray, Carolyn Dahlgren and Margaret McVoy were present.

Marv Ray submitted the report.

Description of the Proposal – The owners of Lots 3 and 4 of the Rock Creek Subdivision request the Board to approve an amendment to the Rock Creek Subdivision Final plat so that a portion of a common boundary extended beyond Crystal River Private Drive at the back portion of the lots near the river will be omitted between Lots 3 & 4. This action will effectively reduce 1.14 acres of existing Lot 4 owned by Margaret McVoy consisting of 5.31 acres to 4.17 acres. Therefore, the additional 1.14-acre increment added to adjacent Lot 3 owned by Tim Sampsel and Anne McAlpine will increase in size from 5.28 to 6.42 acres thereby creating a “Flag Lot configuration”. Both lots affected by this requested plat amendment will remain in conformity with the subdivision regulations and zoning resolution of 1978, as amended (see attachments; A & B).

Staff Recommendation – The Applicant has provided all required documentation and has satisfied the applicable standards for a plat amendment. Therefore, the Planning Staff recommends the BOCC pursuant to Section 6:10 of the Subdivision Regulations of 1984, as amended, approve this amended plat request with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder’s Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law and approved by the County Surveyor and shall include, at a minimum, the information outlined in Section 5:22 of the Garfield County Subdivision Regulations.

Marv – Applicant Margaret McVoy, general location is west of Carbondale and West of Crystal River. The address is 0181 Crystal River Road, which is a private road. Background, it was final plated about 1972 and there were some subsequent amendments on lot 12 and 13. The pole goes through 114 acres of Lot 3 & 4, the subdivision, underlying zoning is ARRD. Access roads, as I mentioned before there is a private road there provides accessibility from private lots and the private road intersects with Thompson Creek Road. That automatically turns into Main Street, which channels the traffic out to County Road 133. Showing Maps of general subdivision, Rock Creek subdivision, can see lots 3 & 4. Shows configuration of lot approximately 4.17 acres for M. McVoy. Create a grant total of 6.4 acres for the Sampsel and McAlpin Lot. In planning terms the lot that will be created will be a flag lot. We have some conditions, see above #1 and #2, Marv read conditions.

Commissioner Martin – Questions?

Margaret - The property that’s being taken away from my lot is along the river, it’s not really attached to my lot because a road runs there. Nothing can be built on that lot. It’s close to my neighbors, within 20 feet. It seemed logically to do it this way, they were agreeable. We stay within the guidelines of our small subdivision. All of the homeowners have signed off on this.

Commissioner Martin – The house is on the same side that you’re lobbying off? The other house is. So they’re on that lot already?

Margaret – Their not on the lot, it looks like the front yard it’s about from here to the wall, is where my property is from their house.

Commissioner Martin – How about on the other side of the street for their property, what do they have there?

Margaret – It’s mostly, because we had some water issues, it was mostly a hillside that a ditch ran through and all of that had to be buried because it kept flooding out the road and adjacent homeowners septic. The hillside is now dry, rocky.

Commissioner Martin – No building over there?

Margaret – We have a lot of green space in our subdivision and want to keep it that way.

Commissioner Martin - You don’t anticipate another building envelope to be developed on that adjoining property of yours?

Margaret – No. In fact we’ll do a deed restriction on it that they cannot build within the body of the lot, or encroach on the body of the lot with an out building or anything.

Commissioner Martin – Any questions? Any one in the audience has any testimony to consider on this issue?

Commissioner McCown – I make a motion we approve the plat amendment for Lots 3 & 4 with the two conditions as recommended by staff.

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - PINYON WOODS SUBDIVISION (AKA-CALLICOTTE RANCH - ROCKY MOUNTAIN MANSIONS III) - CONSIDER ACTION REGARDING PINYON WOODS SUBDIVISION (AKA-CALLICOTTE RANCH) FINAL PLAT AND SUBDIVISION IMPROVEMENT AGREEMENT – APPLICANT: ROCKY MOUNTAIN MANSIONS III – FRED JARMAN

BACKGROUND – On February 2, 2004, the BOCC approved the preliminary Plan for the Callicotte Ranch Subdivision, which entailed subdividing the 173-acre property in Missouri Heights into a total of 28 residential lots with conditions. On August 17, 2004, the Board authorized the Chairman to sign the resolution of approval memorializing the action taken by the Board to approve the Preliminary Plan. This approval provided the applicant, Rocky Mountain Mansions, 1 year to file a final Platt application to Garfield County, which was to expire on February 2, 2005. Due to project financing issues, the Applicant requested, and the Board granted a 1-year extension to file the Final Plat so that it would expire on February 2, 2006. Based on the extension granted by the Board, the Applicant submitted a Final Plat application to the County on January 30, 2006. Staff reviewed the application and finally recommended the Board approve the Final

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Plat and Subdivision Improvements Agreement (the SIA) on October 16, 2006. At that time, the Applicant presented the documents to the Board but did not have the necessary security instrument to secure the SIA. CURRENT SITUATION – On October 16, 2006, the Applicant (as described in the minutes) explained to the Board the appropriate security would be delivered within a few weeks. Based on that, the Chairman directed the County Clerk & Recorder to hold the Final Plat and SIA until security was delivered. No security has been delivered to the County to date and the 90 days has expired.

ACTION BY THE BOCC – At present, the Applicant has not rendered any of the three securities required and the 90 days for which a SIA and Final Plat are to be recorded has expired.

The Subdivision Regulations are silent on what to do in this case. Staff suggests, should the Board move to provide the Applicant with a new deadline to have all the documents signed and securities tendered, that the Applicant be required to prepare an updated Engineer's Cost Estimate to adequately cover the cost of improvements due to inflation in construction costs.

Further, Staff understands the current owner (Applicant) is selling the project. If this occurs before a new deadline, the SIA, Final Plat and three securities tendered to the County should reflect the new ownership. Garret Brant – Introduced himself, representing applicant.

Fred – In packet, cover memo dated today 2/20, intended to share with you the background of the subject property. Formally know to you as Callicotte Ranch that came to you, you approved back in 2004. Since then there have been extensions on the time frame to file and then finally approve the final plat. In same section, I have included land use code that discusses how a final plat is brought to this board and the time frames, that's the 90 days you'll refer to. Ultimately, it says that the final plat shall be recorded within 90 days of the date of the Board approval of the final plat. You as the Board directed the then sitting Clerk and Recorder to hold the documents that Garret's client had brought to you know as Pinyon Woods. Under the same ownership just different name, ownership being Rocky Mountain Mansions Three LLC. I've attached the minutes also. At that meeting they had indicated to you that they would like the county to hold those documents until they could tender the necessary securities that they envisioned were forth coming. They have not been able to bring those documents to the county. We continue to hold the final plat documents with no security. At this point, it really is good form come back to you to explain where the project is. I did make one last comment, under action by the BOCC, which says if you decide to provide a new extension to tender the new securities and finally have the final plat documents recorded, 2 things we should look at. One, its been so long we are suggesting that you look at current engineer costs estimate, as time marches on, things become more expensive. Secondly, Garret has explained there is potential for new ownership, if that's the case it really makes sense to have the documents ultimately signed and recorded be the ones under the new ownership. If that's even possible. Again the code is silent with explicit direction on what to do.

Commissioner Martin – Any questions of Fred?

Garret Brant – Not sure what I need to add so much as when this project was approved my client did not have the finances in place, letters of credit to bring forth with. I was under the impression he was about to get them. At the time we had brought this to you in October, I had spoken to Carolyn and Fred regarding what time frame do we need to bring the security in and they did not give us a specific time. When called and said hey, your 90 days are up I was a little unaware. My client is now under contract to sell the ranch to someone who is definitely financially capable in fact according to America National Bank they already have all their approvals and would be able to bring in letters of credit. My understanding, I don't represent the new buyer, my understanding is, very, very quickly. They will be able to perform very quickly. What were asking for is willing to take the condition of an updated engineers cost estimate for the SIA, that you put in the minutes that we have an additional 90 days to bring the security and record the plats. I believe the new buyer will be closing on this fairly shortly and will bring to you an amended SIA with the new numbers and a request to put the entire project in their name to match the securities they will be posting. Nothing is changing, we're not asking for any change of conditions or circumstances.

Commissioner Martin – Questions? Anyone in the audience have anything to bring forward?

Commissioner Houpt – I just have to defend our staff. I think it's your responsibility to figure out what kind of time lines you have. We have a very professional staff and I am sorry that you put it in those terms.

Garret – I'm sorry if the words that I spoke cast any doubt on that. It was not my intention to do that in just reading the provision, the County will record the plat within 90 days and I think that we just have a disagreement as to how that may be read. I think they have treated us with the utmost professionalism. I apologize if I came off differently.

Commissioner McCown – I would make a motion that we grant an additional 90 days and that the updated SIA cost from an engineer be submitted at that time to adequately cover the costs of improvements due to inflation in construction costs. This will move forward under those guidelines.

Commissioner Houpt – Second

Commissioner Martin – For clarification when does your 90 days start?

Commissioner McCown - Today

In favor: Houpt – aye McCown – aye Martin – aye

GOCO FUNDING - AUTHORIZE THE CHAIRMAN TO SIGN A LETTER OF SUPPORT FOR A GOCO FUNDING REQUEST BY ASPEN VALLEY LAND TRUST FOR FUNDING FOR AN EASEMENT ON A THIRD OF THE 1,100 ACRE ROWE RANCH IN DIVIDE CREEK OWNED BY – WILLIAM AND BOBBI ROWE REVOCABLE TRUSTS – APPLICANT: MEYER, SHANNON – FRED JARMAN

Request a letter as support from the Garfield County Board of County Commissioners for the efforts of the William and Bobbi Rowe Revocable trusts to preserve approximately 340 acres of the Rowe Ranch in Divide Creek in perpetuity.

The 1,145-acre ranch is located in upper Divide Creek near the southern County boundary bordered in large part by the White River National Forest. An easement on this ranch will go a long way to reinforce the County's vision of protecting its agricultural heritage while preserving pristine wildlife habitat characterized by Pinyon-juniper woodland and mountain shrub-land which is home to many species of wildlife.

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Fred Jarman – Shannon approached us about seeing if the County would lend support to a GOCO Grant. Drafted a letter hoping that would be what your intentions are for the property. With that I'll turn over to Shannon.

Shannon – We are applying to Great Outdoors Colorado for a grant for \$600,000 to support a conservation easement on a portion of the Row Ranch. Its 1145 acres, 106 acres were conserved last year and we'd like to conserve 340 acres this year and finish the rest of the ranch in two more phases. We're going to be asking for money from the Department of Wildlife, the United States Department of Agriculture and GOCO. GOCO's application happened sooner than it usually does this year. I'm sorry for the rush, but it's actually due in the mail this afternoon. We'd like to show that the county supports this project.

Bill Row – My wife Bobbie and I have owned the ranch since 1985. It's about 14 miles south of Silt. Has marvelous topographical diversity, great views, and good water rights on the highline ditch. About 400 acres of irrigated crop land, the rest is mountain grazing basically elk and mule deer habitat. About 7 years ago, we thought, should we develop the ranch in 40 acre parcels, or sell? We have kids and grand kids that would like to see us keep the ranch in the family. Perry Will expressed to me that I have the kind of property that should be considered for a conservation easement. We're really on a migratory route from the White River National Forest and BLM land South and West of our property. We have several hundred elk come into ranch every fall for breeding and eating my alfalfa fields. They come back in the spring for calving and stay around quite a bit of the year. We've added a lot of feed plots that it makes it more wildlife habitat friendly. We do have some black bear, transitory mountain lions, coyotes, nesting golden eagle in the spring and a lot of bald eagles in winter. It's a great ranch to preserve and it's our objective to keep it undeveloped. I hope my kids and grandkids can say grandpa did the right thing for them.

Perry Will – I'm here to support, it's a great project. He's in the mouth of Divide Creek, more specifically West of Uncle Bob, Road Gulch, it's a natural corridor. He in the transitional range for deer and elk, if that habitat goes away we could lose the herds up there at least as we know them. It's a great piece of property. I've known Bill since he owned the ranch, very wild life tolerant. He has done a lot of enhancement projects to enhance the property.

Commissioner Martin – The tough question, who owns the mineral rights Bill?

Bill – I do not own the mineral rights. The previous owners only had small part of the mineral interest and as we know, when ranches turn over every 10 or 20 years the sellers want all the minerals and the buyers want all and they usually end up splitting the. So after 100 years go by, half of a half of a half gets pretty small. The little bit we got which was about 12 ½% has been sold.

Commissioner Martin – And how is that addressed in the conservation easement?

Bill – We have had an in depth mineral assessment done on the ranch and they think other than the continuing gas and oil development in that part of the county, that the possibilities of other mineral development is negligible. EnCana has been developing and struggling with water and right now those wells are not producing. I think in time the technology will be there and EnCana or someone else can cost effectively produce those well. I think strategically even if the wells produce, that the average life span of those wells will be anywhere from 50 into 40 years. I don't think a little gas will hurt a wild life future.

Commissioner Martin – Maybe LT's aware of that and you have it written in there somewhere.

Shannon – There is a coal bed methane well on property the property that's not included in the conservation easement. There's an excluded area around the home, the Row's residence and the well is within that. We're hoping any development that takes place will occur from there and go underneath the easement and not on top.

Commissioner Martin – As long as it's recognized. I hate to say it, but other people have interest underneath your land. Should we take any comment from the citizens out there?

Commissioner Houpt – I'll make a motion we the support letter for GOCO Grant, conservation easement for Aspen Valley Land Trust on the Row ranch and authorize the chairman to sign it.

Commissioner McCown – Second

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - SUN MEADOWS ESTATES, LLC - CONSIDER A REQUEST FOR A PARTIAL RELEASE OF SECURITY FOR SUN MEADOWS ESTATES SUBDIVISION, REPLACEMENT OF SECURITY, AND DISCUSSION OF THE EXPIRED SUBDIVISION IMPROVEMENTS AGREEMENT – APPLICANT IS SUN MEADOWS ESTATES, LLC – FRED JARMAN

Requesting BOCC sign and release monies on Certificate #4 in the amount of \$56,172.00 as agreed upon partially completing Subdivision Improvement dated January 11, 2006.

Fred Cooke, Greg Singer

Fred – Just as you read two things occurring here. One that deserves most attention we have a subdivision improvements agreement has run its course and there are still improvements that have yet to be accomplished. Those are the following, one, internal improvements to the subdivision itself. Secondly are improvements to the intersection where Miller Lane connects with state highway 6 & 24. In your packet are two things the actual full blown recorded SIA with all of its attachments. That's important to note that this was recorded January 12, 2006. The two time frames that are important, one, internal subdivision improvements which had run there course, they were to be improved by May 17, 2006, had not yet been completed. The second timeframe would be for the improvements to the CDOT intersection and that deadline was December 31, 2006. Both of those have not been met. When that occurs, were obligated to bring these contracts back to you. This project was a bit unique because in addition to the typical securities you have; you also have two lots that have been held in escrow for you as part of that security. Not common, but that's the way this one was done. Don DeFord and I had conversation with Dan Ruse of the Colorado Department of Transportation about a week ago on the status of the improvements that were going to be on Miller Lane and that intersection of Highway 6 & 24. Dan indicated that while the access permit has been granted no notice to proceed was issued. They are also waiting on an updated cost estimate. So the improvements are encapsulated by the developer's engineer, blessed by CDOT and which would then be covered by a performance bond. Draw your attention to pg 4 of the SIA, at the top, paragraph E and this is just a language, except for the portions thereof related to the Miller Lane State highway intersection, should be completed on or before December 31, 2006.

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When this was approved the applicants tendered a letter of security to the County in the amount of \$483,479.00 lower in the page on the letter of credit, which we continue to hold. As they move through the project they have accomplished a number of things and they have made certain draw downs and we processed through you off of that letter of credit. Page 5, paragraph B that is the paragraph that discusses escrow, 2 lots discussed there and finally, on page 7 paragraph E it talks about release of pledged lots. Understand your entitlements here as the SIA is currently drafted, paragraph 1 ultimately says that the County shall offer release of the pledged lots from escrow upon the owners satisfaction of the following requirements. Paren One and Paren Two. Paren one talks about the improvements at Miller Lane to Highway 24. Those are certified as complete or the second which is filing by the owner with the county with a written certification by a registered engineer, confirming the total estimated costs are complete in construction of the intersection improvements at Miller Lane are less than the portion of the letter of credit allocated for construction and improvements and accepted by County. That's the framework in which those were pledged to you. What follows then is the remainder of the SIA, the time frames then begin in a spread sheet format and then lastly toward end of packet, current request to draw down a little bit more of the existing letter of credit, from High County Engineering. Requesting to draw this down by \$56,000 and change. Attached to that is engineers cost estimate stamped by Roger Neil. In there it enumerates the tasks remaining to be completed. It appears to be there's asphalt that needs to be laid down. The remaining substantial costs are those costs that would be improvement to 6 & 24. This was a late submittal. I haven't had a chance to get with Don DeFord before this was submitted in the package. I know he has concerns with it, primarily to ensure you are familiar with the terms that are in the SIA's.

Commissioner Martin – Any questions of Fred?

Tim – I compliment Fred on the accurate background that he gave you. This has been a complicated project over the years and Mark Bean was previously the planner in charge. I guess the only relevant date that should be pointed out is April 1, 2007 that is the expiration date of the letter of credit that presently secures the subdivision improvements agreement. What we have before you, proposed amendment the subdivision agreement, I have discussed this thoroughly with Carolyn. The problem we were having whether we need to redraft a complete subdivision improvements agreement or do we amend. Carolyn and I are in agreement that the SIA that's in place right now has not expired. We're in breach of the term of the, the completion date, but it's not expired. You're free to exercise any enforcement, rights under that agreement if you so chose to do so. What the amendment would do it would allow an extension of the internal subdivision improvements. That's set forth in Exhibit A of the amendment, which would mandate the completion of all the internal subdivision improvements, May 11, 2007.

Carolyn – Tim, I don't think they have a copy of the amendment. Received from counsel handed out to BOCC.

Tim – We're amending two provisions of the existing subdivision improvements agreement, all remaining term remains the same. What we're changing is the completion dates for the internal subdivision which would be May 11th. The last completion and extending highway 6 and Miller Lane improvements to August 1, 2007. We also reduced the new letter of credit that would be required to post under the amendment.

Which would be six months past that August date. We're reducing that to \$283,288.00, which reflects, with the reduction that we're requesting today and contained in Exhibit B as certified by High County Engineering. The one point, all the security for the highway 6 and Miller Lane improvement will remain as they are. The deeds remain in escrow with Commonwealth Title that is not a date specific document. They are not supposed to do anything with those deeds until they receive instruction from you, either to release them back to us upon completion or to release deeds to you for subsequent sale, if you're going to exercise your rights under the letter of credit. The reduced amount we're requesting under the letter of credit leaves in all the original amounts for the Highway 6 improvements of \$188,216.50. I don't believe that under minds your security here any more so, it's as good as it ever has been. The delay stems in part from the highway department on what they want to do at that interchange and High County Engineering is completing the improvement designs. Complication came about because CDOT is redoing Highway 6. That probably has worked to our benefit, there is probably some cost sharing opportunities. We believe we can get done by August 1st. The only unfortunate thing is this has been a tight project; it's been a difficult project. It would be very helpful to get draw down on letter of credit and be able to get some of our contractors paid. The only other issue is the repaving of Antonelli Lane. They have one lift down and were waiting on the second lift for the relocation of the power poles by Excel. That was done early part of December.

Commissioner Martin – But the poles are gone too. I've been down there.

Fred Cooke – Poles are gone.

Commissioner McCown – I'm a little unclear on dates. Is August 1, 2007 the amended date for both inside and the Miller Lane improvement.

Tim – The August date would just be for Miller Lane. Look at construction schedule (Exhibit B) it has the remaining jobs outlines. Some of those dates are before May 11th. But that's the outside date for the internal. I did forget one major thing, we are looking at re-bonding this with Alpine bank, but we're looking for your authorization to sign this today. We're not posting that letter of credit today.

Carolyn – That's important Tim. When is your security likely to be available?

Tim – We believe we'll be on the committee meeting next Thursday and we should be approved at that time.

Carolyn – You not asking today for the old letter of credit to be released by the commissioners and then your substituting collateral?

Tim – Substitution would occur when we bring the new letter credit in hand. It would be the same thing as a regular plat, when you sign the SIA then wait for the posting of the letter of credit.

Carolyn – But your asking the BOCC to do two things: One, to release the old letter of credit today by a certain dollar amount. Reduce it, not release it. And then to enter into an SIA amendment, which you want the Board to instruct the Clerk to hold until you have replacement security?

Tim – Correct

Carolyn – It's a little bit different than what we talked about.

Commissioner Martin – Questions, clarification?

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Fred – Tim, Could you talk a little bit about CDOT, the cost of those improvements. When the original SIA was signed, there were costs assigned in SIA, but appeared to be a bit more general. It hadn't been decided at which point Miller Lane or Ukele, now that has changed. Clarification on the amount of money it's going to take to do that improvement to Miller Lane is accurately represented here which is different than the original SIA?

Tim – The Ukele Lane is still in the amendment I left it in for consistency. I don't think that commits us independently with the County to do that. The access permit that was drawn on the Ukele interchange has expired. Now as far as getting a letter from CDOT out that says, you absolutely don't have to do it, it's hard. Their saying your permit is expired that's all you need. We're trying to get confirmation on that, we understand no obligation from CDOT. With regard to Highway 6, Miller Lane those numbers remain the same what they were before under the SIA. The \$188,316.50 and then the Lots still remain against that under those appraised values, which have probably increased. Those numbers have not been redone.

Fred – When the original SIA was put in place, no one knew where the improvements to the state highway were going to be, Miller Lane or Ukele.

Fred Cooke– Under the original SIA, it was only going to be Miller Lane. Our engineers determined it was best to make application on Ukele Lane much to our disagreement or understanding and believe it was an error on behalf of the engineer. Under our obligations, under the original SIA, it only referred to Miller Lane. We did apply for and obtain an access permit on Ukele and not one on Miller Lane. The one on Ukele has expired and we have reapplied and received an access permit on Miller Lane. We are proceeding with construction drawings for the Miller Lane improvements. CDOT is going to making the 6 & 24 improvements. Issues we have with not disturbing or having to acquire rights of way from adjacent properties, we have number of reiterations of the design now we are going solely on the recommendations of CDOT.

Fred – Is your performance bond you're going to post with CDOT identical to what's in here, the engineers cost estimate?

Fred Cooke – We're unable to tell you the cost at this time. We do not have completed construction drawings. The additional collateral we put on deposit of the two additional lots, more than adequately covers the cost of those improvements.

Tim – Just to clarify, we had the original SIA when we filed the Plat then in November, 05 we replaced it with another SIA.

Commissioner Martin – Questions? Anyone in the audience have any testimony?

Commissioner McCown – I make a motion that we approve the amendment to the subdivision improvement agreement as presented by applicant given the dates that the applicant has applied for the longest being the improvements to the Miller Lane state Highway 6 & 24 intersection that date being August 1, 2007. I would ask that the Clerk & Recorder hold this document and ensure the new funding sources are available and in place prior to filing this subdivision improvement agreement. The request to release the funds is made latter or now?

Commissioner Martin – Should be made now.

Fred - Now

Carolyn – Under old letter of credit.

Commissioner McCown – That's going to cloud this motion, the way I would look at it. It would be much cleaner to adopt this amended subdivision improvement agreement being held until the time the funds are available. Then under a separate motion I would like to see the release of the funds on the original SIA down to the amount prescribed in here and then those funds be the ones that are needed to make the finalization of this document.

Carolyn – That letter of credit will not go away, that old one, until Tim (somebody) shows up with the replacement of security at which point, the developer and Tim will be asking you to substitute the letter of credit in order to get a final release on the old letter of credit.

Tim – The amendment allows that specifically.

Commissioner McCown – And that would clearly be the intent of my motion.

Commissioner Martin – That draw-down could be done through that motion.

Commissioner Houpt - Second

In favor: Houpt – aye Martin – aye McCown - aye

Commissioner McCown – I would like to make a motion to allow the drawn down of the original letter of credit, which was \$483,479.00, down to \$283,288.00 amount that will be needed to secure the amended subdivision agreement that we just approved.

Commissioner Houpt – Second

Commissioner Martin – That's following again the Alpine Bank letter of credit and its outline.

In favor: Houpt – aye Martin – aye McCown - aye

PUBLIC HEARINGS

BUILDING AND PLANNING – SUB EX - LOW CONSIDER AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION TO CREATE A TOTAL OF 2 PARCELS LOCATED 1 MILE NORTH OF THE TOWN OF CARBONDALE ON COUNTY ROAD 107 – APPLICANTS: LOW, HELEN AND STEPHEN – DAVID PESNICHAK

Amend application so that the two parcels of property are configured so the two parcels are on opposite sides of County Road 107. The Lows intend to re-file their subdivision application.

David – You should have in your packets a letter from Bob Emerson on behalf of Helen and Stephen Low, withdrawing this application due to recommendations by staff.

Commissioner Martin – The applicant is not here the letter is taking its substitute, the application will be withdrawn.

BUILDING AND PLANNING - CONSIDER A CUP TO ALLOW A HOME OCCUPATION ON A PROPERTY LOCATED AT 7205 COUNTY ROAD 100 – APPLICANTS: WELLES, MATTHEW AND DEBORAH – CRAIG RICHARDSON

Carolyn Dahlgren, Craig Richardson, Attorney Doug Garybill and Matthew and Deborah Welles were present.

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Carolyn reviewed the notification requirements with Mr. Graybill and there was a question regarding an imperfection in the notice to adjacent neighbors. The posting was not properly done. But just to close this loop may I please look at the documents? Mr. Martin the documents and the testimony are consistent. We do have an imperfection in notice, as you know this is a Conditional Use Permit under our zoning code. You also know that the case law on zoning notice, if imperfect, you don't have jurisdiction and you can't keep going.

Commissioner Martin – If someone challenged notification and found there was an improper notification you would lose everything and have to start over from scratch. I don't think you're willing to do that. If you'd like to take that chance, voice your opinion and the board will make that decision. With the understanding that you may have to start over if someone challenges that notification or the imperfection of the posting of your property.

Doug – It's unfortunate the sign did get posted where it is; the notice that was received said to post on public way.

Commissioner Martin – Is Rim a private road but a public access?

Doug – Yes it accesses sever lots and what needs to be understood is, it does access and posted down where neighbors could see it. They are 8/10ths of a mile from the major road. I was unaware it was a private road. Its unfortunate it ended up in the wrong spot. It was noticed by the planner there. Geographically it is a long way from the major road and what we are talking about is a conditional use of a barn. We cannot physically see the barn from the man road. I'm wondering if there is a method here that we could use to proceed allow them to submit for a building permit in some form that could be a notice for a next meeting at their risk, to submit, have that 30 day notice on the road?

Commissioner Martin – I don't think so.

Carolyn – No

Commissioner Martin – No, in reference to that private road, do we know if it's private, private or if it's dedicated to the public for its use or limited to its access?

Carolyn – Sounds like it's a private road, I have not investigated.

Deb – Doesn't say private.

Commissioner Hought – Is it privately maintained?

Carolyn – If the Commissioners decide to go ahead with this, if you decide this is not imperfect enough on a conditional use permit. If you want to proceed, the applicants still understand that should anybody challenge this the County will fold our tents and say your right the notice was imperfect. We won't be on the same side of the lawsuit with you.

Commissioner Martin – It's a gamble for you.

Matthew – So we're clear if somebody were to challenge this then at that point we would have to stop building what we would be doing and reapply for the conditional use permit and wait for the duration of the 30 days and then come here do it again?

Doug – Can we reapply immediately so we're obviously doing that?

Commissioner Martin – If you would like to do a reapplication and another notice, it's still going to be 30 days down the road from the time that you do it. If you want to run the gamble as you just explained.

Commissioner Hought – You could just start notice again today and it might be the shortest route for you.

Doug – Do we have to redo both forms of notices?

Carolyn – You have to redo all three notices. But you don't have to copy all of your application again. The building and planning department won't send it all out again to each of the referral agents.

Commissioner Martin – That's done, it won't change.

Carolyn – but I can't tell you when the next opening on the Commissioners agenda is, the building and planning department will have to check the agendas and see when there's a spot

Commissioner McCown – Could be the last week in March or April.

Carolyn – End of March or beginning of April, depending upon how full things are.

Commissioner Martin – I don't think that interferes with the ability to get a building permit.

Matthew – We have noticed and had conversation with all our neighbors and the adjoining properties and at this point nobody has voiced any concerns about the CUP. We've had some discussions about the homeowners association, but that would not directly impact this counsel. I think we would like to go ahead with this. If we have a setback based on a complaint later on.

Commissioner Martin – You're accepting that risk?

Matthew – Yes

Commissioner Martin – It's the decision of the board if they wish to proceed or not.

Carolyn – And that's the BOCC's discretion. You know that your lawyers are always going to take the more conservative approach.

Commissioner Hought – I think the fact that they are so far away from a road to be a county road makes a significant difference. And we don't know if this is a private road either. I can understand your desire to move forward. It could be a risk.

Commissioner McCown – I think the applicant has voiced that they're willing to take that risk. The remainder of the notification being proper I say lets move forward.

Commissioner Martin – We'll go ahead and start. He swore everyone in.

REQUEST

The Applicants are requesting approval from the Board of County Commissioners for a Conditional Use Permit to allow a Home Occupation. A Home Occupation is defined in the Section 2.02.29 of the Zoning Resolution of 1978, as amended as the following:

Any use for gain or support carried on as an accessory use within a dwelling or a building accessory thereto, wherein such use would not create the appearance or impact of a commercial activity.

The Applicants propose to use an existing barn as an "Arts Studio". The proposed studio will be utilized by the property owners to conduct a number of activities (arts and crafts, music studio, and photography workspace). The existing barn is a two-story structure. The upper level houses a permitted 900 sq. ft. Accessory Dwelling Unit (Resolution #99-057). This existing residential unit will be used as part of the arts

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studio. The lower level was used for agricultural purposes. No commercial sales or activity will be conducted within the studio. All sales and display of artwork will be conducted at appropriate venues offsite.
Staff Recommendation

Staff finds that the proposed Home Occupation can be conducted in compliance with the Garfield County Zoning Resolution of 1978, as amended. Impacts from the proposed use as represented by the Applicant will not adversely impact adjacent uses. Staff recommends that the Board of County Commissioners APPROVE this request for a Home Occupation for the property owned by Matthew and Deb Welles at 7205 County Road 100 with the following conditions

1. That all representations made by the Applicant in the application, and at the public hearing before the Board of County Commissioners, shall be conditions of approval, unless altered by the Board of County Commissioners.
2. Appropriate building permits shall be obtained for the proposed changes to the existing barn.
3. No retail or wholesale sales of any kind associated with the activities of the Home Occupation shall be allowed to take place at the property, which requires any visitor traffic.

Greg – submitted the following Exhibits: Exhibit A - mail receipts, Exhibit B- proof of publication, Exhibit C - Garfield County Zoning Resolution of 1978 as amended, Exhibit D - application materials, Exhibit E - Staff report, Exhibit F - a response from Carbondale Rural Fire Protection District.

Chairman Martin entered Exhibits A – F into the record.

Greg – The applicants are requesting a CUP to allow the use of a proposed art studio as a home occupation. The art studio will be located within this existing structure. Here’s a current layout of the floor plan for the first level. Stall, garage, built for agricultural purposes. Showed exhibits of barn. Existing on the top floor is an ADU, permitted by resolution 99.057 and it is my understanding that this will be used as part of the art studio. All utilities are currently in place. No increase of traffic. Proposed home occupation will be conducted within an existing barn and the established neighborhood character is not impacted by the use. Staff finds that the proposed use will not create an appearance or impact a commercial activity. I recommend that the BOCC approve this request for a home occupation for the property owned by Matthew and Deborah Welles at 7205 County Road 100 with the following conditions as above.

Commissioner Houpt – You took the 5th condition out?

Greg – Yes because it was repeated.

Commissioner Martin – Any other questions? To the applicant? You can live with all those restrictions?

Commissioner McCown – Is the ADU resolution still in effect?

Carolyn – It is in effect right now, that was going to be one of my questions to the applicants, if they intend to be double permitted or if this CUP is going to replace the ADU? It was difficult for me to tell from the slides if those uses can co-exist.

Commissioner McCown – The comment was that the existing ADU may be part of the business. I need to know for my own knowledge, when I vote on whether or not it’s going to be an ADU part of the time and an art studio part of the time and its going to fluctuate back and forth. It needs to be either or situation, the way I look at it. If you want to change it from an ADU to a CUP for home occupation that’s fine, I would support that. But it’s either one or the other it can’t be both.

Commissioner Houpt – You don’t see this being as being compatible with type of industry?

Commissioner McCown – No, not unless the musicians are going to live upstairs and record downstairs.

Deb – That’s my space, I’m happy with it the way it is.

Commissioner Martin – Is it going to be converted to any use in reference to this CUP?

Doug – Debra and Guy purchased this property recently and they’re both artists. They both want the flexibility to be able to use the barn. Debra is going to be using the shop on the lower level, the light is better on the upper level wants to be able to paint on the upper level. I don’t think they want to give up the right to have that an ADU. I think she wants the flexibility to be able to paint up there or in the studio down below, depending on what’s going on. Home occupation use of the building is what where after, but they also would like to reserve the right as an ADU.

Carolyn – They can have more than one use under our code as long as they can meet all the performance standards of all the uses.

Commissioner Martin – And presently it is an ADU with all features.

Carolyn – Are you within the city limits however?

Greg – With the ADU resolution you could not have the kitchen or the full bath. If you remove that. . . .

Carolyn – So if it’s rented out, does the studio go to the renter?

Doug – She’ll just move downstairs, I think they want that flexibility. We’re classifying the building as a home occupancy.

Carolyn – Then you’re requesting double permits?

Doug – Yes

Commissioner Martin – Do I have a motion to close public hearing?

Commissioner Houpt- So moved

Commissioner McCown – Second

In favor: Houpt – aye Martin – aye McCown – aye

Commissioner Houpt – I make a motion we approve the request for the home occupation for the property owned by Matthew and Debra Welles at 7205 County Road 100 with the conditions presented by staff, deleting condition number 5.

Commissioner McCown – Second

Commissioner Martin – Motion and a second to approve with conditions.

In favor: Houpt – aye Martin – aye McCown - aye

Doug – Just as a clarification for the property noticing I need to resubmit an application to you.

Commissioner Martin – No, only if it’s challenged Doug.

Deb – Is there a time limit on the contesting?

Commissioner Martin – No, now you’re going to be worried the rest of your life.

BUILDING AND PLANNING CONSIDER A SUP TO ALLOW PROCESSING, STORAGE AND MATERIAL HANDLING OF NATURAL RESOURCES ON A PROPERTY LOCATED AT 0600

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**COUNTY ROAD 113 – APPLICANTS: 3P PROPERTIES AND PINE’S STONE COMPANY INC. –
CRAIG RICHARDSON**

Carolyn Dahlgren, Craig Richardson, Davis Farrar of Western Slope Consulting, Mike Sawyer Attorney with Leavenworth & Karp, Curtis Rowe – traffic engineer, Jeff Cerjon – noise engineer and applicant Pam Pine and Martin Pearson were present.

Carolyn Dahlgren reviewed the notices and stated everything consistent only one of the receipts did not come back. And there is, if you will a title opinion by Mr. Leavenworth by having conducted a title review of mineral ownership and he found no separated mineral interest. And publication is in accordance with the testimony as is everything else.

Commissioner Martin – We’ll accept such and put into the record.

Commissioner Martin –Thank you very much Ms. Dahlgren. Any challenges to this notification its requirement? We’ll accept such and put into the record. For those who wish to give testimony in the matter, please raise your right hand. And we have a bunch of people out there testify. What I’m going to do is pass around a list Mr. Dally you’ll be the first one to start it and I’d like to all the names and then I’ll call them in order that way a microphone can go around and we’ll be All right..

Chairman Martin swore in the speakers.

Craig submitted the following exhibits. Exhibit A - Mail Receipts; Exhibit B - Proof of Publication; Exhibit C - Garfield County Zoning Resolution of 1978, as amended; Exhibit D – Application; Exhibit E - Staff Report; Exhibit F - Memo from Garfield County Road and Bridge Department, 1/23/2007; Exhibit G - Memo from Chris Hale P.E. Engineering review consultant for Garfield County 2/9/2007; Exhibit H - Letter from the Carbondale & Rural Fire Protection District, 2/9/2007; Exhibit I - Resolution #92-07; Exhibit J - Findings of Fact, Conclusions of Law and Judgment, Pine’s Stone Co., Inc. Vs. Board of Adjustment of Garfield County, Colorado and Mark Bean, Director of Garfield County Building and Planning; Exhibit K - Letter from Michael Sawyer, Leavenworth & Karp, Attorney at Law, dated 2/24/2007 and Exhibit L - Letter from Brian and Sharon Wilson, 617 County Road 113, dated 2/6/2007 received on 2/15, 2007

Commissioner Martin – I do have an additional one, Steven Dawson a letter from him that would be “M”.

We have a power point presentation that the applicant would like to go ahead and present that would be Exhibit N.

BACKGROUND

Craig submitted the staff packet and explained that the requested use (Processing, Storage and Material Handling of Natural Resources) within the ARRD Zone District requires that the Applicant obtain a Special Use Permit approved by the BOCC. (3.02.02) Pine’s Stone Company Inc. (Pine’s Stone) received approval of a Special Use Permit in 1992 for this site. However, due to increases of their operation at the subject property and current violations of the conditions of approval, they have submitted a new application in order to redefine the allowable uses on this site.

Description of Existing Use

The Applicant currently operates Pine’s Stone under Resolution #92-078, approved by the BOCC on August 10, 1992. This approved Special use Permit allows for the following

- 1) All proposals of the applicant shall be considered conditions of approval unless stated otherwise by the Board of County Commissioners.
- 2) That limited processing (cutting and shaping) of materials on the site will be limited to daylight hours.
- 3) All delivery and stacking shall occur Monday through Friday during daylight hours. Delivery of material on the site during weekends will be limited to minimize the impact of the use on adjacent residential uses.
- 4) All non-licensed or inoperable vehicles and assorted equipment will be removed from the site.
- 5) The applicant will construct a berm on the south side of the property, and will plant landscape screening along the property’s frontage with Cattle Creek Road (CR 113)
- 6) Regular business hours are limited to 8:00 a.m. to 5:30p.m. Monday through Friday and a half day on Saturday.
- 7) Vehicle use to the property would be 0-10 trips per day. *
- 8) Wholesale sales are allowed.

*As determined in Pine’s Stone Company, Inc. Vs. Board of Adjustment of Garfield County, Colorado, and Mark Bean, Director of Garfield County Building and Planning. The Court upheld that the Applicant had represented that vehicle use to the subject property would be 0 to 10 vehicle trips per day. District Judge T. Peter Craven’s Judgment, dated March 14, 2006, found that Mark Bean’s interpretation of “vehicles” to include all types of trucks was correct.

Description of Proposed Use

The purpose of this Special Use Permit application is to add uses, structures and redefine the conditions of approval that are defined in Resolution #92-078. The Applicant is requesting that the following uses be permitted under the new SUP.

- 1) Processing, storage and material handling of natural resources
- 2) Use of site for an office, processing facilities, repair and maintenance of vehicles, and equipment associated with the business operation
- 3) Parking for wholesale customers, employees, and vehicles used in the operation of Pine’s Stone
- 4) Wholesale sales of materials from the site
- 5) A maximum number of 100 daily vehicle roundtrips on weekdays to and from the site for all vehicles
- 6) A maximum number of 20 daily vehicle roundtrips on weekends to and from the site for all vehicles
- 7) Hours of operation between 6:30 a.m. and 7:00 p.m. on weekdays and limited use on weekends. Hours of indoor operations that do not involve outside activity would not be limited by this restriction

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- 8) Operations would be permitted in more than one building on the site. Additional buildings would be subject to building permit review and would be contained within the building envelope designated on the site plan.
- 9) The existing building on the property can be expanded, repaired or rebuilt in conformance with applicable building codes and zoning standards of Garfield County

Site Description

The subject property is a 4.0-acre parcel located on the south side of County Road 113 approximately 0.6 miles up County Road 113 from its intersection with State Highway 82 between Carbondale and Glenwood Springs.

The property consists of a single building that house's the office and a work area containing two Architectural Stone Fabrication saws. Stone is stored onsite in designated areas around the property. Ingress and egress of the subject property is from a permitted driveway off of County Road 113. A small parking area has been designated at the entrance of the property.

STAFF COMMENTS / DISCUSSION

The subject property is located within the ARRD Zone District. Residential uses are still present on surrounding properties. The Applicant is requesting an increase in a number of uses currently permitted on this site. According to Page 11 of the application, outdoor operation hours are between 6:30 a.m. to 7:00 p.m. Monday through Friday with limited use on weekends. This exceeds the condition of approval found in Resolution #92-078, which allows for the operating hours of 8:00 a.m. to 5:30 p.m. Monday through Friday and a half-day on Saturday.

With the existence of residential uses in close vicinity of the subject property, Staff finds that the existing permitted operating hours of 8:00 a.m. to 5:30 p.m. should remain in effect for outdoor operations. The defined weekend operation hours are vague. Staff suggests setting the weekend operating hours at 8:00 a.m. to 1:00 p.m., Saturday. Staff finds that unrestricted administrative activity would not be disruptive to the surrounding properties. There are two other Special Use Permits that have been issued near the subject property. Capital Construction located adjacent to the subject property is limited to the operating hours of 6:30 a.m. to 5:00 p.m., Monday through Friday only (Resolution 2003-54). Another SUP in the immediate area was issued to Scott Fenske, on January 17, 2005, with a condition of approval limiting the operating hours to 6:30 a.m. to 5:30 p.m., Monday through Friday. The Applicant's request for a 12.5-hour operating day on weekdays and limited use on weekends is not appropriate for this Zone District and could potentially impact the surrounding area. Staff recommends the Board approve the outdoor operating hours proposed by staff to help reduce the impacts this use will have on adjacent properties and other residents of the area.

During a site visit, the use of two indoor Architectural Stone Fabrication saws were demonstrated to show the level of noise generated by the use of these instruments. Staff agrees that the sound generated by the two indoor saws is minimal and that unlimited unmanned operating hours of the saws would not be detrimental to the existing residential uses surrounding the subject property. Allowing manned operation would create the possibility of outdoor activity.

Onsite delivery is currently limited to daylight hours and limited deliveries during the weekends. Staff recommends that all deliveries be conducted during outdoor operating hours from Monday through Saturday.

The Applicant has requested the approval of a building envelope located on the eastern most point of the subject property. Staff agrees that the placement of a structure could be a beneficial sound barrier, but it could also alter the results of the sound assessment study conducted by Hankard Environmental if equipment is utilized within the structure. Permitting an additional building, not knowing what type of activities may be conducted in close proximity to the property boundary line is questionable. Staff recommends that any building constructed within the proposed building envelope be limited to administrative operations.

The Applicant has also requested that the existing building be allowed to be expanded, repaired or rebuilt in conformance with applicable building codes and zoning standards. Allowing the existing building to be expanded creates the possibility that more equipment could be used in association with the permitted use. Again, adding more equipment could possibly generate additional noise not addressed in the submitted sound assessment study. Staff recommends that the Board consider a condition restricting this special use permit to the equipment present when the sound assessment data was collected (two indoor saws, one outdoor saw maximum of four forklifts).

Carbondale & Rural Fire Protection District provided comments concerning fire protection. The District stated any additional building onsite would need to be evaluated to insure adequate fire protection water supplies are available.

A transportation study prepared by Kimley-Horn and Associates, Inc. was submitted as part of the application packet. The intersections of SH-82 with CR-113 and CR-113 with the Frontage Road intersections were all included in this study. The result of the study demonstrates that the proposed increase in allowable daily trips is less than the 20 percent increase that would require a CDOT Access Permit.

Pine's Stone currently generates a total of 59 round trips (total trips of all vehicles) per day. The requested increase would allow for an increase of 41 additional round trips (all vehicles) a day. Twenty round trips are requested for weekend operations. The current 59 roundtrips generated by this use, also exceeds a condition of approval identified in Resolution # 92-078. As cited earlier in this memo, Mark Bean's interpretation of this condition was upheld by District Judge T. Peter Craven.

The transportation study cites the proposed increase in total trips generated from this use will not result in a change in the current Level of Service. The impact study states that no improvements are necessary to the documented intersections as a result of the increase of trips to and from Pine's Stone. As requested by Garfield County Road and Bridge, the Applicant is responsible for placing and maintaining a stop sign meeting the guidelines set forth in the Manual on Uniform Traffic Control Devices at the exit of the subject property entering County Road 113. Staff finds that the traffic impact study prepared by Kimley-Horn and Associates, Inc. of Denver Colorado represents that the proposed traffic increase will not require improvements to the evaluated intersections.

Domestic and irrigation water is presently provided to the property by a shared well. The Applicant has requested possible alterations that could result in a change of use. The Applicant will need to demonstrate the ability to legally provide water to any additional building constructed on the subject property.

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Wastewater is accommodated by an existing ISDS. The current operations of the indoor saws utilize the ISDS for treatment of wastewater generated from their use. The Applicant has not demonstrated that the ISDS is adequate for the current use or proposed expansion. Staff cannot make a determination of adequacy regarding the ISDS at this time.

As mentioned above, the property is located on CR 113 approximately .06 miles up from the intersection with Highway 82. The Applicants request will allow for the generation of 100 daily round trips Monday through Friday and 20 daily round trips on weekends for all vehicles associated with this use.

The access to the property is a paved driveway from the county road. Staff referred the application to the County Road and Bridge Department, which stated that the Department has no objections to this request and provided the following comments.

- a) After conferring with the District 1 Foreman, Bobby Branham it was agreed that the current access meets the need for the expansion.
- b) The traffic study is acceptable as well as the noise level study.
- c) It will be the responsibility of the owner of the property or business to maintain a stop sign in good visible condition and meeting the guidelines set forth in the MUTCD (Manual on Uniform Traffic Control Devices) for size and location at the entrance to CR. 113 (Cattle Creek Road).

The traffic impact study commissioned by the Applicant represents that the current improvements are adequate for the proposed increase in permitted daily vehicle trips.

The proposed use already exists and operates on the property. The Applicant has attempted to reduce the visual impacts of the operation by planting evergreen trees along the property line adjacent to the County Road 113 right-of-way. Trees were also planted along the east and south property lines. The subject property sits at a lower elevation in relation to County Road 113 and remains visible from the ROW.

Lighting on the property consists of four exterior light fixtures that are downcast. Staff recommends that the Applicant install motion sensor security lights as mentioned in the application.

The Applicant states that the proposed use will not involve the use of chemicals or materials that could potentially pollute surface or groundwater sources. The application does not address surface run-off. Staff would like the Applicant to address the issue of drainage, specifically how surface run-off is managed on the site. The storage and processing of stone creates the possibility of a point source pollution that could be transferred to Cattle Creek or the adjacent properties. Staff finds that the Applicant has not demonstrated that this standard has been met.

The operation currently utilizes three saws used for cutting stone onsite. Two are located indoors and impacts are mitigated by the existing building. Noise generated by the operation of the saws indoors, did not generate high levels of noise or perceivable vibrations while Staff was present on the property. There is a large saw located outside of the building. This saw was not operated during the site visit. There is a possibility of undocumented impacts not accounted for in the submitted sound assessment.

A sound assessment analysis submitted demonstrated that the operation is in compliance with the Colorado State Noise Statute. The Applicant has attempted to minimize the amount of noise generated on the site by installing backup warning devices on the forklifts designed to reduce noise generated by the safety device. Forklifts on site that were not assembled with sufficient mufflers were retro-fitted with a muffler system to further help mitigate noise generated from their use.

This report does not cite the use of the saw located outside on the property while the sound assessment was conducted. A telephone conversation with Jeff Cerjan, Senior Engineer for Hankard Environmental, confirmed that the saw was not in operation during the analysis. Since the data used to determine compliance did not include measurements for the use of this saw, the study is inadequate. Also documented in the study is the sound level measured from the use of one of the indoor saws. (Approximately 60 dBA, pg. 40) Documented use of a substantial piece of equipment such as the outdoor stone cutting saw should be included in this impact study. The study should include an analysis of all equipment associated with this use.

The requested use is an existing operation. There were no hazardous attractions present at the time of the site visit conducted by Staff. The site is not fully fenced allowing wildlife to move through the site.

Relying on the evidence provided in the traffic analysis conducted by Kimley- Horn, the Applicant believes that the existing improvements are adequate for the proposed increase in daily vehicle trips. Garfield County Road and Bridge has reviewed the application and supporting materials and agrees that the current access is adequate.

The subject property is adjacent to two residential uses and County Road 113 separates the property from a third. The closest residential use is approximately 130 feet away and is located across County Road 113 as demonstrated by the Applicant. Pine's Stone is an existing permitted operation. The distances separating this use from abutting property is not altered.

Staff finds that the application is deficient in the following areas.

The Applicant has not demonstrated how surface run-off will be managed onsite. Chris Hale P.E. of Holy Cross Engineering, acting on behalf of Garfield County reviewed the application. (Exhibit G) Chris commented on the absence of drainage plan addressing the issue of potential run-off pollution. Surface run-off from the activities conducted onsite will impact adjacent properties and Cattle Creek if not managed properly. Staff recommends that the Board require the Applicant to submit a drainage plan demonstrating how surface run-off will be managed onsite.

The sound assessment study does not include all equipment utilized in the operation of this. The measurements used to determine compliance does represent data collected from all sources of noise generated onsite. Staff recommends that the Board require the Applicant to demonstrate that the equipment onsite including, two indoor Architectural Stone Fabrication saws, the outdoor stone cutting saw, forklifts, and flatbed delivery trucks can be operated in compliance with the Colorado Noise Statute.

The Applicant has not demonstrated that the exiting ISDS is adequate for the operation. During a site visit, the Applicant commented that the visible wastewater generated by the use of the two indoor saws is managed by the ISDS. Also a concern is the ability to legally provide water for the proposed increases.

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The Applicant provided a plan for site rehabilitation stating all remaining stone products and truck scales will be removed from the property if it is no longer utilized for the current and proposed use. Weed management onsite will be the responsibility of the Applicant. Staff finds that this requirement has been met.

The Applicant shall comply with this provision if deemed necessary by the Board of County Commissioners. Staff has recommends that the Board consider the Industrial Performance Standards identified in Section 5.03.08 as conditions of approval.

Pursuant to section 5.03.08 of the Zoning Resolution, all Industrial Operations (which specifically includes the act of "Processing, Storage and Material Handling of Natural Resources") in the County shall comply with applicable County, State, and Federal regulations regulating water, air and noise pollution and shall not be conducted in a manner constituting a public nuisance or hazard. Operations shall be conducted in such a manner as to minimize heat, dust, smoke, vibration, glare and odor and all other undesirable environmental effects beyond the boundaries of the property in which such uses are located, in accord with the following standards:

Any Special Use Permits may be made subject to a periodic review not less than every six (6) months if required by the County Commissioners. The purpose of such review shall be to determine compliance or noncompliance with any performance requirements associated with the granting of the Special Use Permit. The County Commissioners shall indicate that such a review is required and shall establish the time periods at the time of issuance of a Special Use Permit. Such review shall be conducted in such manner and by such persons as the County Commissioners deem appropriate to make the review effective and meaningful. Upon the completion of each review, the Commissioners may determine that the permit operations are in compliance and continue the permit, or determine the operations are not in compliance and either suspend the permit or require the permittee to bring the operation into compliance by a certain specified date. Such periodic review shall be limited to those performance requirements and conditions imposed at the time of the original issuance of the Special Use Permit.

At the discretion of the Board, this SUP may be subject to periodic review no less than every six months. Should the Board feel that periodic review is required; the Board shall indicate that such a review is required and shall establish the time periods at the time of issuance of this SUP.

STAFF RECOMMENDATION

Staff finds that the submitted application does not completely address all the requirements of Section 5.03.07 of the Garfield County Zoning Resolution. Due to the questions concerning the sound assessment study, the absence of a drainage plan, and the ability of the ISDS to accommodate the current uses, Staff cannot recommend approval at this time. Should the Board move to approve this application Staff recommends the following conditions of approval.

1. All representations of the Applicant, either within the application or stated at the meeting before the Board of County Commissioners, shall be considered conditions of approval, unless altered by the Board;
2. Business hours of outdoor operation: 8:00 a.m. to 5:30 p.m., Monday thru Friday and 8:00 a.m. to 1:00 p.m. on Saturday;
3. Unlimited operation hours shall only apply to administrative activities conducted indoors and unmanned operation of the existing two indoor Architectural Stone Fabrication saws. Manned operation of the two indoor saws will be restricted to hours of outdoor operation;
4. A maximum number of 100 daily round trips, Monday through Friday and 20 daily round trips on Saturday, shall be allowed and apply to all vehicles associated with this use including employees, wholesale customers, stone delivery and all other operation activities;
5. No retail sales shall be permitted;
6. The Applicant shall comply with all applicable requirements of the Garfield County Zoning Resolution of 1978, as amended;
7. The Applicant shall comply with all State and Federal regulations and standards, such as Noise Abatement, Water and Air Quality;
8. Groundwater resources shall be protected at all times. In the event of potential violations with respect to water pollution, the Applicant shall provide proof of compliance with applicable Federal, State and County laws, regulations and standards;
9. Waste that is created shall be housed within a bear-proof garbage receptacle and disposed of accordingly;
10. All deliveries shall be conducted during outdoor operating hours Monday through Saturday;
11. The Applicant shall comply with the Industrial Performance Standards identified in Section 5.03.08 of the Garfield County Zoning Resolution;
12. All lighting shall be directed inward and downward towards the interior of the property;
13. This Special Use Permit is only valid for the use of equipment present when the data was collected for the sound assessment study conducted by Hankard Environmental;
 - Two indoor Architectural Stone Fabrication saws
 - One existing outdoor saw
 - Four forklifts
 - Flatbed delivery trucks
14. The proposed building envelope may only be utilized for housing administrative operations;
15. The existing building shall not be expanded to accommodate an increase of equipment not represented in the application;
16. The Subject property shall comply with the dimensional requirements defined in Section 3.02 of the Garfield County Zoning Resolution.
17. The Applicant shall place and maintain a stop sign at the exit of the property.
18. The Applicant shall provide proof that the ISDS is adequate for the existing and any proposed uses allowed by this resolution, certified by a Registered P.E;

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19. The Applicant shall provide Garfield County with a drainage plan demonstrating the ability to manage surface run-off from the property so that it does not adversely affect Cattle Creek or adjacent properties, the plan must be certified by a Registered P.E.;
20. The Applicant shall provide Garfield County with a Sound Analysis that demonstrates the impacts of all equipment utilized onsite.
21. Only equipment used in the operation of this use and represented in the application shall be stored onsite;
22. All repairs to equipment shall take place during the designated outdoor operating hours;
23. Storage of flammable fluids will comply with all regulations of the Carbondale Fire Protection District;
24. Prior to the issuance of any new building permits the Applicant shall provide written approval of the Carbondale & Rural Fire Protection District's ability to provide fire protection for the proposed use.
25. This Special Use Permit shall not be issued until all conditions of approval have been met.
26. Any violations of the terms, interpretations or agreements made or represented to Garfield County by the Applicant pertaining to or included in this special use permit, shall be considered a breach of the terms of conditions, further the Applicant shall cease and desist all activities resulting in a revocation of the special use permit, until the issue is remedied.

Commissioner Houpt –I have a question, I'm struggling with this traffic report. When the original SUP was approved it's my understanding part of that was looking at the impact to the traffic flow, you have some good maps if you wouldn't mind putting them up. The intersections that are impacted, the intersection I should say and so we jump from 0 to 10 vehicle trips to 100 and have a report that says it won't impact it. Did we hire a third party engineer to look at that?

Craig – Chris Hale reviewed it but he is not a

Commissioner Martin – He is not a traffic engineer

Commissioner Houpt – Seems to me every time we talk about this neighborhood, regardless of what the business is or the use is this discussion always comes into play. One of the things I would really like to look at is talking about a proposal to increase the traffic just for one business. But I'd really like to know how they came up with that conclusion whether another traffic engineer would –

Craig – Well the 0 – 10 only applies to trucks as a determination.

Commissioner Houpt – No 0-10 applies to all vehicles connected with that business. It was determined

Commissioner Martin – That's right, that's an applicant question.

Commissioner Houpt – It is and it isn't because I would also like to – depending, it is a question. I just needed to find out if we had a third party engineer look at that.

Craig – Chris Hale was the one to look at it, he made no comments.

Commissioner Houpt – Seems like a big issue in terms of the increased usage. Okay

Commissioner Martin – No other questions?

Commissioner Houpt – Not right now

Commissioner Martin – All right, Larry? We'll turn to the applicant.

Mike – Commissioners while Davis is getting the power point going as will be discussed throughout our report we believe the commission will be provided with sufficient information today to move forward and fully consider this application. I would note that our sound engineer was out on the property today and conducted a sound test of the saw indicated in staff report and he will testify later in this hearing that the sound generated from that saw at the property boundary is less than the sound in this room at this current time. And this does not exceed either the daytime or nighttime sound limitations in the state statute. We feel that the issued ISDS permit we have, from accounting, dating back to 1992 when the original Pine Stone Building was constructed up there, there is no evidence that the existing ISDS system is in failure or is inaccurate or inadequate for the use and Pam Pine can testify to the fact that the water uses on the property in 1992 when the permit was obtained and the was uses on the property today are substantially the same. Finally with regard to the drainage plan, at the conclusion of this we would like to propose a condition that within 120 days of approval that we will provide a drainage plan stamped by professional engineer to the county for staff review and approval.

Commissioner Martin – We will consider that

Mike – With that said it is a pleasure to be in front of the commissioners today. As you know Pine Stone is a matter that has been on your agenda in the past. And as a business, has contributed a lot to Garfield County over the course of its 15 plus years of existence. In essence what we are here today is to seek an amendment to our SUP. Unfortunately the Garfield County code does not provide an amendment procedure for SUP's. And therefore we are seeking a new SUP. The goal is to try to bring under one permit the existing operations of Pine Stone. Operations that have not substantially changed for a number of years, as Pine Stone operated under its existing SUP. As you are aware the SUP Pine Stone operates under was issued by this Board in 1992. At that time its interesting to note that, how requirements have changed since 1992 for getting a SUP in the ARRD zone district. At the time that Pine Stone applied for the original SUP, they had an application form that was 1 (one) page in length and attached to that form was a cover letter 1 (one) page in length. Pine Stone was at that time not represented by professional planner or legal council, however; there's the original SUP application and I think the next slide shows the letter that was submitted with that. That this application was accepted by county as being complete and indeed that this board acted on that application and approved the SUP Resolution. It's also interesting to note that the original SUP had a whopping 5 conditions or 6 conditions. Do you have a picture of that Davis? Needless to say of which two, Nos. 4 & 5, were dealt with at commencement of operation essentially that a non-licensed inoperable vehicles and junk equipment were removed from the site which occurred. And then the applicants constructed a berm on the south side of the property and planted landscaping along the Cattle Creek Road, which also occurred. Leaving essentially 3 ongoing permit conditions to guide this SUP. As this board is aware Pine Stone had disagreement with the County regarding the interruption of the traffic count numbers in the original SUP. The County had taken the position that the 10 trips per day I believe were round trips and that they applied to trucks. The County's original interpretation of that condition did not apply to employee vehicle traffic. As this Board is also aware we had judicial resolution that did not go in Pine Stone's favor. As a result of that we're here today in front

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of you having garnered issues of traffic and other concern in this neighborhood. And are prepared to present our rationale for why we believe that this SUP should be granted this amended, but new SUP should be granted by this Board at this time. I'd like to turn the presentation over to Davis who will walk through the some of the planning issues and it will also help guide our consultants, who we have asked to help evaluate our operations on the property.

Davis – Thank you. Mr. Chairman, members of the Board, I would also note that in terms of whether this particular use is a, should be established at this location, we would suggest that decision was made approximately 15 yrs ago with the granting of the original SUP by BOCC and in the event that permit remains valid today with its various terms and conditions. In terms of our new application our intent is to essentially clarify and better define the original approval that was granted by the County. We've been subject to as Mike mentioned discussions with the County and various alleged violations of the existing permit so we feel it's in everyone's interest to better define the terms. Essentially were trying to validate the terms and conditions of the operation that's been in place for 15 years. We are also intending to address some of the concerns of some of the neighbors about sound and traffic; we've been through some of the various letters that have been submitted to the County. We've had meetings with some of the adjoining property owners and essential the items that have been identified to us and I believe to the County relate to both sound and traffic on the site. We are also in our new application hoping to have the Commissioners approve provisions in the new permit that more realistically support a business operation at that location. We as has been mentioned here and in our application have quantified and believe we support our request in our application with a professional traffic analysis and sound assessment on the property. As was noted in our application and previous application is a request for processing, storage and material handling of natural resources on the site. That is no change from our original application and approval. We're asking for continued use of the site for an office, processing facilities, repair and maintenance of vehicles and equipment associated with the business operation. Again that is no change from the original approval. We're asking for parking for wholesale customers, employees and vehicles used in the operations of Pine Stone, that is no change from the original approval. It includes a request for wholesale sales and materials from the site again no change from the original approval. We're requesting a maximum number of 100 daily vehicle round trips on weekdays to and from the site for all vehicles. And I underscore all vehicles from the site; we believe this request is supported by a traffic study impact study and favorable comments both from Road & Bridge and the planning staff of Garfield County. Continuing through this in terms of our weekend use, we've requested a definition of a maximum number of daily vehicle round trips on weekends to and from the site again for all vehicles. This we believe is supported by our traffic impact study as well as comments, favorable comments, from Road and Bridge and the planning staff. The hours of operation between 6:30 AM and 7:00 PM on weekdays and limited use on weekends. Hours of indoor operation that do not involve outside activities would not be limited by this restriction and our basis for that request is that it really has no impact on anybody outside of the building. We believe this is a clarification, quantification, of the phrase daylight hours, which was in original resolution of approval. Operations would be permitted in more than one building on the site, additional buildings would be subject to County staff building permit review and would be contained within the building envelope designated on our site plan in our application. Again, original proposal for this building envelope and future building was a sound mitigation measure to the properties to the east in discussions with our sound engineer, it was suggested that physical barriers are the best way to mitigate sound. The existing building in the property can be expanded, repaired or rebuilt in conformance with the applicable building codes and zoning standards of Garfield County. This is currently allowed under the existing County regulations and our SUP approval. This is a view of the neighbor and shows relative locations of their various properties, The Dawson Property, The Raymond property to the east, The Robinson property further to the east again, Capitol Constructions property and then we pointed out the east boundary of the Pine Stone property. And if we need to we can come back to this. This is an aerial shot, again of the same basic location, showing the relative distances of the various adjoining structures on adjoining properties showing, for example, the residential unit to the North is approximately 130 feet from the boundary. The Dawson structure is 150 feet to the South, The Raymond structure there to the Southeast is approximately 400 feet and the Robinson residence is approximately 900 feet to the East. I'm going to turn this over to Jeff Cerjan to talk a little bit about our sound study and some of the work he did today.

Commissioner Martin – This is the sound study?

Jeff – Today's sound study.

Jeff Cerjan – I'm a senior engineer with Anchor Environmental I've been doing noise and vibration pretty much my whole career in some aspect. Worked on well over 100 projects and collected well over 1,000 measurements. I've been used as expert witness in court cases, commissions, county commissioners that sort of thing. Equipment that we used is considered to be top of the line, if not the top, as close to top of the line equipment. We keep calibrated to traceable NIST certifications, do field calibrations and all our calculations and that sort of thing are approved ISO or FA...some sort of standard that's traceable. So when we look at this project and try to figure out what we have to deal with we try and find Garfield County or any of the local jurisdictions has any noise ordinances or applicable noise regulations and they don't to our knowledge. And that's not uncommon. So we usually fall back on the Colorado state statutes which does define maximum noise levels for specific times of the day. Now what they don't define is the duration of those noise levels, is it an hour average, is it a 15 minute average, is it a 1 minute average that sort of thing. They do not define it. So for this one since we are next to residential, Pine Stone decided to go ahead and use the residential limit, some people will actually say like if they were industrial facility or something like that, they would use light industrial or something like that. These guys chose to go with the lowest limit and that's what they told me to do so that's what we did. So for during the day they should not exceed the 55 DBA which is an A weighted sound level which A weighted means its filtered to represent more what your ear hears, that was something that was done many, many years ago by some engineers and that's been used even now and we continue to use today. And so you can exceed 55 DBA for more than 15 min in any 1 hr. And after the study that we did and that you guys have already in you application here, they did not exceed that 25 feet off the property line. No problem. When I took those measurements, I guess you can go to the next slide, well first off I went out and I measured on a Sunday. What we wanted to see was okay when there not even running, how loud is it,

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what's the background noise level in the area. So that's why I took some measurements in those three locations on a Sunday when there wasn't anything going on. I came back the next morning and they showed up with their forklifts and that sort of thing and started operating and that Monday morning, as far as I can tell it was about as busy as they could get. They had every forklift or loader operating they had semi or not semis but flat bed trucks to load up with stone. Everybody was operating they didn't have a whole lot of time to deal with me. I set measure at M1 is the property line measurement, that the, I guess the official measurement location that we did to show if there's going to be a violation. Happened to be that when we were taking the measurement there was a lot of activity over there with forklifts and in fact at one time there were two just about on the property line for significant amount of time. And so one other thing to note that's very interesting about this area is that they are this company they switched out all three total back-up alarms, which are typically the largest complaint that we get from any light industrial operation. And they switched those out to a white noise alarm, which is not even audible off property or beyond 25 feet off the property. They also added some mufflers to some fork lifts and apparently they did engine mitigation as well. So they have really worked hard to try and mitigate the noise and mitigate the source, which is important. That's a good place to start. When we took those measurements that Monday morning the wind speed was very calm and the reason I note that is because we didn't have, like winds weren't blowing from my M1 location towards Pine Stone, they were calm. So we were getting good levels and in fact the state code specifies some wind speed conditions that you must be below and we were below those. So M1's the compliance measurement, M2 is the traffic noise measurement, we were trying to see how much traffic noise influenced everything, that's the main reason for M2. M3 was trying to give us an overall facility noise level where we knew that all the flat bed trucks would be going by that location for of us would be in the area across from the saw and that sort of thing. And so in the results of study is Pine Stone was in compliance. Before I kind of go into the next one I'll go into what I did today and there was a mention by Staff that they were concerned, that we did not measure the outdoor saw. The outdoor saw is a wire saw which is not your typical chop saw that you're going to use for construction. It's not that loud kind of saw. I didn't measure it, I probably should have. I went back and measured it today. I measured it at the property line, I didn't go 25 feet off the property line so I actually measured closer than necessary and that property line noise level was 44 DBA to 46 DBA which is below not only the 55 DBA daytime limit but its also below 50 DBA night time limit so technically from the sound stand point they could operate that saw.

Commissioner Martin – All right, that's an exhibit so we'll label it "O".

Carolyn – Mr. Martin, are the Commissioners willing to accept this as an amendment to the application or is this new material? To keep our process straight here.

Commissioner Houpt – You mean as an Exhibit?

Commissioner Martin – As an Exhibit.

Carolyn – Which amends the noise study which was in the application?

Commissioner McCown – Its just additional information

Commissioner Martin – its additional information. It's Exhibit "O"

Carolyn – That's fine, just trying to keep it straight that you're accepting it.

Commissioner Martin – I understand, that's why I marked it.

Jeff – I believe that answers the only question that staff had about the noise, as far as specific issues with the noise study. If you want to go to the next slide. So some considerations about noise about Pine Stone that I've been hearing. Audibility of a truck beep, horn honk whatever, does not always equate to a noise violation. Sometimes it does but just because somebody can hear something does not mean that it is a violation. Generally you can hear a tunnel noise a bang or something like that when its 10 decibels below the background ambient noise level. So if the background ambient noise level in this area is 40 decibels and someone makes a beep or rings a bell at 30 decibels it could be audible at the location. That's just how it is. And then human perception of noise is very subjective. You'll get one person complaining about a noise and another person not having a problem with the noise. That's why you require valid objective measurements to answer all the questions. Also I noticed sound from nearby and distant roadways was significant in the original report. Some of the noise levels that we measured on Sunday when there wasn't any operations were technically in violation but there wasn't anybody operating from Pine Stone. It was purely from traffic. Also, State Hwy 82, the noise was very audible on Sunday when I was on site. So you could hear traffic really strong. They have got rid of all their tonal back-up alarms from Pine Stone. What I did hear, I could hear horn honks, a back-up alarm, measured today from more industrial properties to the East that was about 50 DBA on Pine Stone site.

Davis – That would be to the West.

Jeff – And so there was, and those things do travel so I could see someone hearing them, my personal experience right now is I have construction ½ mile from my house, inside my house with the windows closed I can hear back-up alarms. That's just how it is; they're made to be heard. Again forklifts have been modified with mufflers and soundproofing. And the, also as we discussed the construction, their building along the East property line would help mitigate noise. That shows a picture of the muffler that they added that's not original. And then they show the white noise back-up alarm that they've installed and they removed back-up alarms.

Commissioner Martin – Questions?

Commissioner Houpt – Yes, did you measure semi traffic coming in? And the noise that they generated?

Jeff – Separately? Not separately but that was included in the Monday measurements, that would have been included. That was all being measured at once, like I say they had all four forklifts going they had both saws going door were open and trucks were coming in and out, constantly. So when I take a noise measurement it just runs, I don't control it, just runs and constantly I don't control it, it just runs and possibly logs, constantly averages. And, just another note too, we did minimize averages which is a pretty short time interval, so that would really show a lot of peaks as opposed to doing what a lot of consultants might have done 15 and average which would smooth the data out a lot more it would have brought the levels down. We went a head and did a minute average primarily what I was trying to show the 15 minute, I thought 1 minute would be more reasonable but there is no requirement for that I could have done 15 minute and the levels would have been lower than what we saw today.

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Carolyn – Mr. Martin can I ask a question?

Commissioner Martin – Ms. Dahlgren you may.

Carolyn – Of this expert, Mr. Cerjan I notice that in your memo this is partially for the benefit of the public who hasn't seen this you're stating that the wire saw was the only saw in operation when you did the measurements today. Can you then comment on the cumulative impact if any of this saw added on top of the other?

Jeff – Excellent, excellent question. And that was actually, that was my hope was that I was going to be able to measure the saw by itself with nothing else, since I guess time of the year it just worked out that way. But, cause there's nothing else going on. But, I guess a good way to think about it, adding up sound levels. They add up arithmetically so if you add a 70 decibel source then you put another 70 decibel source of the same frequencies and you add them together, you get 73. So when you look at if you had that same 70 decibel source and you brought in say this wire saw that was going at 44 to 46 , it wouldn't even register your level would still be 70, so you could, it's not going to be a factor, its not going to add to what we have there today.

Carolyn – And does it matter if the saw is just operating verses the saw is cutting stone?

Jeff – It was cutting stone the entire time that we took a measurement. It's a wire saw, a very quiet operation; in fact, I carried on a telephone conversation 25 feet away from it without even thinking about it.

Commissioner Martin – Any other questions? All right, thank you very much.

Mike – Jeff, I have a quick question for you.

Commissioner Martin – Okay counselor go ahead.

Mike - Can you go back to the map, the aerial photo? Jeff you indicated that you took measurements at point M1 and that at the time those measurements were being taken there was activity in this area of the stone yard, is that correct?

Jeff – Yes.

Mike Can you describe that briefly?

Jeff – There was two forklifts they were working very hard to move a bunch of pallets that were in the way to try and find another one particular stone this customer wanted and so they were back there working and working they had their forklifts idling, talking very loudly, yelling back and forth across the yard.

Mike – Approximately how far might you say the area of activity was from the sound sensor?

Jeff – Within 50-feet.

Mike – Okay, is it a fair representation to say that if there was activity at this point here in the stone yard and there was a sensor 25 feet off the property line that the results, assuming that it was similar stone yard activity would measure similarly to your detection at point M1?

Jeff – Yeah, they would be similar except for the problem with that south end is that when you get to that property line the land drops off and if I were to put a meter 25 feet off the property line the meter would have been kind of lower than the ground, I would have to have to be getting some kind of barrier effect from that, so actually the levels could have been even lower. So re-measuring was actually a good location to try and justify if it's in compliance or not.

Mike – Thank you.

Davis – Okay, now were going to ask Curtis Rowe to provide some testimony on traffic impact study, he's with Kimley-Horn and Associates Inc. and the floor is his.

Curtis – Good afternoon, as mentioned of course I'm Curtis Rowe with Kimley-Horn and Associates Inc., I am a professional engineer, licensed in Colorado, and I'm also a registered and certified professional traffic operations engineer and we conducted the traffic impact study for this project. And I guess just to add something else relative to your question, we do traffic impact studies and I've actually done about 1,000 traffic impact studies for both the public municipalities as well as the private development section and all of the findings and conclusions and results and procedure follow within a traffic impact study are the same regardless of who your working for so results and conclusion are the same. So there is no difference, Chris Hale I know him actually and he has done some traffic impact work that's probably, if he did review the study and had no comments to it, it's because the traffic study follows the standard procedures and guidelines. But otherwise, just to briefly what we did, staff did a great job explaining traffic in their presentation so won't go through the numbers too much but we evaluated both the near term 2008 and long term 2025 horizons, that's per CDOT requirements. Because this project is close to and has access to state highway 82 that intersection was studied with County Road 113 in addition frontage road and County Road 113 intersection was evaluated as well as the project access along County Road 113. And what we did was we evaluated the impact of the potential for the peak of 100 daily round trips and so to determine what the site was generating already we did a count, the count that we did back in March 2006 identified that we were at a level of approximately 60% to that, so we could then determine what impact there would be from a potential of or a possibility of 100 daily round trips. And so, as described previously, with 100 round trips what we would be looking at would be 12 morning peak hour trips and 9 afternoon peak hour Trips so as you can see from that and those numbers the majority of the Pine Stone traffic occurs outside of the morning and afternoon peak hours when the volume on the highway is at it's highest. Projected traffic for the entire development is less than 20% threshold as required by CDOT and that the threshold to require an access permit application so it was determined that this site would not need CDOT access permit application, access permit form and therefore that intersection actually would not require an evaluation by CDOT. And so what we found was that the Pine Stone's traffic is and will be incorporated into existing roadway network through the County road intersections. Those intersections were fine without any improvements needed. The additional Pines Stone traffic is not anticipated to significantly impact traffic volumes along County Road 113 or through the study area intersections. And the addition of traffic from the existing level to the projected maximum of the peak would be 4% increase during the AM peak hour and a 3% increase during the PM peak hour at the state highway 82 intersection. So I guess with that I'd be happy to answer any other traffic related questions now or later.

Martin – All right, at this present time does the board have any questions? No Okay, All right. Something further Davis?

Davis – Yes a little bit here, just some issues that have been identified during the review of this application and the staff report etc. There is, should be a correction in staff report, it's inaccurate in indicating that the

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cutting saw water is generated during the cutting operations it does not enter the ISDS system, it has own recycling tank, its basically a sedimentation tank, the water enters the tank, solids settle out and the water is recycled continuously cause it a more effective use of that resource. So it does not go into the system. Proved hours of operation, the staff report has a reference to a time frame however the original resolution approving Pine Stones SUP references for processing daylight hours and for delivering and stacking also daylight hours. We're proposing a 6:30 AM to 7:00 PM time frame and this is a sunrise, sunset table it came from the US Naval Observatory Astronomical Applications Department for Carbondale, Colorado for the year 2007 so anybody wants a copy to figure out when the sun comes up and when it goes down they're entitled to a copy of this. But for every month I've identified the length of the day, daylight time frame in hours and minutes, you can see through that list what those are. The average day length, summer and winter, the average summer day length is 13 hours and 26 minutes and the average wintertime frame is 10 hours and 27 minutes. Well talk a little bit about our proposal condition at the end of this presentation. But summer hours if our operations were between 6:30 AM and 7:00 PM that's a 12 ½ hour day from April to October and then during the winter hours from 7:00 AM to 5:30 PM would be a 10 ½ day, the average is 11 ½ hours and you can see the annual average day length is 12 hours and 11 minutes. Existing building expansion or a new building will not result in increased sound impact. The staff was on site they, staff observed our cutting saws in operation, both inside the building and then outside the building with the doors closed and the staff acknowledged that the sound was much less it was hardly perceptible outside the building. So it's our position that just simply adding, expanding the existing building or adding a new building will not result in an increase sound impact and we would suggest that it would actually reduce the sound impact. Pine Stone will, as we proposed in our application, and we would suggest it could be a condition we will operate within the decibels defined in the Colorado statutes, which you've had extensive testimony on that here today. New equipment on the site does not necessarily translate to higher sound levels, for example if Pine Stone purchases electric forklifts, they would be even quieter than the modified forklifts that they're using, saws operated in the enclosed building are, you know the sound can be pretty much blocked from any perception certainly outside the building or off the property. Staff acknowledged that they found that level acceptable on the property so we would propose that the condition that there talking about new equipment is sort of generic and really doesn't work for the site for example if you bought a new computer or printer, is that a new piece of equipment, we wouldn't want to have to go back through the whole SUP permitting process to handle that. There's some folks here today that are in support of the project we've received a number of letters which we will tender to you as exhibits from adjoining property owners, this is a letter from Susan Riley, address to the County Commissioners, my husband and I have been residents since County Road 113 for 18 years and the presence of Pine Stone Company has absolutely made no impact on our travels on the road, we make at least one trip to Glenwood each day and we have never been stopped or even slowed down by any traffic moving in or out of the business. Signed by those folks. This is a letter from Bruce Lippman Sr. MD. I own property up Cattle Creek and drive that road often. Traffic at Pine Stone has never bothered me in any way, in fact I rather enjoy seeing what's happening at the stone yard. This is a letter from John Burnett.

Mike – You should explain....

Commissioner Martin – Yeah this looks like a series of letters, is that going to be an exhibit?

David – You have these in your, these are a few select letters.

Commissioner Martin – Yes we do. All right.

Mike – He lives immediately to the...

Davis – that previously letter, is that what were talking. No, this letter, this gentleman actually lives - I can back up and show you on the map. But he actually lives directly south of the property on the Dawson property, which is that building you saw below and that Mr. Cerjan identified as that piece that actually sets down below Pine Stone. I live at 0596 Cattle Creek Road which adjoins Pine Stone Company southerly property line, I would like to go on record in support of their business operation and state that I appreciate their efforts to better define the terms and conditions of their special use permit, Pine Stone maintains good relations with their neighbors and operates a well run professional stone yard. Their business does not have an adverse affect on my home or my quality of life. Access to my home is via a driveway that borders Pines western property line. I do not experience problems due to their traffic. Thank you. This is a letter from Precision Mechanical, Douglas Mochire who's the property owner immediately to the West of this site and there is a typo in this letter. I will read the letter, we, you have in your pack a corrected letter, but I'll identify the typo. We're writing this letter in regards to Pine Stone's Yard on Cattle Creek Road. We will be out of town on the date of the Commissioners hearing and will not be able to attend. And their actual letter, which was revised, says we do want to go on record in writing in support of their business operation eliminating the word "not". We are the neighbor immediately to the west of their site. We have been an adjoining property owner for almost 4 years and find Pine Stone to be a clean professionally operated business. We have not been adversely impacted by noise, traffic, dust or any other aspect of their business. We support Pines Stone's efforts to clarify and better define the terms and conditions of this SUP to more accurately reflect their long term business operations. And then finally this is from a bus driver who drives that route on a daily basis. My name is Chris Lanci; I drive bus #19 for RE-1 School District. My route takes me by the Pine Stone Company every weekday morning. I drive only the morning route and go there around 7:05 AM. As of this time, I have never experienced any problems with vehicles entering or leaving Pine Stone Company. Sincerely, Chris Lanci. And she's been driving the bus on that route for 6 years. Now we move into the list of conditions, we've gone through the staff recommended list of conditions and we would like to propose a modified list, some of these conditions we find acceptable, others we would suggest some modifications, which I think hopefully the Commissioners will find to be practical and appropriate for the particular use.

Carolyn – Mr. Martin, before we go there, could I clarify what the exhibit was that you just accepted into the records? Because there were also.....

Commissioner Martin – I believe these were various letters in a package on support of Pine Stone presented by the applicant and I didn't have how many you had in there.

Carolyn – Some of which were from neighboring properties or someone who had or drives a bus on the road. Others of which are from people who have address like New Castle.

Pam – But they're customers.

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Carolyn – So could we separate these perhaps into two packets? Or do you just want one packet, letter of support?

Commissioner Martin –I have twelve letters.

Commissioner McCown – Twelve letters

Carolyn – Is that how you want them, just one exhibit?

Mike – I would suggest the Commissioners in their deliberations can kind of self select the one from the other.

Carolyn – All right. so it will be one packet?

Commissioner Martin – And we'll have that one be "P". Letter P.

Mike – Commissioners, I have passed out and hope you will accept into the record a redline of the proposed list of conditions prepared by staff; I'd like to thank staff for preparing what I thought was a very thoughtful and thorough staff report on this matter. We greatly respect their input and advice on the conditions that should be adopted as part of this SUP. Based on our understanding of our application and the operations at Pine Stone, we do have a few changes and we'd like to go through those with you. With regard to business hours of operation, I'm going to allow for a brief minute for Martin Pearson, who is the general manager of Pine Stone to discuss hours of operation. Currently as Davis mentioned the existing SUP allows for outdoor operations during daylight hours. We are proposing what we think to be far more pragmatic for that matter, more monitorable hours of operation , that reflect actually a decrease in the potential operating times at Pine Stone through the course of the year. Martin, do you want to just speak briefly about what we have for summer hours and winter hours?

Martin – basically, can I talk here?

Commissioner Martin – No you can use that microphone sitting right there.

Martin –Basically the summer hours that you see up there, 6:30 to 7:00 PM, we're requesting a kind of a longer day just because of the construction industry is pretty much based on, the summers around here and so that's why were asking for the full day is what I would call that. And then, April through October also on Saturdays, 7:00 AM to 1:00 PM and then the winter hours when construction activities decrease significantly we are requesting 7:00 AM to 5:30 PM Monday through Friday and then November through March on Saturdays 8:00 AM to 1:00 PM.

Mike – Martin, how closely do these proposed hours of operation reflect the existing current operation of Pine Stone?

Martin –the hours you see up there are pretty much what we are doing today. We're usually not there the full amount of the hours that were requesting but, this is the typical summer days start at 6:30 usual get out of there 6:30 to 7:00 PM.

Mike – Thank you. I guess I would note for your consideration that the existing SUP contains a limitation on week end use that I believe it worded limited use. We think that the 8:00 to1:00 in winter and 7:00 to 1:00 during the summer hours exclusively on Saturday. Again provides a better measure for the implementation of the conditions in this SUP. Going down to #3, we have, would request a modification that, that condition read in compliance with No. #7, which is the compliance with all state and federal regulations and standards such as noise abatement, water and air quality. Those unlimited hours, operation hours shall apply only to administrative activities conducted indoors and unmanned operations of indoor architectural stone fabrication saws, manned operations of the saw will be restricted to the hours of operation. Here I think it's important to clarify the purpose and effect of the sound study conducted by Hankard Environmental. Purpose of the study we had, had gone out and discussed with certain neighbors what their concerns were, sound was an issue. We determined what the applicable standard was, we wanted to determine A. our level of compliance with that operations and B. determine how we could even improve for, or mitigate our sound impacts in the neighborhood. As a result, Hankard Environmental came out conducted the sound report and concluded we are in compliance with the State Standard. The purpose was not to look at the equipment on the site and say this equipment meets these standards rather the purpose of the state standard is that all operation must comply with those standards. And as Davis mentioned earlier you know business requires a certain amount of flexibility in order to meet changing demands to replace a piece of equipment with a new piece of equipment to add a new saw here or replace one big saw with two or three smaller saws. The purpose of the condition regarding compliance with the sounds regulations doesn't change. We have to maintain compliance with that. And therefore we ask that that be the guiding standard with regard to implementation of sound mitigation on the property. Therefore we ask that you strike reference to the existing two saws , so that the next time that a saw breaks down or the next time that a new saw comes out on the market, that the Pine Stone, is beneficial to their operation, we don't have to come to you to get a brand new SUP. Because by writing this into the text of the , SUP conditions your just guarantying that we'll be back in front of you every time we need to buy a new forklift or replace a saw or something to that effect.

Commissioner Hought – So Mike, excuse me, when you're talking about noise levels you're referring now again to residential levels, is that what you're saying?

Mike – That is correct. All of our noise impact studies were based off the residential standard. Going down to No. 9, we would ask that the bear proof garbage receptacles be for food waste; certain by-products of the stone processing on site, rock, used pallets, is not really an attraction for wildlife or bears. Next slide please. You will notice that we have replaced condition 13 with a condition that reads all operations and equipment on the property, current and future, shall comply with Conditions No. 4, 7 and 11. Would you go back real quickly Davis? So 4 is a maximum number of 100 daily round trips, 20 on the weekends. No. 7 is compliance with State and Federal regulations including the noise abatement statute. And No. 11 is the applicant shall comply with the industrial performance standards. Again we believe that in order to permit some flexibility for the operation to replace equipment, add a new piece of equipment here to meet its growing or changing demands, that the County, State and Federal governments have enacted performance Standards. These are conditions to our SUP we have to comply with those. In No. 14, we ask that the condition be modified the proposed building envelope may only be used in conjunction with the specific uses permitted in this SUP or the use is by right in the AARD zone district. Again we believe that implementation of building envelope would also be subject to building permit review by the County. , and again we don't see a reason to restrict that to administrative operations. Again there are other conditions which govern and limit

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what can be done with that building envelope. Traffic, sound, water quality, again those act as a limitation on what could be done in that building envelope. We ask that No. 15 be stricken in its entirety. Again I don't want to repeat what I said before. We believe that the performance standards act is the appropriate limitation on changes in equipment. And the purpose of the sound study and other studies done on our property was not to justify the existing equipment, but to demonstrate that the operation currently does and can be in the future operated within applicable standards. Next slide please. No. 18, at the time that a new rinse water generating use is added to the property, that's text we would like added, applicants shall provide proof to County staff that ISDS is adequate for existing and any proposed uses allowed by this resolution and certified by a registered PE. Again we have a current permit from the County for an ISDS on the property, Pam if you would mind briefly testifying to the water uses on the property when the ISDS permit was obtained and weather or not they are substantially similar to your water uses today.

Pam – They are. At this point when we built the building there were two bathrooms put in there still the only two in use? We're still within regulations of how much water usage per how many employees and the water that we use regarding the saws is strictly on a recycle basis so our, we haven't add and were permitted for some irrigation use and that commercial use, so nothing has particularly changed.

Mike – Thank you. In the event that the aforementioned building envelope is used to house something with a new bathroom, at that time we'll be required to provide evidence to the County staff of the adequacy of the existing ISDS for the additional use. Condition 19 we would request that that be changed that within 120 days of approval of this SUP.

Davis – I'll get this back in operation shortly.

Mike – That was Davis' way of trying to refresh his memory of how good it is to be in the river in the summer and within 120 days we'll provide you with a drainage plan for staff review and approval certified by registered PE. We think that's a reasonable condition. We don't believe that to the degree that there is any drainage issue that needs to be handled on the property that it's something that couldn't be designed and dealt with, with a professionally engineered drainage plan. No. 21 again we ask that you strike that for the same reason as previously stated, we believe that the performance standards that are conditions of this SUP adequately governed, the implementation of the SUP No. 22 we ask that you insert the word outdoor repairs to equipment, it could be that Pine Stone again after getting building permit approval constructs a small garage or a garage where the building envelope is. If they decide to change the oil indoors on equipment in a future garage that should not be subject to.....

Davis –I might note that on the property presently there is a repair shop as part of the site and typically, you know certainly in the winter time those repairs are done with the doors closed and there you know there's no perceptible noise or indication of activity when that door is closed. Typically that's when it's done.

Carolyn – Mr. Martin, before we leave this number could I clarify when you're talking about equipment, are you talking about both equipment used in your processing activity and vehicles?

Mike – Martin, do you want to discuss that?

Martin – I would say that it has to do with equipment use for processing and vehicles if were going to buy a new truck then it would certainly fall into those guidelines also.

Carolyn – So you work on your trucks at your site?

Martin – We do a limited amount of repairs on the vehicles on site. If there's anything major, we send it off site to have it done.

Carolyn – So I would suggest that language be added in so it's clear what kind of equipment were talking about. I would probably question weather or not that was included in the original SUP. But I don't think it matters, because were talking about a new SUP today and mitigating the impacts of the uses that are being presented to you.

Commissioner Martin - All right.

Mike – finally in condition 25, we would ask the SUP not be issued formally until the drainage plan condition is fulfilled and then in No. 26 when I reviewed that condition, it appeared that there was some renegade text that had been inserted. When I read it three or four times I'm like, that clause just doesn't make sense, and so I struck it for clarification purposes.

Davis – I might note on condition 25 that the reason we've tied it to the drainage plan is that some of these other conditions or most the other conditions relate to circumstances we don't know about you know future building those kinds of things.

Commissioner Houpt – Well that may be true but its pretty standard and you know we can insert language where its not applicable but just to tie it to one condition.

Davis –Our intent was to make sure it didn't, it wasn't tying us to future conditions we didn't know about that we could not possibly comply at this time.

Commissioner Martin – At this time. That would be a new application probably.

Commissioner Houpt – I just wouldn't tie to one condition.

Davis – If there are other appropriate ones, you know that makes sense but we just felt that tying it to a future building that may require waste water and so on and so forth. , we didn't know how that might shake out.

Commissioner Martin - All right.

Mike – I'd like to close my presentation, I think Pam Pine the owner of both 3P Properties and Pine Stone would just like to say a few words in closing.

Commissioner Martin - All right.

Pam – Thanks, Commissioners. Pine stone has been in existence for 18 years altogether, 15 years at this current location. Our original application as was noted was like this 3 page fill in the blank documents, of which you now have 78 pages plus exorbitant changes and letters to go along with that. We really feel that we have made sincere neighborly progress; we have met with the neighbors and discussed issues regarding traffic and noise, which it appears the staff especially, has agreed with us. We've looked at other conditions and have just truly, truly tried to, although we are a business, fit into a neighbor, that is of mixed use. But indeed does provide good jobs for people, provides a community service for our customers and in turn our investment in Garfield County, is passed on to the rest of the community, we work with numerable causes in the community, be it JA be it strong support of Youth Zone, Literacy programs other private entities where we're requested to give money. The Youth Soccer league they're numerous. And in addition to providing time and

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energies and monies for the communities, we feel like we have a long history of providing way above average pay to our employees including full family health insurance that totally paid by the company. Profit sharing - good jobs. All our employees live in Garfield County because they can afford to be here. And, we continue to provide opportunities for learning for these people. I think were a company with a strong reputation and we learned a lot in doing the review of this process. I think we came a long way with the noise that we were able to mitigate but I think in general it shows that our noise and our traffic is not a detriment to the neighborhood. We are limited use in a transitional zone and I just look forward to a settlement of this matter and I think we've worked hard to prove our point that we hope were have set acceptable standards and will certainly will continue to do so in the neighborhood.

Commissioner Martin – All right, thank you. Now when we turn this over to public and take testimony for the public, you have the option to respond to those at the end and you may take notes and you're not obligated to respond to anything. It's up to you and your client on how you wish to do so.

Jim Robinson – I live at 912 CR 113 with my wife Kim. We have lived at this location since June of 1991 for approximately 13 months before the approval of the Pine Stone SUP. We are the owners of Robinson Land Improvement Inc. a landscaping company located at 15450 Hwy 82. Since incorporated in 1990, Robinson Land Improvement Inc. has paid in excess of 5 million dollars in wages to Garfield County residents. A similar amount of dollars have been paid to suppliers and subcontractors located in Garfield County. 95% of our revenue is generated from sales outside of Garfield County. The applicants have presented a sound study, which indicates they complied with State Statutes. A more relevant measurement of this condition would be the question; would you willing reside next door to this type of activity? Item capitol A on page 7 of the staff comments deals with the potential of water pollution due to surface run off. It is apparent from approximately 85% coverage of the property with impervious materials that there is no potential for absorption of run off. While the by products of cutting and milling of stone may not be chemical in nature there is no plan to keep them and other surface contamination from entering Cattle Creek. Items 3 & 4 on page 11 of the staff comments, deal with the emission of smoke and fumes. There has been no attempt to measure compliance of these conditions. I can attest four forklifts, 4 flatbed delivery trucks as well as 96 assorted customers, haul trucks, and over the road tractor-trailer combos create quite a noxious cloud, which drifts onto my property and into my house. And I have pictures available for the Commissioners. Kim and I have endured these conditions for 14 years. Three of the original adjoining property owners could not. John Mogotom, Linette Cloud, Frank and Vera Quirk and Katherine were driven from their homes by the activities of the Pine Stone Company. We do not seek to put the applicants out of business, but do not believe that this is an acceptable use of residential property that is surrounded by houses. I would like to suggest that if the applicants truly want to legitimize their business they should relocate to a property with commercial zoning. I would like to ask the Commissioners for their careful consideration of this application and ask you to deny it. Thank you.

Commissioner Martin – Next were going to have Bill Crymble.

Bill Crymble – I live on 1168 County Road 113. My wife and I travel County Road 113 daily, 2 to 3 trips. Some of the objections I have for increased use of this SUP, the one item always been of the understanding that a SUP was to provide a small in-house business. It's not to be used to develop and establish a full commercial, a full blown commercial business. Also in one of the presentations they kept referring to industrial standards, that the business would follow industrial standards. These properties are located in residential properties. This is not industrial property. I think that has a strong bearing upon this. This is not an industrial property. I do not think personally that SUP grants industrial property use. In the road impact study, it was done in March. Interestingly that's the lowest time of traffic rating on Cattle Creek. Keep that in mind. Cattle Creek, particular in that section is very narrow. There's a section of road that comes down, it's a partially blind turn, drops into Pine Stone Driveway. Many times coming through there it is very very difficult especially in winter conditions to adequately see trucks coming out on that road. I don't care what your study says it is a dangerous location. This is a very dangerous location. The increase from 10, granted in their original proposal, asking 1000% going to one 100 trips is unreasonable. The daylight hours mentioned summer time seems quite accurate. Winter time day because of location of the properties that is in a narrow canyon, I myself live just ½ mile above that, my daylight hours, sunset, dark, needing driving lights, 4:30 in the afternoon. Morning, it's not light without driving lights until 8:00 – 8:15 in the morning. It was mentioned on state highway in the noise report; greatest amount of noise came from heavy traffic on Hwy 82, indicative of a lot of traffic coming down on Highway 82. I'll show you why I'm concerned here. Also in the noise report it's indicated that the greater amount of noise the study came from Cattle Creek Highway, or Cattle Creek Road, County Road 113. Heavy noise came from there to me this is indicative that we have a large number of traffic vehicles moving up down Cattle Creek. When you look at the intersection of County Road 113 and Hwy 82 you really look at that it was flashed quickly here, there are 6 entrances come into that one stop sign. Six: If you had that many vehicles going up and down 82 traffic coming down County Road 113, you are lucky not to kill people. I truly believe this 100 vehicle a day use is completely unreasonable. So, I ask that County Commissioners you please deny this application based upon that information

Commissioner Martin – All right Julie.

Julie Coffman – my husband and I own and live at property 1164, County Road 113 we're just about a mile up Cattle Creek. My husband and I both travel daily on County Road 113. He's a veterinarian and quite often has emergency calls where he goes odd hours, so he's up and down the road quite often. I want to say from the start, I object to this application from Pine Stone. My purpose today is to clarify and define my position on this. My reasons for objecting are the noise, I same as Bill wherever he is at, there you are. By the way, I can't remember the guys name who spoke, there you are Jeff, – there is a lot of noise from County Road 113 from traffic going up and down, like Bill said. It's all day long and adding 100 more trips to that it certainly, I don't think any of your tests were on the road and with the additional vehicles, it would make it worse and 100 more trips from 10, I agree its just totally unreasonable without having to mitigate these, the noise or something and especially the intersection. It is so dangerous. I'm just trying to turn left out of there anytime, day or night is dangerous much less with the additional traffic. I would agree with the blind curve that comes down from Cattle Creek right before Pine Stone, it's on a curve, its blind then it drops down and then there's no shoulder area on this road. So were talking about a lot of traffic, big trucks and there's no

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shoulders and then the winter conditions it is frightening. Absolutely frightening, much less adding more traffic. And I also agree that this is first and foremost a residential area. If these people want an operation at Pine Stone, wants an operation to build more buildings and store more materials and have more sod and have more vehicles, they are more than welcome to find a commercial site that can provide them with that and I also was curious as to whether there was any air pollution studies done? Because a lot of these trucks when they start up and stop, start up and stop or they quite often when there delivering the stone let the trucks run idle. And they're idling quite a bit and there's a lot of exhaust and I think as Jim said, you can smell it. I mean it's not something can you smell it or not smell it. It's like how much are we getting of it? That would be a better question. I know when we've been here before on other issues this area has been referred to as a transitional zone and I would say that's only your terminology, as far as we're concerned there isn't a transitional zone. Its residential, there is a well defined commercial zone at the mouth of Cattle Creek; it was defined that way so that people from Highway 82 could see business from the highway. As it is Pine Stone isn't supposed to be having any retail sales, so there just isn't any reason to have that be more commercially seen from Highway 82 or anything out there, it's residential. There are houses there, they tore down a house and the plumbing warehouse in front of them tore down houses to put up their building. It's clearly residential and it always has been. I think people like Pine Stone and the plumbing warehouses are trying to make it look like it is transitional, but it's really not. I would also question the water pollution into Cattle Creek. There's just no way that amount of surface, well you can see it on the map that's going to somehow just magically percolate through, it's a hard packed surface, I mean it's just not going to naturally do that unless they do some sort of mitigation for that. And there's a lot of wildlife that comes to that creek. I mean there's deer, there's elk, there's heron and I know Sanders Ranch when that application came up which was also an issue was because of the wildlife. I mean the wildlife is constantly crossing that road. And when we get them through our yard all the time, you guys do, Crymble's do we all do and to have any possibility of losing the creek at all I think you guys need to really require mitigation. And mitigation of this intersection at Highway 82 and 113. It just has to happen. We've been here time and time and time again and I don't care what studies they want, we live there and we have told you over and over and over and over and over again. And last time we were here I remember John saying you know if we allow any more up here, we are going to have to address mitigation of this. You know the intersection on Highway 82, it's like Bill says, there's 6 roads coming in and there can be 6 different cars, much less people who are sitting in the intersection at Highway 82. I mean it's like you have to pull half way across and sit in the intersection of Highway 82 and then turn left or even when you're turning right up Cattle Creek, you can start your turn and somebody's coming down and they don't even watch for you. It is really, really, really dangerous. It's not just a matter of trips but the current situation bad as it is that any more vehicle traffic were just asking for it. So anyhow, I would in conclusion ask for you to deny this application.

Mark Wagner –could you put that property map up for me partner? I want you to know I live directly across the street, my house is not directly across the street but my property is. And he didn't point that out in the beginning there. I want you to know there is one more residence.

Commissioner Martin – Okay

Mark Wagner – I bought my property from Frank and Vera Quirk. I own my own moving company. So if you show Pine Stone there, you all see that? Well directly across from it on there back fence line, which is to the right, my property starts and you can see my house right down here with the U-turn and the reason everybody's concerned is the white area is a mountain which blocks the road, okay. When you come around that corner by my driveway, which is dangerous as heck, I've almost been killed a couple of times. Now you're going to run into a truck swinging out wide right there in the front of there yard with a 30 foot driveway is not sufficient for a diesel truck. There going to swing it out wide and that's not fair to the homeowners.

Commissioner Martin – Okay, time out. What is your question?

Davis – Could we get a laser point to show exactly where?

Commissioner Martin – Right, here's your laser pointer. You can do it right here.

Mark Wagner – My home is right there. I bought it from Frank and Vera and you see my U-Turn in my driveway, well I come down there and I've got to stop right here and these people are blazing down from above me here and so I look you know before I pull out. Because when I pull out I have a car on my butt immediately. It's a blind deal there. Then you come here sir, and folks and this wide area here blocks your view of Pine Stone your coming right around here. You can't see it; this whole thing blocks it, very steep, very intricate, and pretty insane. When you get here and I've done because I have a warehouse that I rent 2 miles down the road. I rent from Ernie and Gerald Garnet and I pay a lot of money for commercial spot to run my moving company. I don't cheat my neighbors; I don't cheat anybody by cutting corners and running my rig out of my residence. I pay for commercial property. Which is 2 miles down the road, right at 2 I flip a U-turn at the next road and I come right there next to the Farmhouse Fine Furniture. So I feel that not far to them to have a business in a residential zone. But in any case, this area right here's very dangerous. In fact last night my roommate's car broke down on that road. Right by the house. I went and towed it. He's got a small scout and he's sticking out onto the highway, what you think a diesels parking there overnight. There's no parking there for diesel trucks over night. And poor Jim he gets a lot of the fumes, I personally don't I'm above them. And you know I don't really smell it maybe because I run my own trucks. I don't run my trucks at my house, you know I rent, rent a commercial property and I think that's the way to go. In any case I object to the SUP application of Pine Stone. You've heard a few of my reasons for objecting. The noise doesn't bother me because I make my own noise and I hope I don't bother anybody with my noises. I'm tinkering with my own crap. The intersection at the bottom of the road everybody that's been on that road, knows there's been very serious accidents there. I've seen a car cut in half. And I don't know if any of you have seen what a diesel truck can do, I know he's not going to be doing 75 on County Road 113 or I pray he's not, but, turning on to that road they're going to kill some folks. But people coming from Aspen or wherever, are doing 85 miles an hour down that road. So they need to do something about that. Also what I'm concerned about, the rent their paying is not fair for paying, they should be paying for commercial property. Not having a residential area and their competitors for one are not being treated fairly. They can't compete with the rates, I think that's wrong. Because I know if I ran my moving company out of my residence and

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didn't have a building, I could get lower prices. And my competitors would, would you know not have an even ballpark to play in you know it's not fair. On the original request for SUP I see they may, they had a place on highway 82, I heard they got rid of that within one year and moved their whole operation here. I don't see any permits for that. I think that's wrong. They said they may build a building on it, I know there's a giant building on it now. So did they get a permit on that, I don't know? I think there is a lot of things being broken here that aren't fair to me, the Quirks that I personally moved and bought the property. They didn't tell me they moved because of that but they were in there 80's. Very nice folks, and they'd lived there a long time and worked hard their whole life and just wonderful people, they didn't share that with me. That they moved because of that but they moved down to the Denver area, just awesome people. And when I moved in there you know I told my mom when I was very young. She said Mark you got to buy a house, you got to buy a house. I said mom I'm not buying a house. For this reason Wal-Mart was going to take it from me. And I meant that. Wal-Mart is going to build wherever I buy a new one. Well that's what's going happen here now. That's why the Quirks moved because businesses are taking residential properties, eminent domain and they go through the County to do or the State or whoever rules on their behalf and its wrong. There plenty of property to be you know for them to buy and do there business safely. Diesel trucks shouldn't be on that road. It's very, very wrong for diesel trucks to be on that road you can bet on it. I think there should be a study on that. Not enough room for these guys, I mean I drive for a living and, and, and I run dualies, 4 door dualies, not huge diesels. And I know the turning radius on my rig and I have a 16 foot fully enclosed, a 20-foot and a 36-footer. These guys are rolling 53 footers and there not supposed to be in there period. And it says right here on the original deal to go at 10 cars? Go buy there right now and there will be 20 cars. So and, and the difference between wholesale and retail is what? You got to buy a membership, is that what it is? Like Sam's Club. Its not, there's sure a lot of cars in there for wholesalers. Source of water, well on site, that's fine. Disposal, I know they don't have a current need, no current need. I'm sure with 15 employees there definitely some disposal being done. You know, I'm one guy and I take the trash to my warehouse and I pay a lot of money for two dumpsters. So, because I don't want to have the trash truck come up that U-turn there, he can't make it into my driveway. You know, it's tough. My main thing is, like Jim said he's lived here 14 years. I've been in valley 12, I came from New Castle my gal and I bought a home there. I couldn't deal with the drive of the freeway; I'm from California long ago to get away from freeways. And for me to drive from Aspen to New Castle was killing my brain and I had to get out of New Castle and that's why I chose to buy that property. I paid a lot of money for it. I feel. For them to encroach on a residential area, with the SUP is, is, I mean what did I buy there for? Just like I told my mother, they're going to take it from me. Because I'm out of there too. You know, it's not fair. And I feel for you with all that dust there Jim. And now there going to the expansion of existing building, which I don't see a permit for that or in their original application. And now they want to do additional buildings? They're selling a lot of commercial property for a lot of money to do that and it's not fair for anybody else on the road to not be able to do it too, if that's what there going to chose to do. I don't want to do that because it's a beautiful area but if you give them a permit, why can't everybody else get one? Increase all our values instead of just theirs. And I mean, look at this place. Doesn't bother me because I got my own issues, but a lot of people are affected by it you know? Let's see here. And then they planted a few trees which are fine but from my property they better be big trees to be hiding what they're doing. I mean I'm way up above them there. I mean I'm up here. And I'm looking down on them. The elevation difference is quite substantial. I look down on Jim quite substantially. And I can definitely see what's going on here when I'm looking down. And I hike that mountain all the time and its, its just beautiful up there but when I get up there, I can definitely see a real big operation going on. There's a little pull out right here buy, right here, you see this little bit of dirt right here? Well they had a car out there for about three weeks and they you know, who ever drives by stripped it. And it sat there, I don't know who finally called, but it got towed away. Well there's another one down in this area, and there was, there are diesels parks there. And coming around that corner there you can't really see those guys in there idling all day and night. And I run trucks. Smaller versions of the big one but they're both diesels and the reason they run them is because there hard to start when there it's cold and the fumes of diesel gas is pretty bad. Just so you all know that, if you're not familiar with them. And they make a lot of noise. You know? Let me see what else I had. I had one more thing I wanted to point out if you don't mind here. Within 200 feet I know my lands definitely within 200 feet of there's. It's on they're deal here if anybody's reading it. And the deal on their saws and stuff and the noise and all that stuff. And the pollution and the things running into river, well basically none of that should be going on if this is a residential area. So that's all irrelevant, persons work in my world. You ought to go get a commercial lot that it's zoned for and do you test over there if they want you to. But in a residential area you know you're supposed to be dealing with stereos being too loud on a Friday night for some high school kids. Not saws, not pollution, not these kinds of issues. This is, come on, this is ridiculous. I mean I don't understand, its way above where I'm coming from but. My daughter's going to turn 16 this year. Which means she gets her drivers license, I've got to buy her an automobile? I'm a very qualified driver. I put 200 thousand miles on my rig personally every year. I own my 2003; I put my third motor in it already. I just bought a 2006 Chevy one ton. I've got 75,000 miles on it already. And she's not qualified to drive like her daddy. Now she's got to deal with issues at the bottom of road and now above it here. I didn't buy there to be having her do a zig zag through diesel trucks.

Commissioner Martin – Okay

Mark – that road's very small for this. And you know I don't need my kid to have to deal with that. This main thing that I'm really concerned about folks is the fact that business owners like me. I'm paying a lot of money to these landlords in this valley. Which is passed on to my customers? Because I have to pay for my warehouse to store my rigs, also I store a small amount of furniture for my clients. And I receive items, so I'm running back and forth to my warehouse daily. If I chose to do paper work in my office at home I have a small computer, I set up a little room, and I print invoices. So if I get a phone call from a trucker saying Mark I have a delivery for you, I run right down to my warehouse. I pay a lot of money for that warehouse. These guys are not paying for that. There paying residential rates and that's unfair for people like me and other business owners that are going to commercial spots.

Commissioner Martin – Okay. You need to wrap it up so we can get the other testimony.

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Mark – Yes sir I can. Okay. I just believe they should move their business to a properly zoned commercial property. Also, that the lady here pointed out that she talked to all the neighbors and all that. I have never heard from anyone at Pine Stone since I've lived in this area. Okay, just to point that out. So I don't know who she talked to at my house, because I live there and I haven't got any messages from my dog or anything. I hope that you County Commissioners rule against Pine Stone in their SUP, asking for their SUP or an extension to the one they already have. I feel it would be an injustice to the people who bought in this community and feel it's a residentially zoned area. Thank you very much.

Commissioner Martin – All right, thank you. Any questions of Mark?

Mark – I appreciate your time.

Commissioner Martin – All right. Dave Rippy

Dave Rippy – I live at 0204 Alpine Court in Glenwood Springs. I think first and foremost it's important for you guys to remember that this company is operating under a currently existing SUP. The activities that take place on there are currently allowed. It seems to me that there are two issues that could have been brought up. One is the increased traffic and the other is noise. As far as the increased traffic is concerned, they got the studies that say that it's not significantly impacting the road or the intersection. So that's the scientific part of it. But realistically when you take 100 trips in a 12 hour day that equals out, realistically talking in real life scenarios that's only a truck or a vehicle about 7 or 8 minutes. I mean it's not like there putting a truck a minute on the road. You're talking 7 or 8 minutes between trucks, there spaced evenly through out the day. And for whatever studies say, to me that isn't a significant impact. Most of them are going down; in fact I'd venture to say 99% of them go from Pines down, not from Pines up. So the impact they've placed lower on down the road. As far as the intersection at 133 or 113 whatever this County 133 & Hwy 82 is, if you're going to use that as a basis for denial then I think you're going to have to place a moratorium on building permits on houses further up Cattle Creek because there going to have an impact on that too. I just don't think that's a rational basis for denying this application. Secondly, as far as the sound was concerned they have got their noise studies and the Pines apparently have taken every measure they can to reduce noise. They've been doing inside fabrication; they put noise reducers and different kinds of back up alarms on the vehicles and there below the state standards for residential area. That being said as far as the Pine Stone Company as a corporate neighbor, I don't think you could ask for a better company in Garfield County. I'm familiar with them. I've done business with them and know them. And I'm telling you, they pay their employees extremely well. One of the gentlemen mentioned that he commuted from New Castle. They pay a wage to where their employees don't have to live down valley if they don't want. They also contribute substantially. I know this for a fact, to the nonprofit sector in Garfield County, and by substantial, I mean substantially monetarily and substantially with their time. You just can't ask for better corporate neighbors. This is the type of corporate neighbor that Garfield County needs. And I know these people live in the area are impacted and I sympathize with that, I do. I'm impacted by development going on up Four Mile myself. There are people down valley that are impacted by oil and gas. In a growing economy there going to be impacts. But if your going to have impacts this is the type of impact I would prefer if I lived in the area. , you know the only thing that they haven't done that I can perceive that they probably should do is do something with that storm water drain. And they're willing to do that. You know they're willing to take a plan and submit the plan and comply. As far as their revision to the County application or the Staff recommendations you've got to allow them some flexibility in operating their business. You guys know business scenarios change, if you're tied down to strictly you are ham strung. As long as their abiding by the spirit of the SUP, which is their voluntarily complying or agreeing to comply with the noise abatement procedures, that should be the issue. Not how many forklifts or saws they have on site. But I'd just like to say again and I'll wrap this up. This is a good company you're not talking about incredible impacts on the road. Your talking a vehicle every 6, 7 8 minutes and you've got allowing, your allowing a company that does a lot of good in Garfield County. And I mean a lot of good. Let them continue operating. .

Brian Skull – Hi, my name is Brian Skull, I'm a stone mason in the valley. Currently live in Aspen at 631 Vine Street. But I've lived in nearly all the towns up and down the valley including some in Garfield County. I started my business here 19 years ago. Shortly after Pine Stone started up and I bought stone from them ever since. They're a valuable resource in the valley. And they are a good honest business. I've always had good relations with them and they're just a valuable asset around here, I really believe that. Anecdotaly, as far as traffic goes every time I've pulled out of there, there's, well I shouldn't say every time. Rarely there's been a car coming down the hill. Everybody's talking about it's so dangerous. You can see them coming far enough to where if there you know if they're too close you don't pull out. I've never had a close call there winter, summer whatever. So that part of the traffic being I think, everyone should be paying attention no matter where they are. And there is room unless they're blasting down there at 65 miles an hour. If there obeying the speed limit, you'll see them before you cause a situation. And, and they should see you even if you were to pull out they should see you in time to stop. You didn't have to see them. Rarely do I even have a car coming down I always look and I've never had a close call. As far as getting out onto 82, there's a couple roads come together there, there's one initial stop sign then you got to pull up to the main stop sign at 82. And, you know I've never had to wait there for either more than a few minutes. I mean sometimes there is a lot of down valley traffic and you have to, there might be somebody else who got there first and wants to turn left, but you don't pull out. So sometimes you do wait a few moments but, its not like cars aren't backed up the road and people can't get out of there. It's, you know, anytime you have a County road coming onto a state highway where people are, or four lanes of traffic going both ways, everybody's got to be paying attention. Otherwise an accident could happen and I suppose accidents have happened out there. But it's no different than other intersections. I've been in the yard when there's always activity going around and your right in the middle of it, it's noisy. And, I suppose the people you know up the road or 1,000 feet away, they can hear it. But is it breaking the law? And your neighbor could have a party until 10:00 at night with some pretty high decibel levels before the police will even come. And then after 10:00, you know of course you have to tone it down, but. I've lived in neighborhoods where the partying and the loud music was at least the as, as you know, this, you know, music might be nice. Some of it is, it's all a matter of taste

Commissioner Martin – Well we can't regulate music anyway.

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Brian – So I mean there are things that happen in residential neighborhoods that you know exceeds the limits of decorum sometimes. But, is it illegal? No. And pollution, it's not a polluting kind of industry. There are exhaust fumes, I understand that because nearly always the wind blowing up and down the canyon there. I just don't see that maybe there's one particular day a year where it's really dead still and some fumes drift up to this guy's house. Get in his house, but I can't really see that as being a problem. But as far as policing goes it's mostly in the industry, the whole stone industry has very little chemical stuff going on. It's just all lot dust. I'm in favor of them getting this new SUP because as the other gentleman said, they already have a SUP. This actually gives you as the County government more leverage in like defining all these terms and everything more specifically you actually have more leverage and saying oh you're out of compliance. We're going to fine you, straighten this out or we will fine you. I think it actually defines everything better for everybody. So I support this SUP.

Commissioner Martin – Thank you Brian. Clyde come on up.

Clyde Ebbs – I reside at 1612 County Road 113 with my wife Bonnie. We're relatively newcomers. We've been here only a couple of years although we've been involved here since 1962. Our family purchased the property and I took this opportunity to, and I don't want to be redundant, to speak about the intersection. The intersection is not only Pine Stones intersection, it's everybody's intersection. And I'm not trying to lay it on them but I think it does need some attention paid to it. And some studies seriously done. I call it a two person intersection. It takes two people to get on the road if you want to turn left. Because you got to watch and you got to really be careful. And you should be. I'm not denying that, but somewhere along this thing needs to be looked at, consider at least doing some better control for that particular intersection. We've had in our family, a serious accident most recently there. Maybe that's why I'm more concerned. But I would just ask you to consider that intersection if what could be done and possibly a united effort could correct that.

Commissioner Martin – And that would be a united effort between the County and the State. It's a State intersection that we're really talking about. But we still have a voice there. Okay, now.

Commissioner Martin – Marilee you wanted to speak. Introduce yourself, nobody knows you.

Marilee Rippey – I don't live on Cattle Creek Road. I looked at property there before, but I live at 213 Creekside, which is on Mitchell Creek. I was actually born here and so that means that I've lived here really, really, really a lot of years. And I have seen things change and I know how hard that is when a neighborhood starts changing around you. I'm at the bottom of my hill now, on Donegan Road there are some transitional things going on. And so I do respect that for those people who have to deal with that. For the most part I think that the things that are happening in the valley have improved Garfield County. Anybody that's moved here since I was born, welcome. But I would like to say that my interface with Pine Stone Company has been in the wholesale but no sale area. It's a hobby of mine to go around asking people for things, significant things. And, they have been so generous to all of our community endeavors. I built the sound garden at the Community Center over the past, 2004, and 2005. Vegetated it last year and nothing that was there, I first started dealing with the Stones when Paul Pine was still alive. And their company is so excellent. And I know that in regards to process that you cannot make decisions on the fact that they're an excellent company and someone else that might be there asking for the same state permit wouldn't be but they are. They, everyone that works there give back to the community in more than one way. They're an excellent employer. And I know from our company how difficult that is. And they are very, very, very top notch. I'm in construction, our company is and they run an incredible clean operation. Stack the pride that is evident in their operation its just amazing. So I would just encourage you on behalf of all the residents in Garfield County not just the ones who live in Cattle Creek, to seriously consider approving their SUP.

Commissioner Martin – Mr. Dally you wanted to be very last according to your note?

James Watson – Thank you very much. My name is James Watson. My wife and I own formally the J-Y Ranch, the Junkyard Ranch property. I do not live on Cattle Creek; I live at 0100 Arapahoe Lane in Carbondale, which is not in Carbondale it's at Avalanche Creek, 13 miles south. So, I live in a very, very beautiful area. I understand entirely what these folks are talking about. Having bought my commercial property I believe it was the gentleman that lives at the other house over here that I asked to point out. I do understand what he is talking about as far as where business should be located. Should they, should this be a right to be able to do this? You know since I bought my property just like you, my taxes have gone up 100% every year since I bought that piece of property. And yes it does hurt when I have to try and do something with that. So I'm not discounting that gentleman's point either. The point I would be making there is, were talking about a business and a use permit that was granted 15 years ago approximately. Were talking about a company that I feel has been run. I've known Paul since he opened the business and I feel like every time I have gone by there the, the grounds have been tidy. Given the fact that you know you're moving a raw building material is not any different than, than lumber or logs or moving trees or anything else that has to happen. There's a period of order, you know, it's orderly and then there's a period of time that stuff is set off the truck and it's gone. And I'm not defending anyone here; I'm just making a statement that it appears to me that the business has been run in orderly fashion. The position of my property to Pine Stone is very well shielded. And like the other gentleman I make my own noise. And I have my own eye sores that I try and mitigate as well as I can. So I don't really have a noise issue with that, I think that the noises coming down Cattle Creek Road or County Road 113. A lot of those noises are generated from just the sheer amount of traffic as you obviously know. But the very fact that enforcing the traffic down through there is a formidable task. And it, when I bought the salvage yard, we cleaned it up, we continued getting a number of junk cars sitting beside the road. And at that time I believe there was an issue with some semis sitting along side road. And I came to the Commissioners and I had a meeting and said I don't want that. We were having road issues about weight limitations and I got a good response. The Sheriff was out there. Things don't set around least up to my property line any more. , they respond right away with getting the eye sores out of there. There haven't been any trucks I think in the 3 years that I've been at that property. I've showed up in the morning one time and there was a, I would have to call him a lost Stone delivery semi sitting right behind Allen's old house right there in that turn out at the mailboxes. I believe that that's the only incident in the last three years from the J-Y Ranch property down that I would see during the hours that I come to and from my business. Now obviously these people that travel the road at varying hours going to and from work will see more than I do. The one other point that I would like to make is that, and I believe Mr. Rippey may have

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made was that we're not talking about it sounds to me like and I didn't get to digest these numbers exactly because it was all very quick and I'm not real, real sharp until I get to look at stuff for just a little bit. But, it appears to me that we already have a certain number of increased activities there and we're looking into the future and were looking for a way to make that legitimate or correct. And the traffic increase that would be there is not the commuter type traffic, not the fast traffic. That might be causing the accident above the subject property. It's construction type trucks, guys going in there picking up the stone, everything else and that's not typically the fast traffic. On the flip side of the coin, the slowness of that traffic at the intersections is where the problem is coming from. I might suggest just looking at the property that you know they need to address the way the trucks enter onto the road to maybe try and move some of their parking or something. Or realign there driveway a little bit to where, I know I'm wanting to put in a new driveway on my property and I'm going to put in a 90 degree driveway if I get it permitted to allow you know, safe, visual and a place for an entire truck to sit to get up off of my property. And maybe they need to do some juggling there of the facility to, to facilitate that. And as far as the run off pollutions, I believe there was some calculation made; I believe Jim may have made it. As to the imperviousness of the material and everything else and I just wanted to add that while there is asphalt down there on the hull roads to mitigate the dust and the rub off. The media underneath the pallets is impervious media. I believe it's like inch and a half gravel, what I've seen when I've been down there, appears to me the hull roads are asphalt and the base material seem to be either native or gravel. That to me looks like a very, its very justified because I've had lengthy conversations with engineers on my pieces of property about those very things and it looks to me like in that wastewater pond or a settling pond that can be dried out in the summer time, scooped out. Material hauled to the landfill, hauled to the gravel yard. Could something like that could be worked out. And as far as the trucks and the fumes and everything else while I'm not an expert on this I spend most of my lifetime working on very large engines and all various types. And I would like to point out that a diesel truck idling, much to everybody's dismay, is the most efficient that motor will ever run because it's running at 100% air, minimum fuel. Most of the smoke that you see coming out of the stack while it might have an obnoxious odor of fuel to it that is the least pollution that vehicle puts out at that time. A gas motor until recent fuel injection was the worst offender, because it's running on Maximum fuel, at idle and emulsified fuel with minimum air will enter the engine. And so while there, as far as odors, well founded, it does happen. That's the gospel truth. As far as contaminates, no. Real quick back to traffic, I believe in you guys certainly know more about this than I do. There's going to be highway 82 in the next 10 years is going to cease to be a highway. You know that as well as I do; it's turning into a blvd. It will be a blvd.; there will be stop lights every mile as its coming about. And I believe that there's a stop light planned for that intersection at this time on a state level. And I have heard rumors about that when they were doing, improving our elk habitat and wildlife area across the road.

Commissioner Martin – The one that went belly up?

James –We have some very, very fit elk over there. But I remember talking to several of the people that were involved in that. And that came out in the conversations that as that developed there and I believe a light on the state level at this time.

Commissioner Martin – There was a required light yes if it ever goes forward.

James - I believe that is has been picked up refinanced. There's going to be something there in the future and there will be a light there. Which will greatly, I too have almost been swatted there several times, as all others probably have. But I think that is something that will be addressed. Boy this is a tough one. I hope you guys enjoy your meager pay on this one.

Commissioner Martin – Listen we're all neighbors and friends here. Somehow we will solve the problem.

James – I have to say that you know that's the reason we have this forum is take these issues and present them in an orderly fashion to where a reasonable decision can be made. And I believe that a few years ago that a decision was made to allow this and now it appears to me this has got to be re-decided. And there, but I think that the quality and the work of the business does have to be taken into consideration. And like I said I wholeheartedly don't envy you folks in making this decision. That's my word right there and I thank you very much for hearing me out.

Richard Dally –I own a residential piece of property at 3838 Cattle Creek Road. When I purchased it they told me it that was exactly 3.838 miles up the road. My best moments I've tried to figure that out but I think it's closer to 4 ½ or something like that. I also have to confess to being a lawyer and I stand here and speak on behalf of Mr. Jim Robinson as his wife Kim, Mr. Mark Wagner, who spoke earlier and Bill Crymble. Mr. Wagner is an adjacent land owner and certainly one of those who are listed in the application as being within 200 feet. In addition to those who have spoken in opposition to the SUP, there are others. I stood here, I believe last Monday I may have tried to kneel, but I was trying to beg for extra time to prepare. And in hindsight, perhaps I should have done more but we've talked to a great many people. And I would like to submit and I'll do it when I'm finished her, 75 affidavits from other who could not be here. They're affidavits of people who live in the area. Many on Cattle Creek Road, not all of them do. Almost all of them drive on Cattle Creek Road and therefore I believe necessarily they too, some have indicated have risked their lives in trying to maneuver intersections 82 Highway 82 and our Cattle Creek Road, County Road 113. One of those individuals, I don't see him here, did speak with you and I think you may remember Louis Myer, spoke at the board of adjustment appeal hearing that we had her. Louis has been in bed for like 4 or 5 days with some sort of engineer's flu he calls it. I believe he also wrote a letter and I heard some other letters being referenced and I think his might be there. Or on the way, I'm seeing a nodding head there.

Commissioner Martin – I've seen it Jeff

Richard – At any rate, maybe it's in the mail. There are some procedural matters that I would like to address. I think you've probably heard all that you may want to hear about feelings of others, but there are some procedural issues. In the January 8th meeting that I think the applicant had with here with yourselves sitting as a commission at that time, Mr. Sawyer represented to you and it's been repeated here in several different ways that this pending SUP application that have before you is really in essence an amendment or an attempted amendment or an even more difficult word and attempted clarification of the existing SUP that this property and this applicant, one of the applicants, has enjoyed now for some 14 years. Well with all respect to Mr. Sawyer, that's just not the case, in fact it's false. There is no process, no one knows that better than you, but I think we need to make the record. There is no process of amending an existing SUP and there

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certainly is no process for clarifying one. I don't think you make clarifications in your capacity of what you're doing here. Well, if I may so there is no SUP here. There is none. Let's take a look. This application in its Exhibit No. 1 tells us that the SUP existing in 1992 burdens a piece of land described, if I may read this, in southwest one quarter of section 7, township such and such and such and such and the rest of the legal description. Excuse me a minute. The SUP that everybody here has been talking about, burdens and I believe that the accurate term. Section 7 property, I know exactly where that is but on the Google Map behind you its further up the road from where I told you I own property about 5 miles. Taking a look at this application, right in the front few pages of it. I believe it's denominated as page 4. Is a listing of the extensive legal description that this SUP application, new application is intended to address for you to decide upon in deep burden. I read that repeatedly as having location and it's a very likely legal description talks about Tract D, Tract E, very definitive. Its in section 17, that's the piece of land that is being discussed here. The SUP that has existed, as it has been described for some 14 almost 15 years, is some where up the road so to speak. Now I know that's No. 7 & No. 17. And somebody may wink and say that's a typo. No hardly a typo. The legal description on page 4 of this application is ... I believe an extensive meets and bounds legal description. It is not at all close to the legal SUP granted by this board. As it was said many time, 14 years ago Resolution 92-078. Does not exist on this property. Has nothing to do with it. Every reference in this application, in the proposals and so far in the testimony in support of it, some casual, some not so casual, have made reference to it. Doesn't work. This is a recorded legal instrument. There is no process to, if I can use the term fix this and you certainly can't clarify something that doesn't exist and I doubt if you can amend it. – Exhibit 2 in this application reports to be my understanding in my opinion from a former director of the regulatory office and personnel. Mr. Bean – dated Feb 4, 1993 reference Resolution 92-078 once again - that's the resolution on No. 7 –has nothing to do with the application before you. I submit that the letter of Mr. Bean with the gratuitous interpretation of the last sentence that wholesale sales which seem to be a logical part of both loading and storage and unloading of goods, I don't know what that has to do with the real definition of handling material goods under the zoning code – it has nothing to do with it. The fact that its here and dated now 14 years ago and is referenced to a special use permit that has nothing to do with today proceeding makes it in my view absolutely meaningless. It should not be thought of or regarded, or treated or in any way relied upon by you. Every instance in referring to the current SUP in this application and in these proceedings is meaningless, should not be relied upon whatsoever. In the letter of Mr. Bean should be treated in exactly the same way. There are many other non compliance issues in this application. Subject property is zoned ARRD not commercial. Under the Zoning code Section 3.02.03 special uses are permitted that include storage or material handling of natural resources, doesn't say a thing about wholesale commercial operations – that wholesale commercial operation started to say, respectfully so, I hope has been absolutely illegal for the 14 yrs that you've been hearing about this mythical SUP. If I may site another section, under this zoning section 3.02.05 the maximum lot coverage allowed is 15% - my way of understanding that is that that's a little more than 10% a lot less than 25% and it might have something to do with the fact this is not commercial property- agricultural residential. In the materials submitted by the applicant, you have I think it's page 21 perhaps but I have increased of one of those Google – again Google photographs there and I would like to pass this out- I apologize, I haven't submitted any exhibits because I haven't had time, May I please approach and pass out copies of a blown up exhibit that's in your materials. Chairman Martin – it's on page 20, I believe.

Richard Dally - continued to explain the photograph saying this property is about 4 acres and now the driveway has now been paved and there's also a paved parking area. The blacktop and parking area are relatively new and this appeared after the fire a couple of years ago. The building has also been rebuilt and it appears to be larger than ever before. He referenced the rock saw and various types of tools and other pieces of equipment – if you take that space just there at entryway. If you only consider that as covering this lot you get 17.4% Suggesting all the more reason to have someone study this, that's really want we want. Send it back to staff, take a look at the rest of photograph all the rest of property excuse me 85% of this property is covered with rock, stone stacks and stacks of it. This is not impervious material. It is not going to allow any kind of water to reach the land. If you look at this property tone and features you have drives or driveways, 80,000 pound trucks move around and the earth is absolutely beaten down 4 acre place impervious. Water is going somewhere; it's going downhill right down to Cattle Creek. This is treated stone trucks come in. What chemicals someone in staff could address, find out. There is no mention of either one of these points. We're debating a 15 year lot limitation and I think it ought to be addressed before you are asked to decide. If you do not send this back to the planning zoning for study I think you're being asked to foster an illegal use. That's your dilemma. The issue of the intersection is near and dear to the heart of my clients including these 75 people I have affidavits from. The intersection has an additional source of traffic since the last time you heard this and there's a new player and there's a new access road along the Aspen side of Hwy 82. It goes to Ruddville where there are two major commercial buildings. They run trucks, waste management trucks and they're massive trucks. I really think you're being asked to sit as the court of appeals. Judge Craven ruled on Mr. Beans other interpretation of 10 vehicles and all the vehicles are to be counted. Judge Craven decided in March several years ago and now you're being asked to reverse it all. You don't have the jurisdiction. Even in the study that's been done 118 trips. That is in violation of zoning beginning 14 years ago. Traffic increases must be part of your debate. This is adding 1000% increase on this road. I can't believe it and I would ask you to deny, you must you have no choice and you can't operate this as if it's 1992. At least send this back to staff. A lot going on here and I think you're stuck. Mr. Dally submitted the 75 affidavits.

Chairman Martin – We'll make the affidavits Exhibit S. Exhibit R was the blown up map.

James Watson – my question for Mr. Dally and for everyone including myself is we have an intersection that is given dangerous, but how it is that the growth of the entire area is making the traffic? The 75 people who make one trip down there are going to use this as grounds or ammunition to deny this. While I think it has legitimacy in something that the state and the county has deal with for the overall growth, I don't think that has a huge legitimacy where I would like to have that explained to me in clearer terms. I purchased property up there knowing that I was going to have to turn right and turn left and it's my self, both of my sons, my three employees, my wife and we make that same turn everyday. We chose to make that decision with clear and concise conscious just as the customers that would be going to Pine Stone, if they did not want to make

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that turn, they could go to one of the other some yards. I'm asking for some clarification on these people's thought Tom.

Chairman Martin – it's called the level of service, how many conflicts you will receive and that your waiting period is based on an engineering formula and also an access code that's handed down by the State Highway Department, if the average number of trips increases to a certain percentage, you are responsible for the impact and to mitigate that impact. The growth of the entire area may require a study to show that there is a lower level of service or a more dangerous intersection. If so that's a joint effort between the State Highway Department and Garfield County because we're allowing land use up there. That's a mutual agreement that we review and do that. These citizens have said, it is growing we need to address it. And I think they are right, it is a dangerous intersection simply because And if this application were to drive 20% more increase in traffic it's required that they mitigate that on a permit process through the State Highway Department that is issued by them to again mitigate that impact.

Rebuttal and correction of inaccuracies.

Mike Sawyer – on the question of jurisdiction – Davis handled the notice.

Davis – I determined the properties within 200 feet of the property boundary by measuring them off the Assessors maps and using their scale. This is a common practice in determine noticing requirements for land use proceedings.

Mike – was Mr. Wagoner's property within 200 feet of the Pine Stone boundary?

Davis – if he's not on the list his property was not.

Mike – You have a map in our application. What section is Pine Stone located in?

Davis – Section 17

Mike – The SUP references Section 7 and noted that this is typical. Legal matters between Pine Stone and the County have transpired and Mike asked if those legal matters were based on a SUP issued by the Board of County Commissioners in Resolution 92-078?

Carolyn – they were and the County has treated the property as being burdened with that SUP.

Mike – Comments made to commercial property – as the County knows, an SUP provides a means to use this property in the ARRD zone district for natural resources processing, storage and handling – that code was interpreted by Mr. Bean, the former director of building and planning to include wholesale sales from this location. Further noted, the SUP procedure allowing for the processing, storage and handling of natural resources amendment to the original 1977 zoning ordinance was done in the early 80's long before any of the neighboring property owners purchased their property – they purchased their property subject to the SUP possibilities contained in the code. I have questions on traffic – Pam was asked, you were present when someone from Garfield Road and Bridge visited your property to look at the access.

Pam – yes.

Mike - What was purpose of that visit?

Pam – to just look at the site distance and ascertain that it was it legal, that is was within the standards that the County specified for site distances.

Mike – did the County agree road up to your entrance could be used by trucks weighing at least 80,000 pounds.

Pam – yes

Mike – at the time of the visit from Road and Bridge employee did raise any concerns about line of site views up and down the Cattle Creek Road corridor.

Pam – it was adequate and it met the specifications of the County the biggest discussion was if people are coming down too fast that – they could end up having to slow due to perhaps a car pulling out.

Mike – do you have any control over people who live further up Cattle Creek as to their driving habits in this section of road?

Pam –we don't and there is a sign beyond us that says “trucks entering highway.”

Mike – has there been any accidents at your access drive on Cattle Creek Road since you began operations?

Pam – not a single accident there.

Mike – Curtis could you come to mike – Curtis Rowe, Kimley Horn, can you comment based on your traffic study, the amount of traffic leaving Pine Stone property that makes a right hand turn to go up Cattle Creek Road.

Curtis Rowe – based on traffic study – it is anticipated to be zero.

Mike – in your opinion if there are problems on Cattle Creek Road to the east is that caused by Pine Stone traffic?

Curtis – no, that would be caused by existing residents.

Mike – there has been comment to 1000% increase to traffic as a result of this SUP, can you comment as to what the existing operations at Pine Stone.

Curtis – we found that the existing operations at Pine Stone was 118 trips per day, single trips so by the County the way you look at that cut that in half so 118 divided by 2 = 59. And we evaluated those 59 trips plus the additional 41 so the reference inaccuracy is that this traffic study included all the trips, the ones there today plus the additional so it was a cumulative impact assessment.

Mike – in order to account for peak day demands or some slight growth at Pine Stone, a proposed number of trips was 100 round trips.

Curtis –correct.

Mike and your traffic study, the conclusions therein are based not only on existing traffic counts but upon a 100 round trip number.

Curtis – correct.

Mike – and based on your conclusions in the traffic study including a growth of traffic on Cattle Creek Road, what conclusions did you come to?

Curtis – the access intersections at the frontage road with the County Road 113 operate at Level Service A and B – they operate acceptably even in a joint connection of intersections they work acceptably – the highway intersection we do not cross the threshold for 20% traffic and as clearly stated, is that if we do not cross that 20% threshold then we're not to access and mitigate necessary or needed improvements at that intersection.

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Mike – noted for the Board that County staff agreed with the conclusions with the Kimley Horn Report. Mike asked Curtis to describe for the Commissioners a comparable example of what 100 trip per day is.

Curtis – 100 trips per day is generated roughly by 10 residential units so actually when I first got the call to do this traffic impact study, I was surprised that it was required, that’s a very low generating use – typically I do studies in range of 1,000 to 10,000 trips per day but traffic is relative and I understand that and the issues related to this specific road but for example the capacity of CR 113 is approximately 15,000 vehicles per day so adding 100 round trips is miniscule percentage to the capacity of that roadway.

Mike – a comment made about traffic being lower in March, based on the preparation you did in gathering background traffic information for your study, did you see any evidence to that fact?

Curtis – no and we actually did a couple of things, the daily counts that we obtained on the highway and on County Road 113 were actually higher in March than what we obtained from the CDOT website. So that gave us the indication that the volumes at that were already at a level in which we did not need to modify those, but we did increase traffic at 2% annual rate so traffic volumes and impacts include a 4% growth in traffic plus all of the potential peak maximum traffic generated from this site.

Mike – You and Commissioner Martin made reference to something called levels of service and you indicated in your testimony that there were two periods when the level of service at the intersection with State Highway 82 was a level F.

Curtis –that actually occurs during one time period, it’s the afternoon peak hour and in existing condition and for the left turn movement. It’s the left out.

Mike – toward Aspen

Curtis – yes

Mike – to your knowledge the other levels of service at that intersection are acceptable?

Curtis – yes, all the movements during the AM are acceptable all the levels in the PM are acceptable other than that one movement, one thing to mention about that is currently you’re at 25 vehicles per hour making that left turn and you need to get to a level of 70 vehicles before a signal is warranted. So it seems funny but when need to add traffic to that intersection to make it a controlled movement and that’s what CDOT requires.

Mike – Pam, with regard to traffic during the PM peak hours, Curtis what time does the peak hours start?

Curtis – 1 hour between 4 and 6 pm. Pam what percentage would you say is coming down Highway 82 making a right hand turn onto Cattle Creek Road.

Pam – you mean relating to our business – two trucks maybe coming home during that time and two customers coming in.

Mike – during the peak hour from 4 – 6 pm how many vehicle trips based on your knowledge of the operations, arrive at intersection of Cattle Creek and State Highway 82 make a left hand turn going to Aspen during this period?

Pam – it wouldn’t be any of our employees because they live other way and I guess may be one if it happens to be a customer that lives toward the Aspen Carbondale area.

Mike – do you have trucks leaving – during peak hours

Pam – no we don’t go out at that time

Mike – Davis reference was made to amount of lot coverage at Pine Stone, are you familiar with this photograph?

Davis – yes

Mike – Same photograph we’re viewing here. Might that photograph not necessarily be an accurate representation of the exact service area due to slope at which the photograph might have been taken?

Davis – is it accurate of the property? The picture was taken from Google and you can make it a vertical shot, straight down, or make it oblique or at an angle shot across the property.

Mike – Martin can you tell the Commissioner, there is a building on the Pine Store’ property, describe how many square feet bldg is. – The footprint of the building.

Answer - 4500 –5000 sq ft

Mike – by eye balling bldg. and referencing the lot coverage definition which says the portion that is covered or occupied by building, structures, parking or drives, Davis based on eye ball of the bldg vs the paved drives, the parking area and the portion covered by the buildings, approximately how many sq ft do you think might covered under the lot coverage requirement.

Davis – assuming the building 4500-5000 sq ft and looking at paved area depicted on the picture which looks like it’s a little greater than the square footage of the building that might be 12 to 15,000 sq ft.

Mike – Size of Lot

Davis – lot is 4 acres. Quick math – 4 acres the site is 174,240 sq ft. and if you made a generous assumption of the drive and building coverage area and called it 20,000 sq ft. that equates to 11.47% lot coverage

Mike – pointed out that nowhere in the definition of lot coverage is impervious surface mentioned. With regard to impacts on Cattle Creek noted that we agreed to have a professional engineer perform a drainage plan for the property and note a logical facility that surface runoff equals water pollution. Surface runoff happens all over the place across every single parcel of property up Cattle Creek no less and it does not necessarily mean that surface runoff generates water pollution to Cattle Creek. Pam a few questions – in stone yard do you use harmful chemicals in your operations?

Pam – no

Mike – if you do have chemicals you use in your operation, where are they stored?

Pam – in the flammable proof cabinet in the garage where they’re supposed to be.

Mike – to your knowledge has there ever been a reported evidence of pollution.

Pam – no one has ever said anything.

Mike – as opposed to this Commission relaying on speculation as to water pollution, I would encourage to accept a proposed condition that we perform a drainage plan as part of our SUP approval and provide to staff.

Mike - Pam – we’ve heard some discussion about idling trucks and trucks parked on Cattle Creek. Am I correct that in the past ie. 3 - 4 years ago, there had been occasions where delivery trucks did idle and park in Cattle Creek Road.

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Pam – on occasion we have heard of that but the yard is always open so there's no reason why they shouldn't come in off of Cattle Creek.

Mike – Did you hear from neighbors about this problem?

Pam – Once upon a time John Burnett called and said

Mike – What course of action did Pine Stone take to alleviate that issue?

Pam – we certainly contact the truck drivers directly when we send out confirmations of loads and they are specifically instructed about our hours and if they violate it again, they are just not used anymore.

Mike – do you have policy on trucks when they come onto your property to load or unload stone if they continue to idle?

Pam – we encourage our drivers to be short with their warm up time – encourage turning them off for both the noise and the pollution.

Mike – air pollution standard imposed by the federal government or the State of Colorado, are you willing to abide by those standards in the use of your property.

Pam – I would be willing to

Mike – retail sales – please explain the sales on this property.

Pam – we are strictly wholesale only operation, that's printed on our sign at the entry way and in telephone book ad, it's one of the first question we do address to customers that are unknown and we don't sell retail – we're not in that business, it's much too time consuming and we offer our services only to those who have wholesale use and therefore are reselling to another end use customer.

Mike – Reference made to neighbors who have moved out.

Pam – John Sheib who lived in the old house down below – I thought they left due to a divorce – specifically the Quirks, I talked to them they were in favor of us and in fact Frank Quirk used to work for us

Mike – I would ask the Commissioners to try and base their decision not on hearsay, but on competent evidence in the record. I would submit to the Commissioners that the application that Pine Stone has submitted is complete, accurate and comprehensive in its nature. We went out talked with neighbors about what the concerns were. The responses were not necessarily friendly to Pine Stone. But we heard the issues that were discussed. They were primary sound and traffic. Despite the fact that this use does not generate a 20% increase in trips at the intersection of with state Highway 82, we preformed a traffic study. That traffic study as you have heard today, validated by both our engineer and staff, concludes that the traffic generated by Pine Stone does not have an appreciable impact on Cattle Creek Road or on the intersection. The other issues we heard were sound. We hired a sound engineer who now has been on the property twice. That engineer confirms that Pine stone operates within the residential standards under the state noise statue. We have gone a step further and attempted to mitigate sound by putting light noise back-up alarms on our equipment. We have installed mufflers on things. We are willing to look at additional screening in the form of a building to further contain noise on our property. Pine Stone in its original SUP was asked to provide berming, and landscaping along Cattle Creek Drive. We have done so. If there is a need to provide additional landscaping, I think Pam Pine would be amendable to do that. The point of all of this is you have competent evidence before you to make a decision today. The opponents of this project, who have come here today, have had 30 days to review the application to pick it apart. You've heard a number of people pick it apart today. They've had the period of time required and proposed by your regulations and it is time to take the competent evidence you have heard, today from both sides, to weigh that in your heads and to make a decision on this SUP. We appreciate the lengthy time you have taken in consideration of this matter. We ask for your support.

Commissioner Martin – All right, any questions of the applicant?

Commissioner McCown – I have one for their traffic expert. In looking on page 54 and 55 as an example, does the intersection on the frontage road that would be pointing toward the bottom of the page, indicate that you did study the traffic coming from Ruddville and entailed the turning movements and in fact the traffic count on that particular road?

Curtis – Yes that's correct, we got actual counts on all of those.

Commissioner McCown – Thank you Curtis.

Commissioner Martin – Any other questions? It's been a long day.

Commissioner Houpt – Yes, it's been a very long day.

Commissioner Martin – A lot of stuff to absorb.

Commissioner McCown – That's why we get the big money.

Commissioner Houpt – I think there are a lot of unanswered questions with the staff had, a few that came up for me any way during the course of this discussion. I would be more supportive of continuing this than the other action I'm afraid I might take because I have these questions hanging out there. Staff has talked about several different issues and I don't know if you changed your position on the sound study question, if that's been answered today. But the drainage plan, the ISDS issue. I would really like to have the staff have opportunity to look at the proposed conditions that were brought forward by the applicant some of them I'm not comfortable with I don't know if there is a better rational for taking that direction or not. I know that, you know CDOT'S threshold can be set pretty high on, on when and when they won't get involved in these discussions. But anyone who uses that intersection and you guys do everyday knows that it's not a well planned configuration at all. And, I know that last time we talked about businesses up 113 and I don't recall whether it was Pine or not. But we talked about the issue of the concerns on that road and on the intersection and I'd like to get more input from CDOT on that. I'd like an independent traffic engineer to look at this traffic study. I think you did you know very comprehensive job in this application, there's still some holes and I'd really like to continue it so we can have some of these questions answered instead of a vote that may not meet everybody's needs. Would you be willing to follow me on that if we come up with a date?

Commissioner McCown – Well, we can close the public hearing and we have 10 days I believe to render a decision.

Commissioner Martin – We do. We can continue the hearing as well.

Commissioner McCown – We can continue as well.

Commissioner Houpt – I'd rather continue it.

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Commissioner McCown – I don't want, and I don't think anyone should be subjected to another six hours of testimony like we've heard.

Commissioner Hought – No I think we've received testimony.

Commissioner McCown – Because it's going to be redundant and 90% of what we heard today was redundant. I think we have seen professional engineers. In the state of Colorado present information that if they were anything other than accurate would stand to lose their license. I think what the applicant has done on behalf of this in doing a traffic study, has greatly enhanced the knowledge that Garfield County now has about that intersection, because we've not done one. And we've not paid to have one done they did; now it's public information. We can use it. The drainage plan; to me that's easy. That's a condition of approval, that's what they are suggesting. I don't have the heart burn with the conditions that you do. I'm ready to close the public hearing and move on.

Commissioner Martin – I do have a question of Miss Dahlgren, but I'd like to go into Executive Session. It is legal advice in reference to an issue that did come up and I'd like to ask that single question. And then come back.

Executive Session

Commissioner McCown – I move we go into Executive Session get legal advice from the County Attorney.

Commissioner Hought – Second

Commissioner Martin: Aye Commissioner McCown: Aye Commissioner Hought: Aye

Commissioner Martin – All right. Motion for to come out of executive.

Commissioner McCown so moved; Commissioner Hought – second.

In favor: Hought – aye Martin – aye McCown - aye

Commissioner Martin – the only question that was asked was a legal question in reference to our attorney to the Board. No decision was made. All right, so. Back to the issue at hand, Ms. Dahlgren anything further that you would like us to consider?

Carolyn – not until you get to some kind of a motion

Craig – I have a few things.

Craig – The lot coverage issue is addressed in condition No. 16. And the reason we have this application in front of us is because of an increase of activity on the site and there certain aspects they are operating outside of their conditions. We heard a 1000% increase and that is not from the current traffic generated that's from the current permitted traffic generated. And what I witnessed was the operation of two saws. And I can't speak that if we have an opened building envelope where they are allowed to do conduct operations on the eastern boundary line. If you increase the number of saws, I can't you know testify whether that's not a disturbance or not as I did for the two current in the building. And an open envelope would, could potentially allow for activity that could generate more noise. And so not knowing what the use is, it could be another issue.

Commissioner Martin – That's not a request within this application though is more buildings?

Carolyn – yes it is

Commissioner Martin – All right. For clarification. Anything further?

Carolyn – Let me comment on that okay, because it is a little unusual. You're not being given a site plan that shows specific buildings rather your being given a large building envelope and asked to defer any approvals of new buildings to the building permit site rather than your zoning over site. Building permit process, did I say site? At building permit process instead of the land use process.

Commissioner Martin – All right.

Commissioner McCown – And your point?

Carolyn – that, they are asking for more buildings on this site. They're just not showing you exactly what or where.

Commissioner McCown – And if the request to building department for a building would put them out of compliance, with section 302 and the lot coverage, would that permit be granted?

Carolyn – No

Commissioner McCown – Okay

Commissioner Martin – So there is a checks and balance.

Commissioner McCown – Would, back, I've got to ask a question on the saw discussion. And maybe I didn't hear the sound expert right. But you could have 10 saws emitting 40 decibels and what do you have? 40 Decibels?

Commissioner Martin – No you have more but not that great. Step up here.

Commissioner McCown – You don't have 400 decibels is the point I'm making. So I don't think it's...

Commissioner Martin – Of this saw, no.

Commissioner McCown – Yes. I don't think its fair for us to restrict an operation by the number of saws, because the sound doesn't necessarily multiply by the number of saws. It's the type of equipment that we're looking at rather than the pure numbers.

Commissioner Martin – Correct

Commissioner McCown – That's the only problem I had with it.

Commissioner Martin – It's somewhat of a mathematical formula to come up with. Craig you got everything in there.

Craig – Yes Sir

Commissioner Martin – Ms. Dahlgren is everything in. To the applicant one last time, anything to consider? Nothing there. Okay, very good. What is our motion then?

Commissioner McCown – I make a motion to close public hearing.

Commissioner Martin – Second, discussion

Commissioner Hought – I already shared my views as to think it would be more advantageous to continue this hearing than to close. So I didn't want to second your motion.

Commissioner Martin – Okay, understanding that also we do have 10 days to be able to go ahead and to research and to come up with the questions we have and make our final deliberation. And, and a motion after we close this public hearing. Would that satisfy you at all if they would continue it? We close public hearing, we stay our decision for 10 days and I do believe statute allows us to do such.

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Carolyn – However, that does not allow Commissioners to take in more information...

Commissioner Martin – I didn't say that.

Carolyn – Discussion has to be based on...

Commissioner Martin – Based upon the information that's in front of us. As individuals that we do that research come back deliberate and make our motion is what I'm saying.

Carolyn – Let, let me...

Commissioner Houpt – But what I'm asking for is additional information that I don't have in front of me and so I wouldn't be able to review that information?

Commissioner McCown – I thought you wanted someone to review the traffic study? The traffic study is in front of you.

Commissioner Houpt – Well when I hear that there are a couple of other traffic studies that I would be able to review and...

Commissioner McCown – Those are public information

Commissioner Martin – They are

Commissioner Houpt – A drainage plan and

Commissioner Martin – So you're looking for the details on the drainage?

Commissioner Houpt – That's probably with that if I can review those other studies, discuss those with someone else. I can do that. And then I don't know how long it will take for the applicant to get a drainage plan together.

Commissioner McCown – That could be condition of approval, this would not take effect until the time if that's what we choose.

Commissioner Houpt – But we wouldn't be able to see it. But I guess that's okay.

Commissioner Martin – We required that, we required a drainage plan to come before us and given them to staff and to be finalized by staff before any kind of permit is issued. And they do have their standards which, which they've been following. And if they can make a favorable recommendation to that, that would meet that requirement. And they do review those every day. Any more it does.

Commissioner McCown – That's my suggestion.

Commissioner Martin – As to go ahead and close public, do the research and then come back within 10 days?

Commissioner McCown – All the information in front of us, no questions.

Commissioner Martin – There's no final decision today? That's what it amounts to. All right.

Commissioner Martin - All those in favor.

In favor: Martin: Aye McCown: Aye Houpt: Aye

Commissioner Martin – It's unanimous that we will make a determination in 10 days after we do our individual research and the information that has been presented to us will deliberate in public and make the motion and final decision.

Commissioner McCown - Friday the 2nd

Mike – Two points of clarification for the County Attorney.

Carolyn - I'm still searching for the section, I can't remember out of the top of my head if its 10 or 15 days that you have.

Commissioner Martin – Can we make it (talking about meeting) for the 28th of February?

Commissioner McCown – Oh yeah we can make it whenever that's just the deadline....10 Days

Commissioner Houpt – We can't exceed 10 days?

Commissioner Martin – No, maximum is 10 days. I'd like, I'm sorry, counselor you're going to have to speak into the mike so we can put you on the record. This is

Mike Howard – The County Commissioners shall approve or deny the permit application notify applicant or decision in writing within 15 days following the closure of the Public Hearing.

Commissioner Martin – All right, 15 days instead of 10

Commissioner McCown – Anytime inside of that

Commissioner Martin – The 28th is what I think we need to do. Tresi and I will be leaving on the 2nd, we'll be gone the 2nd through the 8th and that would put us beyond that. So I would say the 28th, we will have a special meeting on that day. Jean, for this very issues the deliberating process and a final decision. We need to post that, what's the time? 9:00? 1:15?

Carolyn – Mr. Martin if this continuation occurs that day may I ask that you as, the Chair of the Board, instruct everyone about exparte communication? And how much we need for this public process to be protected and that we will be making decisions based on what has been presented to you today.

Commissioner Martin – No information shall be requested or given by the applicant or any of the opponents etc. That the Commissioners must do their own review of the information that has been part of the public record and make decision on their own, bring to deliberation in the public process, we'll make a final determination, a vote and a final decision on this application.

Commissioner McCown – 9:00 or 9:30?

Commissioner Martin – 9:00. And you can use the public information too. Yes we can use public information

Commissioner Houpt – But we can't contact.

Commissioner Martin – We can't talk to other experts etc. Yes, we can't have our thought process influenced by any other individual.

Commissioner McCown – We can talk to our own engineer.

Commissioner Martin – For clarification of information that has been presented.

Commissioner Houpt – I thought I asked that question if I could talk to...

Commissioner Martin – On information that's been presented publicly.

Carolyn – You have what's in your packet. But making a phone call to the engineer no, because that's part of the public record today.

Commissioner Houpt – But were looking at other studies though Carolyn so it's not staying within that framework. So what can we do? I mean what are we allowed to do? Because, I just heard I would be able to read those traffic schedules.

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Commissioner Martin – Within the information that was here for clarification, I think is the only issue we got going on that. The study itself is part of the public process. That is good. Any testimony can be reviewed. Any need for clarification made by either the staff person or Miss Dahlgren can be asked. But clarification, legal advice. What can't you, the other studies that were not introduced as a public document here?

Commissioner Hought – Then I want to change my vote, because I was told I could read those.

Commissioner Martin – You've got to rely on the institutional knowledge you've got there.

Commissioner Hought – We've never done this before.

Commissioner McCown – Carolyn you look puzzled.

Carolyn – I'm just trying to figure the issue of other traffic studies that we have. But they have nothing to do with this application.

Commissioner Martin – That is correct. Only the traffic study that does is this one here that was introduced.

Commissioner Hought – Well that's how I was talked in to taking this direction so.

Commissioner McCown – Mrs. Hought wants to review those outside of this issue for other information. Even though it does not pertain to this. You heard the request.

Carolyn – Right, that's part of your general background information, and those studies are not directly related to.

Commissioner Hought – No they're not. We know that and so what, we can read anything generally? Is that what you're saying?

Carolyn – There's nothing to keep you from reading that background information. It is not part of this application.

Commissioner Martin – That's right and that becomes based upon the deliberation, you can't bring extra information into the decision process that was not introduced as an exhibit. Another words if you certain knowledge of certain things that you used to make your life's decisions. That's just public information. That's going to be up to you. You'll be able to use that on your decision and your deliberation. All right, end of the day. We will see the 28th at 9:00 for final deliberation and decision on this issue.

COMMISSIONERS - Silt Council Meeting

Carolyn – Mr. Martin, your staff has question for you after, before you close

Commissioner Martin – Is this legal advice?

Carolyn – No. Fred and I want to know if we have to go to Silt tonight.

Commissioner Martin – Well you only have a half hour.

Carolyn – You had instructed us to appear at that meeting weeks past, remember? It was continued until tonight and we want to know if you would still like us to go to make an oral statement.

Commissioner Martin – Yes. We can not give up our position in reference to that issue.

ADJOURNMENT

ATTEST: _____ CHAIRMAN OF THE BOARD

**FEBRUARY 27, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS AND
PITKIN COUNTY COMMISSIONERS
SPECIAL MEETING
HOTEL COLORADO**

The SPECIAL meeting of the Board of County Commissioners and the Pitkin County Commissioners began at 12:00 noon on Monday, January 8, 2007 with Chairman John Martin and Commissioners Tresi Hought and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder. Pitkin County Commissioner included Patti Clapper, Dorothea Farris, Jack Hatfield, Michael Owsley, and Rachel Richards.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

Agenda Topics included:

**CRYSTAL RIVER TRAIL, TRANSIT INCLUDING THE TRAVELER; RFTA TRANSPORTATION
FROM RIFLE TO EAGLE, PLANNING, AREA OF AGING AND AFFORDABLE HOUSING.**

Adjourn

Attest: _____ Chairman of the Board

**FEBRUARY 28, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISISONERS
GARFIELD COUNTY, COLORADO**

The Special meeting of the Board of County Commissioners began at 9:00 a.m. on Wednesday, February 28, 2007 with Commissioner Chairman Martin and Commissioners Larry McCown and Tresi Hought present. Others present were Assistant County Attorney Carolyn Dahlgren and County Clerk & Recorder, Jean Alberico.

Chairman Martin called the meeting to order at 9:06 a.m.

**BUILDING AND PLANNING- 3P PROPERTIES AND PINE'S STONE COMPANY, INC.
CONSIDER A SPECIAL USE PERMIT TO ALLOW PROCESSING, STORAGE, AND MATERIAL
HANDLING OF NATURAL RESOURCES ON A PROPERTY LOCATED AT 0600 COUNTY ROAD
113. APPLICANTS: 3P PROPERTIES AND PINE'S STONE COMPANY, INC.**

Craig Richardson, Carolyn Dahlgren, Attorney Mike Sawyer and Pam Pine were present.

The public hearing was closed.

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This was a continued meeting from February 20, 2007 when a public hearing was held and testimony was taken from the applicant and those in the audience who desired to express their opinions.

Craig submitted the staff report and the **STAFF RECOMMENDATIONS** stating that staff finds that the submitted application does not completely address all the requirements of Section 5.03.07 of the Garfield County Zoning Resolution. Due to the questions concerning the sound assessment study, the absence of a drainage plan, and the ability of the ISDS to accommodate the current uses, Staff cannot recommend approval at this time. Should the Board move to approve this application Staff recommends the following conditions of approval.

1. All representations of the Applicant, either within the application or stated at the meeting before the Board of County Commissioners, shall be considered conditions of approval, unless altered by the Board;
2. Business hours of outdoor operation: 8:00 a.m. to 5:30 p.m., Monday thru Friday and 8:00 a.m. to 1:00 p.m. on Saturday;
3. Unlimited operation hours shall only apply to administrative activities conducted indoors and unmanned operation of the existing two indoor Architectural Stone Fabrication saws. Manned operation of the two indoor saws will be restricted to hours of outdoor operation;
4. A maximum number of 100 daily round trips, Monday through Friday and 20 daily round trips on Saturday, shall be allowed and apply to all vehicles associated with this use including employees, wholesale customers, stone delivery and all other operation activities;
5. No retail sales shall be permitted;
6. The Applicant shall comply with all applicable requirements of the Garfield County Zoning Resolution of 1978, as amended;
7. The Applicant shall comply with all State and Federal regulations and standards, such as Noise Abatement, Water and Air Quality;
8. Groundwater resources shall be protected at all times. In the event of potential violations with respect to water pollution, the Applicant shall provide proof of compliance with applicable Federal, State and County laws, regulations and standards;
9. Waste that is created shall be housed within a bear-proof garbage receptacle and disposed of accordingly;
10. All deliveries shall be conducted during outdoor operating hours Monday through Saturday;
11. The Applicant shall comply with the Industrial Performance Standards identified in Section 5.03.08 of the Garfield County Zoning Resolution;
12. All lighting shall be directed inward and downward towards the interior of the property;
13. This Special Use Permit is only valid for the use of equipment present when the data was collected for the sound assessment study conducted by Hankard Environmental;
 - Two indoor Architectural Stone Fabrication saws
 - One existing outdoor saw
 - Four forklifts
 - Flatbed delivery trucks
14. The proposed building envelope may only be utilized for housing administrative operations;
15. The existing building shall not be expanded to accommodate an increase of equipment not represented in the application;
16. The Subject property shall comply with the dimensional requirements defined in Section 3.02 of the Garfield County Zoning Resolution.
17. The Applicant shall place and maintain a stop sign at the exit of the property.
18. The Applicant shall provide proof that the ISDS is adequate for the existing and any proposed uses allowed by this resolution, certified by a Registered P.E.;
19. The Applicant shall provide Garfield County with a drainage plan demonstrating the ability to manage surface run-off from the property so that it does not adversely affect Cattle Creek or adjacent properties, the plan must be certified by a Registered P.E.;
20. The Applicant shall provide Garfield County with a Sound Analysis that demonstrates the impacts of all equipment utilized onsite.
21. Only equipment used in the operation of this use and represented in the application shall be stored onsite;
22. All repairs to equipment shall take place during the designated outdoor operating hours;
23. Storage of flammable fluids will comply with all regulations of the Carbondale Fire Protection District;
24. Prior to the issuance of any new building permits the Applicant shall provide written approval of the Carbondale & Rural Fire Protection District's ability to provide fire protection for the proposed use.
25. This Special Use Permit shall not be issued until all conditions of approval have been met.
26. Any violations of the terms, interpretations or agreements made or represented to Garfield County by the Applicant pertaining to or included in this special use permit, shall be considered a breach of the terms of conditions, further the Applicant shall cease and desist all activities resulting in a revocation of the special use permit, until the issue is remedied.

Carolyn Dahlgren began by saying there was a question of whether or not the public hearing should be opened in order to allow more information to be brought forward.

Commissioner Houpt stated that because of the ambiguity she chose not to look at any further information and there was therefore no request to reopen the public hearing.

Carolyn mentioned there was another ambiguity and that there was an exhibit from CDOT. There is no CDOT exhibit and asked Craig if CDOT ever responded.

Chairman Martin noted that Exhibit H - a letter from Carbondale and also an exhibit from the Fire Department, however on page 4 of the staff report it does say that Exhibit H is a Colorado Department of Transportation, so there is that issue.

Craig clarified there was nothing submitted from CDOT.

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Chairman Martin requested an Executive Session.

Executive Session – legal advice - The findings that are required under 5.03.10 and 11 whichever way you end up going on this matter and also the DEFINITION OF INDUSTRIAL OPERATIONS under 2.02.31 and 5.03.07 and 08 and to deal with the THREE FINDINGS YOU NEED TO MAKE ON UTILITIES, ACCESS AND SCREENING, under 5.03

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session, motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session. Motion carried.

Chairman Martin announced that all items were legal advice and explanation of legal advice; no decisions were made in Executive Session.

LAND USE - DELIBERATIONS AND DECISION:

Commissioner McCown stated that a wealth of information had been given to them at the public hearing and it's an issue of land use on property that has been on-going for some time, so I'm going to make a motion and we'll see what comes of it. I'm going to make a motion that we approve the Special Use Permit for processing, storage and material handling of natural resources with conditions and those conditions are going to be a hybrid basically made up of some from the applicant and some from our staff, starting out with No. 2 – scratch the business hours of outdoor operation on the staff's time from 8:00 a.m. and change that to 7:00 a.m. so the applicant's request for 6:30 starting time in summer hours I am not granting, I'm sticking with no earlier than 7:00 a.m. starting time at any time during the year; on Condition No. 3 – the administrative activities conducted indoor and unmanned operations of existing two indoor architectural saws, I am going to scratch the two, I think the whole reason for this condition is noise and I think noise is noise, if you have three saws, if you have ten saws, if you violate the noise decibel level you're in violation of this Special Use Permit, so I don't think the number of saws is significant so I'm striking two in that; a minimum of one hundred daily round trips in the staff packet, I am changing to seventy-five which would include a total of one hundred fifty trips, seventy five daily round trips leaving the twenty daily round trips on Saturday as is; no retail sales may be permitted on Number 5, however wholesale sales will be allowed under this Special Use Permit

Commissioner Houpt asked on Number 4 – I thought one hundred daily round trips were two ways.

Commissioner McCown – no. That is two hundred trips, round trips are clearly the definition that denotes the number of trips and I'm changing the one hundred to seventy five round trips which would equate to one hundred fifty total trips. Back to No. 5 – no retail sales shall be permitted, wholesale sales of the products will be allowed; Condition No. 9 – the applicant I think made a good point on this, only those containers that might hold food waste would be required to be bear-proof, I think your normal waste containers that would be related to an operation of this type would not be bear attractive so I don't think that is necessary there; Condition No. 13 – again back to the sound issue I think again the number of saws, the types of saws as far as regulating that as a condition of this Special Use Permit is irrelevant, we are here to address the impact and that impact is the noise so I feel that we can strike No. 13; Condition No. 14 – I believe on the site plan the applicant is asking for an additional building and I think that would be up to purview of the Building and Planning Department given the lot coverage that the issue that you would have to look at the time of a building permit but I don't want to preclude that because No. 14 the propose building envelope may only be utilized for housing administrative operations, they may want to use this to store material and I don't want to restrict it to that, if a building can be built, I think it should be able to be utilized in this operation to store material in as well.

Chairman Martin – but you're giving the responsibility to the Building and Planning Department.

Commissioner McCown – that would be up to Building and planning because if the building does not meet the criteria of the site plan, if that would create too much lot coverage, then it's a non-issue anyway, there will be no building, but I don't think it's proper to say if a building is built it has to be utilized as office or as bathrooms or as service bay, I think it can be utilized in the operation of this business.

Chairman Martin – so there's no guarantee of a building.

Commissioner McCown – no there is no guarantee of a building. The existing building shall not be accommodated to an increase of equipment not represented in the application, again, I am wanting to strike that, I think we're back to a lot coverage issue that that building if it could be expanded to add additional administrative office space or whatever in the operation of this business and meet the lot coverage criteria it could be expanded, so I would strike No. 15; and again that would refer back to the authority of the Building and Planning Department at the time of a building permit request. Condition No. 16 is fine. Condition No. 17 leave; Condition 19 I'm going to leave in place and that will be done prior to the issuance of the Special Use Permit. That's the stormwater drainage plan would have to issued prior to; Condition No. 18 – I'm going to ask to strike that, I see nothing in the testimony that would indicate there is an increase use in water and only should there be a need in the approval of the new building, if that should happen if it would be an allowed use if the expansion of the existing building and additional bathrooms and use of water would be entailed in those permits, at that time an additional ISDS capacity would have to be addressed. Condition No. 20 – has been addressed with the sound impact analysis, I would strike that noting that the sound regulations still apply, just because we have the study taken at its specific time, there's the possibility of the violation of the sound ordinance and those can be checked. Condition No. 21 – since I struck the issue that listed the specific equipment I would strike No. 21 as well. I would like to add and this will not be how the numbering will end up because of those that we have deleted but I would like to add a final condition and that condition is noting the lack of response from CDOT, and if and when they ever get around to reviewing this plan and do not agree with the applicant's traffic study and there is an impact to any of these intersections deemed by CDOT, the applicant at that time will become the applicant for the access and the needed upgrades of those particular intersections and roads.

Chairman Martin – that would be based upon the

Commissioner McCown – that would be based upon CDOT's recommendations.

Chairman Martin – recommendation and the access code that

Commissioner McCown – absolutely.

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Chairman Martin – there is a provision to allow an applicant to go ahead and do that instead of the County government so you’re putting that burden upon the applicant.

Commissioner McCown – yes.

Commissioner Houpt – I’ll second and would like to comment.

Chairman Martin – we have a motion and a second with all of the recommendations or requirements.

Commissioner Houpt – There’s no question in my mind that as we heard the other day that Pine Stone is a good community member, Pam has always done a great deal for this community and for her employees here and they are all wonderful people but I don’t think that’s the question in front of us today. As I look at the Special Use Permit that is currently in place, it’s apparent to me that there was a different vision for what this Special Use Permit would allow when it was approved. If you look at the zero to ten vehicles trips versus one hundred vehicle trips, I think that really changes the intent greatly in this area. We have commercial zoning right next to ARRD and I believe this County has worked very diligently to keep a transition area in place to have a buffer between commercial and residences in this area and because of the location of this particular Special Use Permit there is direct interaction with residential. And so I’m feeling as if this new Special Use Permit is really asking for a full blown commercial use that will no longer allow a transition zone and simply isn’t in the character of the neighborhood. I was also concerned about the fact that the traffic study baseline was for traffic that occurred outside of the purview of the Special Use Permit that was in place, well beyond it and so when this was originally looked at and the impact of traffic was originally looked at, it was looked at in terms of zero to the vehicle trips for this business. And then there was no analysis beyond that, that’s what the Special Use Permit was granted for and until we have a study that starts with larger amounts of traffic and really know the distinction between the types of vehicles that will be used and what kind of impact that could have, not only on the road but in the various intersections, both the frontage road and the County Road intersections, and although we aren’t the ones who comment ultimately on Highway 82. So, I understand this is a business that has grown and is thriving and doing well but this is a huge leap here that is being requested that because of the configuration of this neighborhood and the character of the neighborhood that we’re trying to retain, I not going to be able to support this.

Chairman Martin – all right, well I have looked at this for the last couple of years on these issues and it affects me because I have lease property above it and know exactly what the neighborhood is like; I have lots of friends and in fact my veterinarian who takes care of my horses lives in this neighborhood not to mention the track coach that I used to have and taught my kids and what have you, family friends, business friends, business partners, etc. I know them all up there it seems like and I know that is an issue, but we have to look at the application, we have to look at the recommendations, the rules and regulations, review the testimony and make our best judgment. And these are the days where you never make everybody happy in fact you make some people unhappy by making these decisions and it’s friends, neighbors and business partners, etc. but that’s part of this job and you’ve got to do it and you’ve got to base this whole decision on rules, regulations and findings and what is best for the most and that’s what I’m trying to do today. So we’ll call for the question.

Carolyn Dahlgren – we have some clarifications.

Chairman Martin – you need a clarification.

Carolyn - on the motion. Mr. McCown, on the business hours which was No. 2, you changed the start date but I wasn’t sure.....

Commissioner McCown – start time from 8:00 a.m. to 7:00 a.m.

Carolyn – but is the closing time still 5:30 p.m.

Commissioner McCown – yes.

Carolyn – and then the number of saws.

Chairman Martin – the number of saws didn’t matter,

Commissioner McCown – went away, we struck No. 2;

Carolyn – but it says existing.

Commissioner McCown – yes, but the number of saws again is not the question, it is a noise question.

Carolyn – so did you want to get rid of the word existing as well as the actual number?

Commissioner McCown – yes, I overlooked that.

Carolyn – and on No. 5 – No retail sales shall be permitted but wholesale sales are, could you include a finding as to how you got to that, how that’s allowed under the Code so I have a specific finding.

Commissioner McCown – it’s an existing use and in order for this business to continue, I would prefer to have wholesale sales to be allowed at this location.

Carolyn – and wholesale sales are part of what kind of industrial operation.

Commissioner McCown – I don’t know what you’re looking for here.

Carolyn – I’m trying to get to an interpretation of the applicant’s request - three different things: processing, storage and material handling, and wholesales sales, are you saying is part of all three of those things?

Commissioner McCown – yes, in my interpretation it would be.

Chairman Martin – which would be 2.02.31, isn’t that the section you’re looking for?

Commissioner McCown - I don’t have the section number in front of me but I.....

Carolyn – 2.02. Let me get there. Right, it’s 2.02.31 where the different industrial uses requested are defined. So you’re including wholesale sales within that definition.

Commissioner McCown – yes.

Carolyn – Condition No. 20 – when you struck the condition of approval and talked about sound regulations, I think you said the sound ordinance and just wanted clarification, you knew we were referring to the State Statute on sound, we do not have a sound ordinance in the County.

Commissioner McCown – yes – State Statutes and all this says is the applicant shall provide the Garfield County with a sound analysis and they have done that, so there’s no longer any need for that particular condition.

Chairman Martin – he’s just including that even though the sound analysis was there, he still has to follow State Statute and

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Carolyn – You did not bring this up and I don’t know if you even want to go there, but on No. 22 having to do with repairs to equipment, during the public hearing I had notes as to whether or not we were talking about equipment and vehicles and whether or not we’re talking about outdoor/indoor repairs.
Commissioner McCown – I like it the way it is.
Chairman Martin – any reference to my No. 27 on CDOT – did that cover your issue? So you understand that we are
Commissioner McCown – are you clear on the concerns on the CDOT not turning in a comment?
Carolyn – I’m clear on that.
Commissioner McCown – any other questions that I confused you with?
Carolyn – only after we get the whole thing in writing will I know.
Chairman Martin called for the question:
In favor: McCown – aye Martin – aye Opposed: Houpt – aye
It is approved with conditions and we’ll go from there and see where it leads to.

HUMAN RESOURCES - APPROVE EMPLOYEE LANDFILL COUPONS FOR 2007 – MARCIA COOVER

Marcia Coover was present.
Commissioner McCown stated that some time ago he mentioned that he would like to add one time each year when Garfield County residents could go the Landfill instead of Earth Day – develop some method to allow one time use. He suggested drivers license bar codes that could be scanned into the Landfill computers and if someone were to try and abuse this, the Landfill operator would know it immediately.
Commissioner Houpt liked the idea of Earth Day.
Discussion was held with suggestions of perhaps a weekend versus a weekday where more individuals could use this free day. As it is now, the ones using it have to take a day off from work. Perhaps the weekend before and after Earth Day.
Ed Green stated the staff would take a look at this and report back to the Board.
Commissioner McCown made a motion that we approve the employee landfill coupons for 2007 – 2 per year.
Commissioner Houpt seconded.
In favor: Houpt – aye Martin – aye McCown – aye
Commissioner McCown asked to have the coupons placed in the employee’s checks next month.
Marcia reported that last year 201 employees requested the passes and the cost was \$2,882.85.

OIL AND GAS LIAISON - DISCUSSION AND DECISION ON VACANCY FOR OIL AND GAS LIAISON – ED GREEN

Jesse informed the Commissioners that the search for an oil and gas community representative liaison person has taken a considerable amount of time. The search yielded 25 applicants of whom 5 were chosen to check their backgrounds. Of those 5 only 3 were selected to be interviewed as the other 2 dropped out due to other job offers. Of those 3 the committee made an offer to the highest ranking individual and that offer was refused. They offered the position to the 2nd highest scoring individual and made an offer. This individual would not accept the offer. So they offered the position to the next individual and after this person spent considerable time with a realtor in the area we were informed that this would not work financially and the applicant declined. At this juncture, Jesse presented the Board with the option of reposting the position and opening the job search using both scenarios A and B and based this on the best applicants which would allow more flexibility.
Commissioner Houpt agreed with this concept and felt it made a lot of sense. We are getting more experience than we were advertising for originally and she hated to pass up an opportunity of a qualified individual.
Commissioner McCown said we can’t violate our hiring practices.
Carolyn reminded Jesse that these positions would need to be posted internally as well. She asked if the Board was delegating their authority for the committee to make the selection or did the Board want Jesse and Ed to come back and give a report to them.
Commissioner Houpt made a motion to repost to advertise for the oil and gas liaison position as well as the community support person and that the committee that is processing this effort ultimately make the decision and make it with the best information available.
Jesse commented they could only fill one position. He added that there is a representative from the Energy Advisory Board on this screening committee.
Commissioner McCown seconded and commented that this is not what this Board or the EAB originally decided, however he would like to get this done. We are not taking the EAB’s recommendation and the next time we will not necessarily follow their recommendation.
In favor: Houpt – aye Martin – aye McCown – aye

EXECUTIVE SESSION – ROAD AND BRIDGE ISSUE – MARVIN STEPHENS

Marvin Stephens, Don DeFord, Carolyn Dahlgren, the Board and Jean Alberico, County Clerk was requested to participate.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to go into an Executive Session. Motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session. Motion carried.
No action was taken publicly.

Adjourn

Attest: _____ Chairman of the Board

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The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, March 12, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

None

COUNTY MANAGER UPDATE – ED GREEN

HUMAN SERVICES COMMISSION - APPROVAL OF NEW MEMBERS

Applications for Ronald Palmer for youth in western Garfield County; Jamie Lopez Ortiz representing social justice; and Cory Cook representing Boy Scouts were submitted for the Board’s consideration for appointments to the Human Service Commission.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve Ronald Palmer, Cory Cook to the Human Services Commission.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING PROPOSED CHANGES TO GARCO GIS PARCEL DATA DISTRIBUTION POLICIES DOCUMENT – ROB HYKYS

Rob stated during the discussion of the document, an inconsistency in the policies with regard to fees charged for the use of the data was pointed out. It was suggested that School or Library Districts should be subject to the same policies as Non-Profit Entities.

Policy #7.0 Special Districts: Special taxing districts which do not contribute monies to the Garfield County general fund are required to pay for GARCO GIS Parcel Data. Exception is made for School Districts and Library Districts, which are subject to Policy 6.0. Emergency service providers, organized as special districts, are subject to Policy 8.0. Special Taxing Districts shall not re-distribute GARCO GIS Parcel Data.

Policy #6.0: Non-profit entities; Non-profit entities are eligible for receiving Garfield County data free of charge if the use of the data will assist with a County or municipal project within the County. Contractors working for non-profit entities will be subject to the requirements described in Policy 4.0. If, at the GIS manager’s discretion, it is determined that no benefit will be realized by the County with distribution of the data, the County may charge the requesting non-profit entity for that data in accordance with policy 5.0. The GIS manager may also waive data fees if providing data to the requesting non-profit organization is deemed to be of benefit to the residents of Garfield County.

Commissioner Houpt appreciates the changes.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the changes to the Garfield County GIS Parcel Data Distribution Policies as presented.

In favor: Houpt – aye McCown – aye Martin - aye

HUMAN SERVICES - CHILD SUPPORT AWARD PRESENTATION BY THE COLORADO DEPARTMENT OF HUMAN SERVICES

John Burnhart, Larry Damien, Joy Davis and Lynn Renick were present.

Larry Damien presented awards and stated this is a program to collect child support and they have very ambitious goals. Competition was spurred called “going for the gold,” and recognized the staff for achieving the cost dollars collected for a small county (Pitkin County). He also noted that Garfield County was the 3rd largest collection in the state.

Joy Davis, her staff Nicole Gray, Desiree Carpenter, Terry Peckham, Michelle Gardineer, Marti Ziegler, Maureen McCoy and Janelle Navarro were present as well as Director of Human Resources Lynn Renick.

ROAD AND BRIDGE – EQUIPMENT FOR FAIRGROUNDS - PROCURE A SKID STEER LOADER FOR THE FAIRGROUNDS – JESSE SMITH

Tim Arnett and Jesse Smith were present.

3 bids were received.

The recommended award bid for the Bobcat of the Rockies for providing one (1) Bobcat S185 Skid Steer Loader for a not to exceed amount of \$27,018 was submitted.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the award to Bobcat of the Rockies for \$27,018.00.

In favor: Houpt – aye McCown – aye Martin – aye

LANDFILL - PROCURE A LANDFILL COMPACTOR – MARVIN STEPHENS

Tim Arnett and Marvin Stephens were present.

Marvin said two bids were received and one withdrew. We did well on the trade of the old compactor and came in under budget.

The recommended award bid for the Wagner Equipment one 816F Series 2 Caterpillar Landfill Compactor including trade in for a cost of \$214,251.00.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the bid from Wagner for one 816F Series 2 Caterpillar Landfill Compactor for a trade in cost of \$214,251.00.

In favor: Houpt – aye McCown – aye Martin - aye

ROAD AND BRIDGE - PROCURE TWO TANDEM DUMP TRUCKS WITH QUICK HITCH SNOW PLOWS – MARVIN STEPHENS

Tim Arnett and Marvin Stephens were present.

The recommended award from Western Colorado Truck Center for two Mack Granites for a cost of \$289,584 after trade was submitted.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the bid to Western Colorado Truck Center for two Mack Granites for a cost of \$289,584.00 after trade.

In favor: Houpt – aye McCown – aye Martin - aye

DONATIONS - DISCUSSION AND ACTION REGARDING CHARITABLE DONATIONS

Ed stated a discussion was held with the wellness committee and they suggested the Pedometer funds be put into the competition and then the winner would donate a nominal amount to one of their charities.

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Carolyn mentioned Amendment One and her concern regarding the cash and payroll and said this would create a lot of problems. She requested to give legal advice regarding this in Executive Session.

COUNTY ATTORNEY UPDATE – DON DEFORD

TREASURER - CONSIDERATION OF REQUEST TO WAIVE TREASURER’S FEE – CITY OF RIFLE LAND

Don DeFord were present.

Don stated that Georgia was supposed to be here for this action. This action is to waive the treasurer fee with the City of Rifle. This is for the Justice Center facility and the IGA with Rifle.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to waive the treasurer’s fees on the Justice Center in Rifle.

In favor: Houpt – aye McCown – aye Martin - aye

ADMINISTRATION - EIS CONSIDERATION OF MOU WITH BLM, WHITE RIVER FIELD OFFICE – JESSE SMITH

Don and Jesse were present.

A Memorandum of Understanding (MOU) setting roles and responsibilities for Cooperating Agencies with the White River Field Office (WRFO) of the Bureau of Land Management (BLM) for the purposes of collaborative planning and production of an Environmental Impact Statement (EIS) for the White River Field Office Oil and Gas Resource Management Amendment/Environmental Impact Statement was submitted.

The purpose for this is to carry forth responsibilities and mandates under the National Environmental Policy Act and Council of Environmental Quality regulations at 40 Code of Federal Regulations, Part 1500 and the Federal Land Policy and Management Act CFR Part 1500 recognizing a compelling need to ensure that the interest of Garfield county is accounted for, and are meaningfully involved in the resource management planning process and associated EIS.

Roles and responsibilities, funding, joint responsibilities, implementation, amendment and termination were discussed.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to have the Chair authorized to sign the MOU with BLM and WRFO and the point person is Jesse Smith.

In favor: Houpt – aye McCown – aye Martin - aye

The first meeting is in Kremmling in April.

Citizens not on the Agenda

LAND USE ISSUE - JENUSZ

Chris Jenusz – owns property near Buffalo Valley – 1.5 acres with two homes currently on it. A couple who have lived in one of the homes since 1964 received an eviction notice 6 years ago and ever since then he has been trying to correct the situation. It is a legal residence and was in effect prior to the 1973 zoning code. Chris has tried to split the property in half and if he is unable to accomplish this then the current residents would receive another eviction notice. This should have been treated as two separate lots. He has been to the Building Department and they have said there is nothing they can do; he would need to go through the Subdivision process for a cost of \$2500. Well, he finally decided to submit an application and did so about two months ago. The Building Department has explained to him that he doesn’t have a title to this subdivision and Chris has tried to explain that he wasn’t trying to subdivide; this is a two-parcel property and each parcel has its own utilities. Chris wants to cut the property in half. He has all 6 years of documentation.

Don said the legal department has not discussed this between the legal staff and the building department.

Sounds like a formal operation that needs to go through the Board.

Don suggested they would discuss this and determine the problem. Don told Chris he should expect some correspondence from the Building Department.

Executive Session: Litigation Update: Legal Advice –discuss the Silt BOCC litigation, Carolyn – Legal status of charitable donations, Legal advice on the Burning Mountain Fire Protection District; Easement contract; BLM; PIS contract; Silt BOCC litigation; Contract negotiations for CR 204; Vezzoso code enforcement and particularly a case referenced by their attorney; Information on a notice of claim and Direction 221 position letter.

Marvin is needed for Silt and CR 204.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

[Issue already acted upon]- Waiving of TREASURER’S FEES for the Justice Center

Georgia Chamberlain said it was her understanding that the Board decided to waive those fees.

Commissioner McCown – just on the construction of the joint facility in Rifle.

Georgia - the Treasurer’s fees are somewhat of a misnomer; she collects the fees but the Board gets to spend those fees as they are placed in the general fund. In the future when it does come up to keep that in mind the BOCC can spend these fees however. It is fine; its two governmental entities and the taxpayers would appreciate the fees waived.

COMMISSIONER REPORT

Commissioner Houpt was in Washington DC and it was a very comprehensive week with discussions. She will submit a comprehensive report and would like to present it next week with a hard copy. There were very good meetings not only on energy and environmental issues, but other issues with respect to water ways and applicable water, immigration reform and many others. This week on Thursday, Air Quality meeting in DeBeque at the Community Center and CCI on Friday.

Commissioner McCown – Jury Duty and Northwest Oil and Gas in DeBeque as Tres mentioned from 10 until noon.

Chairman Martin named the different issues that were discussed in Washington: those are to oppose the unfunded mandates, public lands, highways, health and human services reform, farm bill reauthorization, water projects on public lands, renewable energy and conservation, immigration reform, aviation reauthorization, special efforts in reference to counties and methamphetamine crisis, the transit issues that we have in front of us and the needs for funding and how to work that, repeal of the holding tax and federal taxes

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in reference that are affecting the different county issues, tourism, amenities, and land use and the endangered species. We went again to all 8 Colorado Legislative offices and talked to individuals as well as their chiefs of staff. We mixed it from the state of Washington to Maine, Florida to California – all representatives in exchange of information, etc. Out of that the BLM deputy director contacted John to attend a meeting in Denver tomorrow morning at 8:30 a.m. on the conflicts between grazing and multiple uses on public lands. John will attend and represent Garfield County CCI and WIR. This is a 2-day event.

Commissioner Houpt – another big thing for the National Association of Counties, renewable energy conservation seems to be the major focus this year and NAACO adopted a preliminary Resolution to support and demand that Congress really look at climate change and start putting monies into programs and research toward finding resolves and helping local governments move toward processes to assist in mitigating the pattern of climate change. This had a lot of support.

Chairman Martin –we recognize there is a natural phenomenon of climate change and we all recognize that, it was the acceleration of green house affects and our contribution to it. Commissioner Houpt – also had a meeting with the highway and transportation commission that has been traveling around the country with different communities and there is a real recognition that the solutions for tomorrow are not in continuing to widen highways but looking at issues and mass transit and also as we'll move into more transportation opportunities we have to look at different ways to fund highways and transit, so they are working as a commission at the national level to try to come up with some solutions and it will be interesting to see how the governor's transportation commission views this.

Immigration issues were the same as the past three years and nothing has moved forward at all.

CONSENT AGENDA

- a. Approve Bills
- b. Inter-fund Transfers
- c. Changes to Prior Warrant Lists
- d. Approval of the BOCC Minutes for February 5th and February 12th
- e. Authorize the Chairman to sign the Amended Plat for Cerise Ranch, Phase I, Lot 1. Applicant: MKS Investments, LLC – Craig Richardson
- f. Authorize the Chairman to sign the Resolution of approval and the Martin Subdivision Exemption Plat – Applicants Marl L. Martin and Patricia L. Martin as joint tenants and Mickey M. Martin – Fred Jarman
- g. Authorize the Chairman an Amended Plat altering the road names within the Aspen Glen PUD. Applicant: Aspen Glen HOA – David Pesnichak
- h. Liquor License Renewal for Fairway Café at the Battement Mesa Golf Course and Kum and Go #906 located on Battlement Mesa – Jean Alberico
- i. Authorize the Chairman to sign the Conditional Use Permit and Resolution of Approval of Home Occupation” allowing an arts studio on a property located at 7205 County Road 100. Applicants: Matthew and Deborah Welles – Craig Richardson

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a - i; carried.

CR 107 - WALKWAY UP TO RECREATION AREA ON CR 107 – LINDA PEACOCK

Linda Peacock requested a walkway up to the recreational area on CR 107 from the BLM. She reiterated that it is unsafe and hundreds of people go up there and use the area. She also questioned the possibility of having a parking area at the head of the area. She posed the question of keeping the speed limit to 25 mph and posting walking signs.

Chairman Martin knows the area as Red Hill and commented that Davis Farrar was working on this.

Chairman Martin suggested contacting Davis and work as a group on that.

Chairman Martin referred Linda to the Road and Bridge Department. He agreed this is a safety concern that we need to address. Sounds like the group needs to get together and address several issues. We need to see if they are still in force and if the Carbondale recreational folks are still are a part of that working group and Road and Bridge and sit down and discuss those issues and bring them forth. Acquisition of land at the trail head would require discussions with BLM because they own the land. He will take the initiative to contact Jamie and Davis and get back to Linda at 963-7200.

CODE ENFORCEMENT - COMPLAINT - DUMPING OF CARS ON PRIVATE PROPERTY – BOB RAYMOND

The subject today stemmed from an incident that occurred on February 21, 2007 when dispatch was advised of a disturbance at 07338 CR 113 in Glenwood Springs. The incident involved four male individuals involved in a verbal altercation regarding vehicles that were being left on Bob Raymond's property formerly rented to an individual who had since been evicted.

Bob Raymond was in contact with Chairman Martin and stated he didn't have proper notice of the meeting today, he was expecting a phone call letting him know this was agended. He didn't get it and therefore he requested a postponement for 7 days. He requested this be heard at 2:30 p.m. next Monday, March 19th.

There is an investigation report and some things that Code Enforcement Officer Ron Van Meter did as well.

Lou Vallario was okay with this schedule.

Public comments and feedback.

Bill Slattery – I'm a land owner out south and have the problem as well and wanted to listen and see what I can do and can't do. We have cars off of Hwy 82 dumping on 154 Road and it's a problem and wanted to know what he can legally do.

Lou – this problem that Bill has is different than this issue – this is a private property issue. Vehicles that are off of County roads, public roads, on the right of way or on the shoulder is something the Sheriff can address. Either the state patrol or the Sheriff's office, we can red tag them and attempt to make contact and if not tow them. The issue with Mr. Raymond is a private property issue where there are vehicles left on his land at the hands of a previous tenant.

Chairman Martin thinks Bill is in the same position.

Bill Slattery said he is getting cars that are illegal and they are parking their cars on my parcel of property and leaving. Some have been there since October. What do you do?

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Lou suggested Bill call him and he'll see what he can do. The stipulation is different on private property and public property.

Commissioner McCown – once the vehicles are towed it's not that easy; there is a real issue with old and abandoned vehicles left on property. The laws are in place but there's a piece of legislation missing to deal with these cars.

Lou – vehicles have VIN numbers and it is difficult for property owners to address this issue.

Bill – towing companies are unable to help with these vehicles.

Lou agreed that it is a statewide issue.

TRAILS AND TRANSPORTATION - DISCUSS FUNDING FOR RFTA TRANSIT STUDY – DAN BLANKENSHIP

Pitkin County Commissioner Dorothea Farris, Alice Laird, Kristin Kenyon and Jason White were present to follow up to Dan's memo and provided a Power Point to better explain the planning efforts.

Kristin stated RFTA is seeking a transit planning partnership with Garfield County and other local governments in the region. The planning study area would include the I-70 corridor from Parachute/Battlement Mesa to Gypsum and the Highway 82 Corridor from Glenwood Springs to Aspen. Using Pitkin County mass transit sales tax proceeds they jointly administer, Pitkin County, the City of Aspen, and the Town of Snowmass Village have offered to match contributions from other communities up to a total of \$200,000. Any amounts contributed by governments throughout the region will help defray the \$600,000 that RFTA estimates the effort will cost in 2007. Depending on the amount of contributions received, RFTA will contribute the balance needed from its reserve funds.

The request is to have Garfield County consider making a contribution of up to \$200,000 for this planning effort. Recognition was given of the \$248,000 contribution in 2007 to help support the Grand Hogback bus services.

Kristin continued to give the background of the overall amounts of funding to assist the Commissioners to understand the contributions and cost to offer transit services.

The plan is to retain a Project Development & Engineering Team to help refine and implement it. The project budget as previously stated for 2007 is \$600,000.

Kristin explained how important it was to have Garfield County's participation highlighting significant commuting, housing prices pushing workers further from jobs, western end of the County's projected growth, need for expanded transit systems and how the County's participation will help leverage additional resources for transit and trails.

She explained that 50% of all the vehicles will be hybrid models. She also noted that the RFTA Hogback route has increased in ridership.

Commissioner Houpt stated they talked about transportation in Washington and believes there is a need for commitment and Garfield County needs to be at the table. She understands all the true memberships and commitments from the municipalities are also needed and stated she does support this and we do have funds in the budget to assist.

Ed clarified that we have a healthy fund budget but no funds committed per se for transportation.

Commissioner Houpt said there are programs that will enhance and put a motion to support RFTA in this effort of \$200,000. This was seconded by Commissioner McCown.

Chairman Martin – suggested revenue sharing for transportation; this was put into place in 1997. The federal government is in dire straits. He feels we are looking too small and should have a system that addressed Mesa, Pitkin, and Eagle County and use the mass transportation. We should put into place a COG system and not individual systems and if it is that, he would support it. We can't build another lane strictly for busses.

Dorothea – this is a conversation with RFTA and on the state, regional and national level.

Kristin added they are defining regional goals.

Jason – with this team they are bringing it to work with Denver FTA and are becoming aware of using the resources. There is a parallel effort to get a large vision on the table.

Chairman Martin – we have a lot of expertise and we have to be a group to move this forward. Revenue Sharing – Russell George and Jack Taylor were heading this up and we haven't done this; he suggested we need to think outside the box.

Jason – mentioned a lot of different entities are looking for RFTA to be a multi-jurisdictional group and this organization is in the right position to take care of the transportation issues.

Chairman Martin – we need a scope of services.

Kristin said they are in the process of writing the scope of services.

Commissioner McCown – a study by August and cost of implementation this as there are critical deadlines to get into the regional grant.

Kristin said there was \$120 million.

Commissioner McCown – implementing the BRT – it will be implemented in the upper end.

Kristin stated it will be in both ends of the County.

Chairman Martin wants to see it in the entire I-70 corridor – Mesa County to Eagle.

Dorothea – the more money in the planning, the more they can do.

Jason – they have had a meeting with health and human services and all voices were heard; they are compiling the concerns and will give feedback to the state regarding disabled and elderly services.

In favor: Houpt – aye Martin – aye Opposed: McCown – aye

Dave and Dorothea were recognized for their service in Pitkin County for moving along the effort on trails.

TRANSPORTATION AND TRAILS: REQUEST FOR ASSISTANCE ON LEGACY GRANT FOR CRYSTAL RIVER TRAIL – DAVE WILL

Dave Will, Jeff Jackel, Martha Cochran and Dorothea Farris submitted a memorandum to the commissioner explaining the request of financial support in a collaborative partnership with the Town of Carbondale, Pitkin County Trails and Open Space, the Division of Wildlife, the Roaring Fork Conservancy, the Aspen Valley Land Trust and Trout Unlimited submittal of a Great Outdoors Colorado (GOCO) Large Scale Grant "concept paper" that will address funding needs of several important recreational projects along the Crystal

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River and Roaring Fork River watershed, including the Crystal Trail. The concept paper is due March 23rd and at the end of June is when notice will be given as to whether or not a formal “Legacy” grant application is to be submitted.

Dave asked that each local funding match a contribution to help GOCO assess the level of interest and commitment to the project at the concept stage. Therefore he is requesting the Commissioners consideration to provide an additional contribution beyond the Crystal Trail commitment in order to strengthen the GOCO “concept paper” project. The following are to be included in the “concept paper”:

Crystal Trail – work is proceeding on the design and permitting. Pitkin County has entered into an IGA with Gunnison County pledging mutual support for the Carbondale Crested Butte trail and Garfield County’s 2006 support of \$15,000 went toward the design costs.

Carbondale Gateway River Park – the 600-acre Cold Mountain Ranch of which 30 acres lie in Garfield County is included in the effort to conserve open lands along the Crystal. No request is being made to the County for land conservation projects. It is important that GOCO has historically favored Legacy Projects that include a strong land conservation element and this Crystal Watershed Legacy proposal is designed to meet the expectations.

The request today is for the Board to endorse the Crystal Watershed Legacy concept paper with a letter of support and any financial commitment made towards the project.

Discussion:

Dave Will – the Town of Carbondale, Pitkin County and the Aspen Valley Land Trust are proposing a Crystal Watershed Legacy concept and we’re here today to seek moral support for that, the concept would have several components, one of which is a project has agreed to extend their part of the trail for another mile and adds an additional cost of the trail.

We have 60% of the plans that have been engineered to a level where we think they are close to submission to CDOT and we’re working with ranchers up valley on some details having to do with culverts, etc. We hope the plans can be sent to CDOT within the next couple of weeks.

In doing the plans, we’ve also asked our engineer to give us a construction estimated based on present prices and just as with other capital projects, this one has gone up significantly since we started. The good news is with the GOCO Legacy grant funding potential we could cover a good deal of the cost of the trail if we can get this concept paper in and make it attractive. This is consistent with what we have talked about and lines up down the east side of Hwy 133; it will be a beautiful trail. We’ve received permission from one of the ranchers, Cold Mountain Ranch to deviate slightly from the edge of the right of way in order to enhance the trail. Pitkin County has agreed to extend their portion of the trail another mile though the first phase. It would terminate at Thompson Creek so that it would be an out and back trail from Carbondale out to this open space, but when the engineers looked at the right of way in that reach and they concluded that the nature of the trail and the ease of constructing continues in the same way as far as the RVR, a small subdivision at the mouth of the Crystal Canyon. They suggested that we extend this Phase I to the BRB to connect to a population center in Carbondale with another smaller residential area up there. We’ve decided to do this and it adds about another mile to the trail and adds a significant cost to Pitkin County but in a way it helps us with the grant because we’re now looking at a total estimated cost of about \$3.4 million of that and approximately \$2 million are in Pitkin. They have the capacity through the open space and trails fund to cover that trail and leaves a shortfall both in the Town of Carbondale and also in the ¾ mile section between Prince Creek Road and the County line. GOCO requires a 25% match and this grant will have several pieces but I’m assuming they aren’t going to require 25% of each piece of it. So with the present funding commitment from Garfield County and from Carbondale I think that we can satisfy the 25% requirement with the Pitkin County Open Space funds providing the big portion of the match and I’m assuming GOCO will allow them to categorize it as one project through the three jurisdictions. The grant request would be stronger and more likely to be funded if there are additional funds that could be pledged to that project or to another project which is part of our Crystal Watershed Legacy idea.

Dave added the other part of this project and bigger financial piece of it doesn’t involve Garfield County but wanted the Commissioners to know that there are three significant land conservations projects - one is to place a conservation easement on Cold Mountain Ranch which is Bill Fales and Marge Perry’s Ranch and we are very close to a deal. This has about 50 acres in Garfield County but we’re not here today to ask for financial contributions on this but wanted to let the Commissioners know they want to protect this as a ranch. Secondly there’s a parcel up near Redstone, a 35-acre parcel, a famous ice climbing route that’s call the Deuel and that will be part of this package. And finally the Ute Meadows in Gunnison County that was sold by the Osgood’s to the Darien’s and has been the Darien’s property all this time. They have an agreement with the Aspen Valley Land Trust to place a conservation easement on the big meadow that up there behind their bed and breakfast providing we can raise the funds. So by supporting the Legacy concept for the Crystal Watershed, to some extent you would be giving your support for all of these conservation projects as well as the trail and the Carbondale Gateway Park.

Jeff Jackel – the Carbondale Gateway Park, that’s the RV Park that currently exists at the intersection of Hwy 82 and Hwy 133. DOW has an easement with the property owner that expires in April 2008 and it’s the governmental leaders desire within the Town of Carbondale to try and acquire that parcel including the boat ramp so we can keep that boat ramp as a permanent access on the Roaring Fork River. That access point is one of the most popular access points between Carbondale and Glenwood for river access for the commercial and private fishing industry. Carbondale sees that as a very important piece of economic development and the entrance into Carbondale. The Town of Carbondale has committed to applying \$500,000 worth of Carbondale funds towards the acquisition of the property and we’ve had discussions with the DOW, the Trout Unlimited, and the Roaring Fork Conservancy not as financial partners but as partners in principles behind the project. The DOW, we’re hoping that with their quadrant of monies they have available through GOCO, they will throw money towards the acquisition of this parcel. We think it is an important and critical piece to this overall Crystal Watershed Legacy project. With the commitment that the Garfield County Commissioner made towards the Glenwood Springs Whitewater Park and I think that’s the thing that brought us here to find out if there’s interest in helping out financially towards either the trail project and committing funds toward the Crystal River Trail Project or towards the acquisition of this riverboat launch area.

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Commissioner Houpt – putting together a Crystal Watershed plan, do you need to breakdown where the funds would need to be identified.

Dave – GOCO provides a budget sheet that breaks down each component of the grant and you have to show who the partners are and what level they support the project.

Commissioner Houpt didn't see a proposed amount needed.

Dale Will – GOCO could look at the Garfield County section of the Crystal trail separately and say where the 25% match on its own. If we could go into this grant with a better answer to that question it would be stronger. We presently have the Garco \$50,000 budgeted for this year and there's been a suggestion this could be continued in subsequent years. This construction project looks like a 2008 project anyway so if we picked up another \$50,000 it would help. I also have a \$50,000 private contribution in the bank that came from Richard Jonick to allocate to this so if we were going to have a 25% match on this one, in rough terms it's a million dollar section according to our most recent estimates and part of the reason that number is where it is, is because of a bridge over the Crystal River near the Fish Hatchery. If they had another \$100,000 on this in that line item, I would be in a stronger position.

Jeff – regarding the river access on Hwy 82 and Hwy 133, there's been two appraisals on that property - the \$500,000 from the Town of Carbondale is more than the 25% required match that GOCO requires and anytime you see a collaboration of partners where they are actually coming to the table with some monies that you can outline as Dale mentioned as a contribution, it really weighs heavily on the grant reviewers that are looking at those requests and it communicates to them a much more than just a letter of support; it says there is truly a financial commitment from a governmental agency and that they are behind this project and to be quite frank I was hoping the County Commissioners would consider \$100,000 toward the access of this property.

Chairman Martin – we started with an idea from the DOW trying to go ahead and extend this easement and keep it in permanent access and we were also looking for federal funds etc trying to come up with some kind funding mechanism under a partnership. Then the Carbondale folks wanted to make it even bigger and bigger and I think we need to secure that particular property and then decide what to do. This was our number one plan and then work on a collaborative partnership. In getting back to Dale in reference to the commitment of funds, talked to him earlier about the 2007 funds and they come from conservation trust funds and we allocated those and it does not come out of the general fund. We're not using taxpayer dollars per se to do that and if we are able to have him hold those and then in 2008 subject to appropriation that would give him his \$100,000 and he could leverage that and at least say he would have that money to do so. I don't know about the water park; I think the acquisition of the property is what we really need to look at – are we going to be able to do it. The Koziels are the ones who own the property. We're had numerous conversations.

Jeff – that's the intent, the request for GOCO is to acquire the property.

Chairman Martin – and the DOW has to be involved as well, because they bring together not only state but federal dollars and also specialized funds that they have for access to the river – they would be a very important partner. If we were just doing it as Carbondale and Garfield County we'd never get there – your park and access would not make it. That Division has to be there too.

Jeff – sent a letter to Ed Green and also Jim Gunther with the DOW in Denver and we've talked to the local DOW people as well and it is a very important project for them to preserve this so we will get the support of DOW.

Chairman Martin – we've discussed this for 3 years now trying to secure that property and that's why the different appraisals have been there.

Commissioner Houpt – in your discussions and the Crystal River also, so the County's been involved but we've never really looked at the level of financial commitment that we should reasonably be looking at since we're in the discussion.

Chairman Martin – we've talked about \$2.5 million and it depends upon which appraisal and who you're talking to about this particular piece of property. And in reference to the trails we approached the major trail groups and said come together, sit down at the same table, we're limited in our funds, come forward with a recommendation as a group to say okay we have \$150,000 each year from Conservation Trust funds, where do these funds need to go and give us a recommendation. The LoVa trail is short \$600,000 and where we'll find that is unknown.

Commissioner Houpt – we've put more money in the LoVa trail than the Conservation Trust fund money.

Ed – about ¼ million. Ed reported on the position of the Conservation Trust funds saying that the Water Park wiped it out. We have a fund balance of about \$15,000 left this year. We committed \$50,000 to the Crystal River Trails for 2007.

Commissioner McCown – the Satank Bridge commitment is a part of this picture, does it fit into any trail system or is it just hanging out there – it's on hold but the commitment is still there.

Chairman Martin – I would like to give at least a hopeful commitment that in 2008 when we do the conservation trust funds that we're allocating that same formula to LoVa, Crystal River Trails and the RFTA trail.

Commissioner Houpt – they need something more than that. This is something more tangible they need to put into their grant proposal and they need a real commitment.

Ed – general funds were used for the LoVa Trail and the promise there was basically it would take about \$250,000 to escape from this situation and pay the design fees or we could pay the \$250,000 and proceed.

Chairman Martin – it opened up the deficit we have of that \$600,000 plus that we'll either have to say you have a pioneer trail and you can't complete the overall trail for the next so many years or

Commissioner Houpt – I really support putting money toward recreation, open space and trails and we need to move for a designated fund – this is something that our County really needs to do as we continue to grow.

We need to look at these projects individually and what I'm trying to understand now, in this one proposal, are you competing for funds from us or do you have priorities – hearing two very different requests.

Dale – our over arching request and the thing we really need today is a letter of support for this Grant. That's number one. We're not competing at all. We came here today not having knowledge of your capacity in a collaborative effort to say that we're going to try and bring in \$5 million dollars into our community through

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this overall grant request. If there is capacity to add to the strength of our budgets for either of the project, you chose or whatever, then that will increase the likelihood that we'll bring home the bacon.

Commissioner Houpt – you are designing this proposal and you know what will make it a stronger proposal so if we don't have the ability today to fund both of the requests fully, what is it going to take to bring your proposal forward and make it more successful in GOCO's eyes?

Dale – if there's one item in our project that doesn't have a Garfield County commitment, that would be where you would start and that is the Gateway Park.

Chairman Martin – we're going to be in the property acquisition and that will be a different discussion. In reference to the property acquisition putting funds in and the ins and outs of that acquisition and what we're getting for the taxpayers dollars. We would have to look at this legally because if we then donate that is that going to again cause eyebrows to rise and in different auditing areas.

Don – we'll have to be a partner in some fashion – whether we actually take title to the property is a different question. No discussion has occurred about this.

Chairman Martin – wants to talk to the DOW and where their commitment is as well and that's a group that has to be at the table and make some hard decisions and some recommendations and say it is or is not going to go.

Jeff – we sent a letter off to Denver on Friday of last week but anticipating they will be a partner in this project. Perry Will has stated this is a big priority for them to acquire this.

Chairman Martin – they also had a timeline in reference to their availability of funds and they need to be a partner in this as this may have run out or they needed to renew something. That came from another enterprise fund – “fishing is for fun” and is that still available.

Jeff – they've encouraged the Town of Carbondale to seek upwards of \$100,000 to “fishing is for fun” grant which is using DOW funding. That in itself would help us in acquiring the property but were going to have to have grants to acquire the property. The Town's \$500,000 will still go towards assisting but we're hoping DOW with their quadrant of money from GOCO will be the big player in getting some of the GOCO large scale grant money available for it. The cost was \$975,000 and the appraisal by the property owner is \$1.4 million. These are two year old proposals. The lease expires April 30, 2008.

Commissioner Houpt – these are projects that we've been talking about for 3 years and saying we were going to be partners.

Chairman Martin wants to do more research legal wise and also commitment wise before a motion is put on the table. It is an issue and we've been trying to put it on the front burner and have discussed it but need to make sure we have solid ground before we make a commitment.

Don – in terms of the property what is the anticipation of ownership and operation of the site?

Jeff – DOW indicated to the Town of Carbondale that they would like to see the Town maintain and manage the site as a recreation area.

Don – is the Town willing to include it as a Town Park.

Jeff – yes, it would be a Town of Carbondale Park.

Don – is the anticipation that it be annexed into the Town.

Jeff – discussions have taken place along those lines.

Chairman Martin – what about the residential units still on the property – do they go away? 30 something units?

Jeff – yes, in time they would go away.

Chairman Martin – those are affordable housing units that have been used for a long time. The ISDS systems should be hooked again to the Town of Carbondale across the river but these are some concerns as well as the displacement of those folks. What are the circumstances surrounding this? The agreement of the owners to sell the land and there are a lot of questions.

Commissioner Houpt – are you making decisions at the table with the Town of Carbondale and DOW?

Would that be through an IGA?

Don – these are the types of issues we need to address and specifically what is the future use, the removal of the existing facilities and there's a significant ISDS system that has to be addressed. What would the future use of the facility by residents and non-County residents; would there be a fee structure put in place that type of thing needs to be addressed?

Chairman Martin – another very important issue is the change of access in reference to that property coming off of Hwy 82 with CDOT. It's turning it into a recreational activity again, a change of access, what is the anticipated traffic counts, etc. What it is today, how that will affect us from physical access from Hwy 82 on and off and those are some of the discussions that we need to continue to have. If we just go into it blindly and say we're going to solve it, that access issue may be a tremendous amount of money above and beyond what the park itself is going to be.

Commissioner Houpt – it may be but it's not a huge change in use.

Chairman Martin – it would if it's open to the public and if it goes that way.

Jeff – I've created some controversy in the overall concept behind this project in terms of why we're here originally. Dale mentioned asking for a letter of support for the grant itself and John, I appreciate there is a reluctance until these issues are more fully considered. However, because time of the essence with the concept paper due on March 23, 2007 we hope that you maybe could look at a contribution as Dale mentioned towards the trail project which would go a long way towards the grant.

Chairman Martin – that's what I suggested earlier; I can't commit those funds until they're available and that's 2008. I would say theoretically I would commit those funds through the Conservation Trust and he can take that money and put it in a trust account. He could then say that he's got his \$100,000 etc. and that would go forth. That is what I'm suggesting that he do.

Dorothea Farris – regarding the project for the land, what comes to mind is that the longer we wait for the site the higher the price goes. That's the reason for including all of this in the Legacy Grant so you can get ownership of the land. Then all the questions that you mentioned and we have the list and the others that Don mentioned have to be answered. Once you have the property you say we're all going to sit down and these issues must be addressed. There has to be a management plan – this is who's going to enforce it and this is what's going to happen. I think until you have the land as owned the way you want it, and it has to be

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purchased. For GOCO to be able to say that yes, all of these groups have agreed this is a primary interest to have that in public ownership is important and we hope that Garfield County can contribute.

Commissioner Houpt – agrees with Dorothea and thinks all of these questions come up in drafting an IGA and if the monies are contingent upon a successful IGA, I have no problem putting forth a motion to support this. The problem is the time frame because that is a short window. She asked Don if this was a realistic window to work through an IGA.

Dale – a technical clarification that might help is that for this concept paper what we really need to show GOCO are essentially pledges and if they like the concept paper they'll ask us for a full blown grant that will be due at the end of the summer. That would be where we would want hardened commitments and we're most likely looking at 2008 budget cycle for those commitments.

Don – is it enough at this point that if the Board wanted to move forward to do as Tresi has suggested, that the County would commit x number of dollars subject to reaching an IGA that would address joint ownership and operation of the property?

Chairman Martin – and a willing seller because I know that they have waned, they've agreed then disagreed. There's a 3rd party that wanted to buy it and back and forth and they're going to wait until the government offers and then the private property owner will offer more and they've been leveraging that up so again it's subject to a willing buyer.

Dale – agreed, this is one of the only GOCO grants that you can seek funds for acquisition that you don't have under a contract. GOCO's philosophy with Legacy Grants is that they feel if they put some money on the table they will enable the local government to get the contract signed. So to some extent this is a venture for GOCO to try to help us to get the Koziels or whoever else to agree.

Commissioner McCown – Is there any way to buy a portion of the land or by an easement that we're currently using now that would guarantee the use of this boat ramp? If in fact the boat ramp and access to the river is what the true goal is or are we looking for a recreational facility that's going to displace 30 so called affordable housing units? Not you but your predecessors. We're asking for x number of dollars for mass transit to get people to where they live to where they work and we've got people that are trying to live relatively close to where they work. Now we're going to tear their houses down for a recreational facility; I don't think that's in our best interest. Can we buy an access, can we buy a permanent easement that would guarantee access to the river and let the on-going functions continue. I'm hearing two different things – our primary interest is not access to the river, it is creating a recreational facility on the river. These are two different things.

Chairman Martin – the property was split into two different parcels, this is where we started and that's where the negotiations with the Koziels started. First they were going to allow the DOW to access permanently and to buy the lower part with a partnership; then they said no we're not going to do that, you have to buy all of it and I'm not sure where that is. That was another issue that I wanted to discuss. But again, getting our foundation firm so we know exactly what we're getting into so we can support this one way or the other – the whole parcel or just the access and half of it.

Jeff - I think it is the river access like Larry alluded to is the critical piece. That's the most important and serves the broader good. Sure the Town of Carbondale would love to see a gateway park there but what's more critical to the fishing, commercial and private needs of the regional area and the state is that access area. Commissioner McCown – and what I was hearing with developing was two different things – and I think we need to stay focused on the river access for the purpose of fishing.

Jeff – the river access is the most critical. Carbondale would love to see a gateway park there but the fishing access is the prime focus.

Commissioner McCown – we need to stay focused on the river access.

Jeff said it will include the upper and lower bench if our concept paper is approved.

A motion was made by Commissioner Houpt to put a motion on the table that is contingent upon working on an IGA that covers all of these questions because I think, and I would like us to use the minutes from this meeting and cover the question of vision and affordable housing and changing use and access to the river and make sure we can come to a solid understand with our partners on what the goal is for this project and if that's accomplished, I'm going to make a motion that we commit \$100,000 to the purchase of this property. Commissioner McCown seconded for discussion. This is a heavy weight fight here and we are leading with our chin, I want to see those plans in place before I could feel comfortable committing any money, the contingency may sound find, I can certainly lend my support to a letter for the Legacy Grant at this time but I don't feel comfortable supporting that with a \$100,000 until I know what the plans going to be and when its going to happen because in effect, the Town of Carbondale may prefer a park and an entrance to Carbondale and if that happens then I'm definitely against it so right now I'm not in favor of leading with any money.

Chairman Martin – we have a motion and a second and that is contingent upon all of these issues being resolved.

Commissioner Houpt – we need to sit down with all of the parties and make sure that everyone's on the same page.

Chairman Martin – and again working with the Division of Wildlife and the access to the river was the most important issue and this was public access, not a private access. It was to be open to the public and if we did that we couldn't really be charging a whole bunch of dollars to anyone for putting in and taking out there.

That was what the whole idea as well as making a fishing area on the lower bench and if we can come to agreements on those and work out our other details with the CDOT folks etc, a \$100,000 is cheap for that piece of property that Garfield County would be putting in. However, that's a lot of mountain to cover before we commit. I still like my other idea in reference to saving the conservation trust funds for two years and you'd have your match.

Jeff – the GoCo funds will not be ready until 2008 or very late in 2007.

Commissioner Houpt – my motion is 2007 and we'll just work out the logistics of it.

Chairman Martin – 2007 dollars is what you're saying?

Commissioner Houpt – we can adjust that if the monies aren't needed until 2008 but we can't commit 2008 budget.

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Don asked if we were looking at a budget supplement or alteration for 2007 and a commitment to consider budgeting for 2008.

Chairman Martin – if not achieved in 2007. Perry Will and Mr. Tucker are very interested in this project and he did bring a lot of federal dollars or state dollars to the issue and hopefully those commitments are still there. But if they're not, it's going to go away because we can't afford it by ourselves; we have too many other obligations.

In favor: Martin- aye Houpt – aye Opposed: McCown - aye

Dale asked if he was correct in supposing that the \$50,000 in the Crystal budget for this year could be renewed for next year and if that supposition is pretty good could I represent it that way in the budget sheet on this grant. I'm not asking for any formal action but permission to put that number down.

Chairman Martin – I was implying that was what I wanted you to do but I can't commit those 2008 dollars to that, all I can say is you've got \$50,000 and what you do with it....

Commissioner Houpt – not only that but we had talked about in terms of the trails is that you – the three trail systems, have the ability to sit down together and make a recommendation back to us.

Ed – absent any agreement they make, we split it 3-ways basically.

Dale asked for permission to put it on the grant.

Commissioner McCown – its non committal funds so you can put whatever you want to put on your budget sheet.

Don DeFord – the only thing the Commissioners can do for 2008 is consider it as part of their budget. .

Dale –will submit a letter for John's signature.

BURNING MOUNTAIN FIRE DISTRICT SERVICE PLAN MODIFICATION– BRIT MCLIN

Brit McLin, Fire Chief for Burning Mountain Fire District, and CJ Greddy and Adrienne Millin Boher board members were present.

Brit submitted Resolution 2006-12-03, as adopted by the Board of Directors of the Burning Mountain Fire Protection District on the 19th of December 2006. He stated that the governing body initially approved the District's service plan and the County Commissioners are the governing body that must approve the changes to that plan. He requested approval of the changes.

Brit added the modification is to reflect what we do. They want direction from the BOCC on what you would like us to do. He has approached law firms in special districts and the statute does say the BOCC has the right to determine if it represents a material deviation as to what they do. Operating ambulances is allowed statutorily and all they want to do is avoid expensive legal involvement. The purpose for doing this is to merge ambulances into the service plan and if they did not have the authority to do emergency medical services he wouldn't be doing his job.

Discussion:

Carolyn – referenced section 31-2-07 and said her questions had not been answered. This section relates to the modification of plans and the statues says “such approval of modification shall be required only with regard to changes of a basic or essential nature including by not limited to the following “any addition to the types of services provided by the special district” and not sure how Brit's lawyers were getting around that. All the Clerk and Recorder's communications with DOLA assume that the special district will use the statutory process which requires starting with the Clerk and Recorder's office, the Clerk and Recorder notifies DOLA, Clerk and Recorder helps Brit set a public hearing before the BOCC at which time there is a public hearing and everybody gets to come and participate. Today's conversation is not about whether Burning Mountain should or shouldn't, is or isn't doing anything, it is a process question. The statutes are straight forward, there needs to be a hearing set and the fact that the current statute allows a fire protection district to have ambulances doesn't mean you don't have to follow the statutory process in order to add the service. The lawyer that Brit talked to and Mr. DeFord disagree. It is important here because the underlying documents as Brit said limit the organization and I would think he would want that protection of having an updated service plan approved by the Board.

Commissioner Houpt said she was not sure why it would be so onerous to go through the process.

Brit – counsel doesn't come cheap and it's dollars and if you determine that because statutorily we're allowed to, it does not represent a material deviation – we can draft a simple document for the Board's consideration and state statute and do it fairly inexpensively. If we want to have a very strong position to come in and cover everybody completely, it cost more dollars. Brit wants authority to spend those dollars on providing service and not on process.

Commissioner Houpt – if you don't have it in your plan, the next time you have to go for a new tax increase, your taxpayers may say, well its not even in your plan to provide that service.

Carolyn Dahlgren – Brit's organization will have to determine what's the risk to him.

Chairman Martin – that risk is that somebody in your taxing district will challenge your ability to go ahead and use those tax dollars for the service and that will be on your head and then they'll come back to us.

Don – the point is that is doesn't come to the County Commissioners other than through the statutory process. So to informally approve it is something that you don't have the ability to do.

Commissioner McCown – it would have to come in the form of a public hearing to ask for the amendment to the plan.

Don – or it's not needed at all.

Carolyn read the statue into the record “such approval of modification shall be required only with regard to changes of a basic or essential nature including but not limited to the following: any addition to the type of services, etc.”, otherwise you don't get involved at all and cautioned the board not to make that definition of material change.

Chairman Martin – and we certify those ambulances that come under the Burning Mountain folks.

Commissioner Houpt – what I'm hearing today is that we don't make that call – you make that call and if you want to take the risk of not going through the process that will be up to your organization.

Carolyn – when Brit goes to get his ambulance re-licensed, one of the questions is going to be, show us your authority to operate an ambulance.

Brit – it's actually in statute. The reality of this entire matter is what's happened is special districts are queen duck in the state of Colorado and Colorado is the only state that does not have a state fire marshal that

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handles so many of these issues for us. We have fallen into doing the things that fire departments do. We will bring a service plan modification to you because I don't think it is reasonable to put these people at risk while they are helping complete strangers on I-70 but I didn't want to walk in here and give you with a service plan that you didn't know was coming. This has been our plan and we have been working on this since December and one of the things we are doing as far as the establishing process is to establish it within the County.

Carolyn – a lot of the forms used through the Clerk and Recorder are forms that DOLA requires and the statute lays out what the modified service plan has to have in it.

Brit mentioned he submitted the modification plan to the Building and Planning office.

Don – the submittal has been to the Clerk and Recorder's office for at least 20-years but this one was never submitted to the Clerk.

ASSESSOR - ABATEMENTS:

LAKOTA CANYON RANCH DEVELOPMENT, LLC AND NEW CASTLE HOUSING CORPORATION

Lisa Warder withdrew the requests after noticing errors made by the Assessor's office.

Notification was given to the property owners.

FINANCE - DISCUSSION OF THE 2ND SUPPLEMENT TO THE 2007 APPROVED BUDGET AND THE 2ND AMENDED APPROPRIATION OF FUNDS – PATSY HERNANDEZ

Don was provided with the notification and it was adequate and timely and advised the Board they were entitled to continue.

Pasty submitted the Resolution concerned with the 2ND supplement to the 2007 budget and the 2007 the 2nd amended appropriation of funds. She submitted Exhibit A – comments and Transfer Requests.

Chairman Martin swore in the speakers.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing;

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the 2nd supplement to the 2007 approved budget and the 2nd amended appropriation of funds.

In favor: Houpt – aye McCown – aye Martin - aye

Continued Executive Session – aforementioned items –legal advice – interpretation of zoning code and contract negotiations – BLM MOU

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken: None

PUBLIC MEETINGS:

BUILDING AND PLANNING- ANTLER ORCHARD DEVELOPMENT - RUBIN -CONSIDER PLAT AMENDMENT TRACT 10. APPLICANTS: MR. AND MRS. RUBIN – MARV RAY

Marv Ray, Mrs. Sherry Rubin and Carolyn Dahlgren were present.

The request is to approve a reconfiguration of the previously approved building envelope from 16,424 sq. ft. to a proposed envelope to a proposed envelope of 16,460 sq ft. The building envelope reconfiguration would be located in an area where the lay of the land is more conducive for a residential structure with a walkout basement design.

Staff Recommendation:

The applicant has provided all required documentation and has satisfied the applicable standards for a plat amendment. The Planning Staff recommends the Board approve this amended plat request with the following conditions:

- 1) That all representations of the applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
- 2) Within 90 days of approval, the amended final plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by Garfield County. The amended final plat shall meet the minimum CRS standards for land survey plans, as required by Colorado State Law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in Section 5.22 of the Garfield County Subdivision Regulations.

The applicant coordinated this with their surrounding neighbors – there is no HOA however there will be in the future.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the plat amendment to tract 10 Antler Orchard Development with the 2 conditions of staff.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING – CODE VIOLATION – VEZZOSO - CONTINUED BUILDING AND ZONING VIOLATION – WILLIAM AND KIMBERLY VEZZOSO – RON VAN METER

Deputy County Attorney Carolyn Dahlgren, Code Enforcement Officer Ron Van Meter, Attorney Mike Sawyer for the applicant from Leavenworth & Karp, property owners Bill and Kim Vezzoso were present. Ron Van Meter submitted his updated report. He continued in his report stating that additional photos were taken of the two Willow Lane ditch inlets that have been built to accommodate ditch water irrigation onto the Vezzoso property.

Another photo was taken showing a NO TRESSPASSING sign that has been posted in the County right-of-way in front of the Vezzoso property at 0111 Willow Lane. In a meeting held on March 1, 2007 with Attorney for Vezzoso, Mike Sawyer, Ron advised Mike that his client was in violation because the sign is in the County right-of-way and this would need to have authorization from the R & B Department. Mike said he would advise his client to move the sign; however as of Tuesday, March 6, the No Trespassing sign is still in violation.

Ron submitted correspondence he has received from Dan Baxter relating his experience with the current code violations and eventually leaving the area because of the situation; Jody Mack referencing the numerous violations and suggesting a Special Use Permit should not be granted to continue the operation that permits

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commercial/industrial use; Charles Cady referencing violations and requests that the commissioner not consider issuing a Special Use Permit and enforce codes; Carter and Sophie Schlumberger encouraging the Commissioners to not ignore the violations on this property; Susan Kennedy-Cady referencing the zoning and building code violations that were documented and addressed at the February 5, 2007 BOCC meeting and encouraging the Commissioners to enforce the rules and regulations for all individuals living in this County; a letter from an unsigned neighbor requesting the County to take the zoning violations of the Vezzoso seriously and not even consider issuing a Special Use Permit; Julie Kennedy, a neighbor since 1982 having lived in several locations within view of the Vezzoso property and stated that since this is out in the open she wanted to comment regarding concerns of the illegal business being operated – she asked the commissioners put a stop to the industrial use in a residential neighborhood; Mike Kennedy summarizing all the violations and how these have only increased over the years and noting that during the last 30-days the operations have slowed considerably giving the neighbors a chance to see how nice it is to live in a rural area of the County and requesting no special use permit be issued just to take care of the problem (he also submitted a map of the properties in the area; and a new letter from Chris Beebe outlining the testimony at the February 5th hearing and contradictions to what is actually going on in his opinion. Chris asks that the Commissioner use their professionalism in this case and return the area to one of agricultural rural density and not allow an industrial use.

Mike Sawyer of Leavenworth and Karp, P.C. submitted a letter in response to the Commissioners request for staff to conduct an additional inquiry on the matter. The purpose of his letter is to summarize the appropriate legal standards governing the alleged zoning and building code violations and to set forth the critical facts previously presented to the Board. In the end, the Vezzoso's are acting within their property rights and the Board should direct staff to take no further action on this matter. He summarized the testimony at the February 5th hearing and stated that the Vezzoso's land use activities are within the scope of their vested property rights and uses permitted in the ARRD zone district. The Vezzoso's request that the Board acknowledge the Vezzoso's' property rights and direct staff to not pursue any abatement actions against the Vezzoso's.

Carolyn reminded everyone once again that this is not a public hearing, it is a public meeting.

Carolyn passed out the record of actions from the 1990 court case. The strengths and weaknesses of this document are known both to Carolyn and Mike Sawyer

Ron Van Meter provided the Board with a summary of how this violation began. Kim and William Vezzoso live at 0111 Willow Lane outside of Carbondale, Colorado. It is zoned Agricultural Residential Rural Density. The Board of County Commissioners and our department received an anonymous complaint; allegations were that the property was being operated as a gravel pit business. Other allegations referred to a business - Independent Trucking that also was at that location on Willow Lane, as well as lack of enforcement by the County. I first sent a letter based on the initial allegations to Mr. Vezzoso on December 3, 2006. We had three separate telephone conversations and then on December 26, 2006 I did have a site visit that lasted about 45 minutes with Mr. Vezzoso. We walked the property, made observations that are noted, the two categories of allegations are first the 2003 International Building Code, which is inclusive of four building code violations – the front property fence in relationship to its height, the inner property retaining wall, the two-bay garage and shop that was built as represented as in agricultural building and grading and excavation without a permit. This property is taxed residential therefore it is required that a grading permit, an excavation permit is required. Secondly, the Zoning Resolution of 1978 as amended, the storage of heavy equipment, which we've discussed before, you have photographs. This would require a Special Use Permit. Another allegation is the site is being used for processing, storage or material handling of natural resources. This also would require a Special Use Permit. And then the existence of a contractor's yard. It is not allowed in the Ag residential rural density zone district at all. You have another attachment that addressing the advertisement in DEX paper in the white pages and yellow pages for Independent Trucking corresponding with 0111 Willow Lane and the address as such. Supplemental investigation - I will go forward now unless you have any questions.

Chairman Martin – questions on that information?

Commissioner McCown and Commissioner Houpt – none

Chairman Martin – go ahead Ron and continue.

Ron Van Meter – follow up investigation was first a meeting with Ken Gardner who is a representative of the Garfield County Road and Bridge Department, I met with him in front of the Vezzoso property on February 15, 2007. I met with him because he had worked on all three of the road upgrades to Willow Lane since beginning in 1985 and then mid-1990's was his second recollection and then in approximately 2001 or the year 2002 and the resolve was a chip seal process. He described it as we looked at the front of the property from Willow Lane; he pointed to the property of the slope in an area between the Vezzoso property and County Road 100. He said that standing water occasionally occurs at that location because of, in his words, the "lay of the land." He believes that the situation is the logical cause if any for any ground water issues of the Vezzoso property not the road work. I further stated that his department had not received any other complaints from residents in that area.

The second item is an additional violation, which you may have noted in the zoning section of the four, there were three zoning allegations before and now the fourth is the fence again in the front of the property built in the setback; so a letter was sent on February 27, 2007 to Mr. Vezzoso. I have not received a copy back from the post office of the certified return but I did give that letter to Mike Sawyer, his counsel on March 1, 2007. The third item in additional to synopsis of letters in opposition, which I'll conclude with is a memorandum from Mark Bean, former Director of the Garfield County Building and Planning Department. I asked Mr. Bean to describe in his own words as best as he could his recollection of any past involvement with the Vezzoso property. He noted that "in 1991 that that occurred in 1991, then Code Enforcement Officer, Michael Watts initially cited Mr. Vezzoso. It was agreed that Mr. Vezzoso could have his dump truck with a trailer and a back hoe on the property. A second employee in that capacity in Code Enforcement Steve Hackett a few years later cited Mr. Vezzoso and Mr. Hackett's allegation was cited for heavy equipment and other construction related material on his property. In Marks recollection, he recalled that Mr. Hackett and

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Mr. Vezzoso resolved the issue on Mr. Vezzoso's assurance that the equipment was being used for agricultural purposes only on the property. And finally, Mr. Bean says, these are his words:
"As to the allegation that Don DeFord, Buckey Arbaney or I stated that it was all right to have no more than 10 pieces of heavy equipment on a piece of property and not be considered a contractor's yard. I have no recollection of any such statement and would say that none of us individually or as a group had the authority to make that type of interpretation. This would have to be a decision of the Board of County Commissioners as a group and in a public meeting or an interpretation by the Board of Adjustment in a public meeting."
Ron - I have ten letters mostly from neighbors that are in your packet, some were emailed to you, if time allows I can read a brief synopsis or answer any questions you may have regarding those letters.
Chairman Martin – I think we've all read them. Anything further. Questions of Ron then?
Commissioner Hought – not at this point.
Chairman Martin – Ms. Dahlgren, anything further, I didn't mean to cut you off earlier.
Carolyn – no, no, no. You all did get copies in your packet of the letter from Mike Sawyer, the response letter.
Chairman Martin – yes, we do have that. Speaking of that, anything to add?

Applicant response:

Mike Sawyer – with the Board's permission there are a few items we'd like to bring before the Board. At the time that I drafted the letter that's included in your packet, I had not had an opportunity to review the materials that were the additional supplemental information that Mr. Van Meter included in your packet. And so based on that additional evidence, I would like to take a very reasonable amount of time.
Carolyn – brief, brief.
Mike Sawyer – because I recognize you have a long agenda today.
Chairman Martin – we do.
Mike Sawyer – okay. So with your permission.
Chairman Martin – go ahead.
Mike Sawyer – I have a few questions for Bill. Bill, in Mr. Bean's memo he states that he does not remember any representations made to you at, during the 1991 court proceedings. Could you just very briefly restate what was said and who said it?
Bill Vezzoso – the only thing Mark Bean said to me was that I should paint my equipment green.
Mike Sawyer – and who else when you were in the court hearing, where were you at, at the time?
Bill Vezzoso – I was in the hall waiting for them to come up with a decision.
Mike Sawyer – okay, and so who approached you in the hall?
Bill Vezzoso – Buckey Arbaney.
Mike Sawyer – and who was he with?
Bill Vezzoso – he was with I believe the County Attorney, Mark Bean, my friend Bruce Hammer was with me and there were a couple other people that I didn't recognize.
Mike Sawyer – and what did Buckey tell you?
Bill Vezzoso – Buckey told me when he got down there, that since I had five acres of property that I'll be allowed to store ten pieces of equipment and I could continue on with what I was doing and that the ticket was dropped.
Mike Sawyer – okay, did you own five acres of property?
Bill Vezzoso – yes I do.
Mike Sawyer – okay. At the time did the County tell you that you needed to limit the use of your property in conjunction with your excavation equipment in any other way?
Bill Vezzoso – No.
Mike Sawyer – okay, were you told that you couldn't work on your equipment on your property at that time?
Bill Vezzoso – No.
Mike Sawyer – okay, did you work on your equipment on your property at that time?
Bill Vezzoso – yes I did.
Mike Sawyer – okay, were you told that your employees couldn't come to the property to either pick up stored equipment or to car pool to job sites?
Bill Vezzoso – No I wasn't.
Mike Sawyer – at the time did your employees come onto your property to pick up equipment and car pool to job sites?
Bill Vezzoso – yes they did.
Mike Sawyer – okay, did Mr. Bean or Mr. DeFord tell Mr. Arbaney that he could not make those representations to you in that court proceeding?
Bill Vezzoso – No.
Mike Sawyer – and you indicated that Mr. Bean made one other comment to you about painting your equipment.
Bill Vezzoso – he said I should probably paint my equipment green. I just took it with a grain of salt; I didn't know what it meant.
Mike Sawyer – but neither Mr. Bean nor DeFord told you that you could not rely on Mr. Albany's statements.
Bill Vezzoso – No, they were beside him.
Mike Sawyer – okay, and neither Mr. Bean nor Mr. Arbaney told you that you could not continue to use your property in its historical manner?
Bill Vezzoso – No sir, carry on as I was.
Mike Sawyer – and you had spoken to other excavators who were present at that hearing in 1991 who had been cited by the County?
Bill Vezzoso – yes sir.
Mike Sawyer – and that includes Joe Zamora and there was a statement from him that was distributed to the County and was his recollection consistent with your recollection?
Bill Vezzoso – yes sir.
Mike Sawyer – okay, have you since spoken to an additional excavator who was part of those proceedings?
Bill Vezzoso – yes I have.

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Mike Sawyer – who was that?

Bill Vezzoso – his name is Jerry, owner of Frog Excavation.

Mike Sawyer – okay, and what happened to, I believe his name is Jerry DesJarlais, what happened to Mr. DesJarlais as a result of the County’s interpretation of the storage of heavy equipment on property in that 1991 proceedings.

Bill Vezzoso – from my phone conversation he said he had a letter in his safe that states he has six months to evacuate his equipment off his property or face daily fines.

Mike Sawyer – okay and we have a letter signed by Mr. DesJarlais that you received.

Bill Vezzoso – yes.

Mike Sawyer – okay, (passed it out for the Board) and so it’s your understanding based on your conversation with Mr. DesJarlais, because of the 1991 court proceeding that he was required to discontinue his operations.

Bill Vezzoso – he said three acres because he didn’t have three. I wasn’t in the hearing to decide on how exactly how many acres it was necessary to have; I was told because I had five acres I could keep ten pieces of equipment. He told me on the phone his letter states that because he had less than three acres that he was going to have to evacuate his equipment from his property and they gave him six months to do so.

Mike Sawyer – okay, at the end of the hearing, when Mr. Arbaney was done, it’s your understanding that the citation against you was dismissed, is that correct?

Bill Vezzoso – it was very correct.

Mike Sawyer – okay, were you required to fulfill any terms or conditions or probation?

Bill Vezzoso – no sir.

Mike Sawyer – okay, I would note and I’m not going to belabor the point we believe there are some infirmities to the register of actions due to the fact that it was created three years after the fact and that it has other internal inconsistencies and frankly we think it is wrong that the register of actions indicates that the matter actually went to a plea with some type of condition afterwards. Bill, in your recollection did the County take any subsequent enforcement action against you after the 1991 proceedings?

Bill Vezzoso – No sir.

Mike Sawyer – okay, so you do not recall this second citation that’s referenced in Mr. Bean’s –

Bill Vezzoso – there was no second citation or they should have it.

Mike Sawyer – okay, do you recall ever representing to Mr. Bean that your equipment stored on your site was used exclusively for agricultural purposes.

Bill Vezzoso – no it was used for both.

Mike Sawyer - are your operations substantially the same today as they were in 1991?

Bill Vezzoso – yes sir, very much family oriented.

Mike Sawyer – do you store more than ten pieces of equipment on your property?

Bill Vezzoso – no sir.

Mike Sawyer – do you screen earth or fill on your property for sale offsite?

Bill Vezzoso – no sir.

Mike Sawyer – to the decree you have provided fill to neighbors or friends in the past, are you willing to discontinue that?

Bill Vezzoso – I will discontinue being nice to my neighbors.

Mike Sawyer – okay. Mr. Vezzoso, have you relied on the County’s representations made to you in the 1991 proceedings.

Bill Vezzoso – very much so.

Mike Sawyer - How?

Bill Vezzoso – I structured my whole life and my family, my business and my property based on this decision.

Mike Sawyer – have you expended money as a result of the representation made to you by the County in 1991?

Bill Vezzoso – a lot of my – a lot of top notch equipment.

Mike Sawyer – would you have purchased that equipment if you didn’t believe you had the ability to store it on your property?

Bill Vezzoso – couldn’t afford to store nowhere else then nor could I now.

Mike Sawyer – in my letter to the Board, I cite to a court of appeals case named Eason and I suspect that the County attorney is or has provided you with some understanding of this case. It is my read of that case that an official undertaking their official actions in interpreting land use rights on specific property and subsequent reliance thereon by the property owner creates what is called a common law vested property right. And as the Eason case states, a subsequent change or denial of a common law property right constitutes a taking of private property, a potential violation of due process and compensatory damages for the party whose property has been taken. I believe that the representations of the County in 1991 in a public court proceeding constitute statements by the County and subsequence reliance by Mr. Vezzoso that have vested a property right to use his property in conformance with those representations. And we would ask that based on this common law property right that the County recognize that and not proceed further with actions related to the storage of heavy equipment, or use of the property in conjunction with Mr. Vezzoso’s business. There is one other brief point that I want to raise because Mr. Van Meter did raise a new alleged violation involving a front yard setback. I presume again that Ms. Dahlgren and Mr. Van Meter have briefed you on the code for front yard setbacks in the Ag district. A couple more questions for Bill. Bill, what year was your front yard fence constructed?

Bill Vezzoso – 1997.

Mike Sawyer – at the time your fence was constructed did you use your property for agricultural purposes.

Mike Sawyer – what were those purposes, what do you do?

Bill Vezzoso – I had several horses, we bred cows, we didn’t have our pigs at the time, corn, gardening and pasture.

Mike Sawyer – did you sell any of the garden or any of the livestock for a profit?

Bill Vezzoso – the livestock we did.

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Mike Sawyer – and as you testified in the February 5th hearing, you continue to use your property for agricultural purposes.

Bill Vezzoso – yes.

Mike Sawyer – okay. Do you own any water rights decreed for use on your property for agricultural or irrigation purposes?

Bill Vezzoso – yes I have a ten foot ditch easement in front of my property.

Mike Sawyer – and do you own a portion of the Union Ditch.

Bill Vezzoso – yes sir – it’s dedicated to my land.

Mike Sawyer – and in 1997 did you use the water from the Union Ditch for agricultural and irrigation purposes?

Bill Vezzoso – every year.

Mike Sawyer – okay. There are references in some of the letters included in the packet that at one time your fence fell over. Can you explain the circumstances under which this occurred?

Bill Vezzoso – it was during construction of the fence. When you do cinder block, you do the base and you stick rebar up so far, when you do the top part of the base, you lay it with what they call a channel wire that goes in between each layer of the block. The channel wire was in place but the vertical rebar wasn’t in yet so without the rebar being in the fence, yes it blew in and I had to reconstruct it.

Mike Sawyer – and as a result of it blowing in have you taken measures to remediate that?

Bill Vezzoso – normally they put the rebar every sixteen inches, I decided to put the rebar every eight inches and fill every hole full of four thousand pound construction concrete so I would never have this problem again.

Mike Sawyer – and since you completed that work on the fence has the fence every moved or blown over?

Bill Vezzoso – it’s the same place it’s always been.

Mike Sawyer – okay. At the last hearing, evidence was presented about the height of the road, Mr. Van Meter presented some evidence from his measurements, you presented some measurements yourself, have you made any improvements around the fence since that time.

Bill Vezzoso – I’m finally finishing my fence, I’ve cleaned the ditch; it hadn’t been cleaned since 2001 or 2002 depending on when they raised the road two feet deep in front of my property.

Mike Sawyer – and what did you do with some of that fill or material.

Bill Vezzoso – what I’ve always done, I put it beside the ditch.

Mike Sawyer – and is some of that located next to the fence.

Bill Vezzoso – that’s why I left the fence low so I have room for my material to be plucked up as in normal ditch cleaning operations.

Mike Sawyer – okay, can that material constitute backfill material?

Bill Vezzoso – yes, that’s why I left the fence unbackfilled because I knew I had a lot of ditch cleaning to do.

Mike Sawyer – and as a result of backfilling the fence, did you take subsequent measurements of the height of the fence?

Bill Vezzoso – yes.

Mike Sawyer – okay, do and I believe we have some photos for the Commissioners.

Chairman Martin – okay, we need you to conclude.

Mike Sawyer – we will conclude.

Chairman Martin – okay, explain what you’re exhibit’s are here.

Mike Sawyer – Mr. Vezzoso, based on your measurements of the fence, how high is the fence?

Bill Vezzoso – less than six feet.

Mike Sawyer – and the pictures that you’ve taken do they represent a representative cross section of heights along the fence line?

Bill Vezzoso – yes.

Mike Sawyer – now, in the prior hearing Mr. Van Meter presented evidence that he measured the fence height to be eighty-three inches. Do you know approximately where his measurement might have been taken?

Bill Vezzoso – the spot with the least amount of backfill was in.

Mike Sawyer – and at that location, was the fence property backfilled to actually

Bill Vezzoso – it’s never been backfilled until this weekend – until today.

Mike Sawyer – and did you go and take a subsequent measurement at that approximate location?

Bill Vezzoso – yes I’ve got a measurement of the fence every 30 feet – there’s no question about how high the fence was.

Mike Sawyer – and again you’re, based on your measurements, how high is the fence.

Bill Vezzoso – less than six feet.

Mike Sawyer – okay. Now Mr. Vezzoso, if the County should determine that you need to obtain a building permit for the fence, are you willing to obtain one?

Bill Vezzoso – never turned them down yet.

Mike Sawyer – and I would conclude this by reminding the, or stating that the County code when it, with regard to agricultural structures, in the front yard setback states that fences under eight feet in height on agricultural property and the definition of agricultural property is the use for farm or ranch purposes, and the ownership of a water right decreed for use in agricultural or for irrigation permits under the zoning code the location of a fence is the front yard setback and with that I believe that the other points have been adequately covered in our prior hearing, or are summarized in my letter that was submitted to the Board – thank you for your time.

Chairman Martin thanked Michael for being brief. Anything further Ms. Dahlgren?

Carolyn Dahlgren – not unless you want any response from the staff.

Chairman Martin – Ron

Ron Van Meter – I have response to the latest matter regarding the front fence property wall. I measured it, it was ninety-eight inches, not eighty-three inches and I measured it from the proper measuring perspective and that is the natural grade, not backfill.

Chairman Martin – all right, any questions from the Board, anything in the audience that we need to consider. All right, one person.

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Public Comments:

Mike Kennedy – 45 Willow Lane, I own two properties out there, both of those are south of the Vezzoso property. My current residence is immediately south of the Vezzoso property and I have a rental property which is immediately south of that property. If you received my letter then you’ve seen my map that outlines that. A couple of things, first thing, they keep bringing up the fact that the County raised the road, that’s true, they did. Since 1982 when I first moved out to that neighborhood, I’ve lived in four different properties out there all of these around the Vezzoso property, the other one is to the north of the Vezzoso property where Chris Bebee lives now and the other one is directly across the street – I’ve irrigated all of those properties. It’s my belief, I still irrigate two of them because I still own two of them, that nothing changed when the County came in and fixed the road. I’m glad they came in and fixed it – there’s no changes to the irrigation out there that was caused by that road. Second thing, the contention that the operation is the same as 1991 I have to disagree with that because as I said, I’ve lived there since 1982 and I think the Vezzoso’s moved there in 1987, but I had no complaint about their operation. Until now, I’m complaining because now all of a sudden it’s changed into a totally different operation over the last couple of years, it’s no longer a mom and pop excavation operation, it’s a big huge pile of dirt in the back of their property and it’s been that way for two years, the trucks come and go, the trucks come and go, back up alarms on Saturday night, back up alarms on Sunday morning at seven o’clock, dump trucks with the tail gates slamming, rock dropping in to the back of trucks, that’s not ARRD zoning. It’s not. And I don’t believe any contention that is the same operation as in 1991 because if it was, I would have been complaining in 1991. The second thing, or the other thing is I don’t have any problem with Bill being nice to any of the neighbors and giving them top soil or whatever he does on the equipment or whatever, what I have a problem with his a constant whatever you want to call it going on back there with piles of dirt, a screener, and all of that stuff and I don’t believe that’s been going on for two years just to re-grade a pasture, I just don’t believe that. If it is that’s a pretty slow operation.

Chairman Martin – all right. Questions of Mr. Kennedy. Want to make sure to get all the testimony in.

Chris Bebee – 0167 Willow Lane - I take exception to Mr. Sawyer’s notion that whatever happened in 1991 was a court proceeding. I’ve never heard of a court proceeding where the defendants weren’t allowed to attend. And maybe that’s the way it happened back then but I don’t see any legal basis for any of the claims if it’s not recorded anywhere, it no body was allowed to have their input, either the defendants or the neighbors, anybody that was allowed to participate in that except for people that we don’t know even know who. So, that’s all I have. I’ve stated my case I think pretty well in my letters to the three of you.

Chairman Martin – thank you Mr. Bebee, I can tell you that I appeared in federal court and I wasn’t allowed to testify and I was the one accused, so it does happen, unfortunately that’s some of our court proceedings that certain things do happen. Has nothing to do with this one, but I’m just letting you know that is in the system. All right.

Charles Cady – 0081 Cottonwood Lane – I’m also a neighbor over there and to me it’s more of big picture thing, ARRD is huge in this County and there’s this underlying notion that you can do whatever you want and really we need clarification on that because I don’t believe that’s true because what they are doing is full blown excavation company; I really don’t see his place fitting in this zone district.

Jody Mack – you have a copy of a letter I wrote to Ron Van Meter and I just wanted to state that I’m the one who witnessed from last April to the end of August of last summer, the Vezzoso’s activity. It was a huge disturbance to any one in the neighborhood of the Beebe’s. I had the privilege of having some horses boarded there; I was paying for the right to use that property for my horses. There were times when I had to relocate my horses in order to get them out of harms way from the dust caused by the screening of the natural resources. The smoke that was caused by the numerous bon fires that they left unattended. The smoke and the dust at times were so dense that I literally could not see my horses from where I was standing from one end of the pasture to the next. I witnessed also that their child at times would have to be removed from the yard to be taken indoors to preserve the child’s well being. I just, it’s unbelievable. Thank you.

Chairman Martin – did we miss anyone?

Julie Kennedy – I live right next door to Kim and Bill and I stay at home all day long so I’m there constantly. In the morning, in the summer when he runs his trucks we can’t open the windows, out house fills with diesel fumes, we hear the trucks coming and going all day long on the road, we hear them in the backfills, dropping rocks, dropping the beds, the whole, the dust, you know it used to be so calm and quiet out there and it’s all gone now, there’s none of that left. And everyone’s been quiet for a long time and we can’t take it anymore, it’s getting to big, it’s getting bigger and bigger and bigger and it’s got to be an end somewhere.

Chairman Martin – any question of Ms. Kennedy or anyone else. All right. Mr. Sawyer, anything you’d like to say in closing.

Mike Sawyer, just briefly, Bill when you burn on your property, do you follow the County/fire district protocol and call the fire district before burning?

Bill Vezzoso – yes I do.

Mike Sawyer – do you burn things that are not allowed under the fire code or County code?

Bill Vezzoso – no just brush and wood.

Mike Sawyer – and nothing else?

Bill Vezzoso – no.

Chairman Martin – anything questions from the Board. All right. Do we have enough to make a decision?

Decision:

Commissioner Houpt – I’ll make a stab at it but Carolyn I’m going to need your assistance, there are certain things that need to be accomplished at this point and I’m going down the list given to us by staff so I’ll start with the front privacy fence, I’d like to and actually the privacy fence and the inner property retaining wall, I’d like those to be brought into compliance with the County permit and if not brought into compliance taken down; on the 2-bay garage shop, I think historically that is Ag use and at this point and time I’m not going to put anything in my motion for action on the shop; the grading and excavation needs to cease and so I want, if this excavation and grading is taking place to fix the Ag issue in the field, then a permit can be taken out with a limited scope of work and a limited amount of time to accomplish that job then but then the general grading and excavation needs to cease; storage of heavy equipment I would refer back to Mark Bean’s letter and the understanding at the time of one dump truck with a trailer and a back hoe is different from the type of storage

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of heavy equipment that we have right now, the storage needs to cease and I'll come up with some days on all of this, but the only way you would be able to accomplish that in a later date is through the Special Use Permit option that we give, but it has got to cease, there's not any indication that I have from staff previously or currently that that's appropriate for your land; site for processing, storage or material handling of natural resources, again that goes along with the grading and excavation and that's got to cease; the contractor's yard except for a Special Use Permit if you want to come back but it has to cease before it, I mean the process is, it's a two-prong process as far as I can tell, I don't think this is the kind of activity that needs to be occurring without a great deal of analysis; contractor's yard – it doesn't belong in this zone district and it's got to cease; and correct the front property setback issue through the permit system; this obviously can not happen overnight, we need to give a period of time, 60-days, we're doing typically allowing, do I need to do, there's been recommendation of injunctive action, what do I do at this point?

Carolyn Dahlgren - in general this BOCC has said that if people are trying to bring their property into compliance with the zoning code you generally don't tell the County Attorney's office to enforce through litigation – there have been situations where there are huge public safety problems where you don't allow that and you do tell us to go get an injunction. But if you're asking factually how long would it take to come into compliance, is that what you're asking?

Commissioner Houpt – no we usually give a period of time and I don't remember what that typical time is.

Carolyn – it depends upon how long it takes to process applications or in this case building codes, special use permits.

Commissioner Houpt – but I'm not willing to keep this going while they're –

Chairman Martin – then you go ahead and establish what you're time period would be.

Commissioner Houpt – then I'm going to say a 60-day time period to give the Vezzoso's ample time to find a new location for this activity. But I view this as inconsistent with the character of the neighborhood.

Carolyn – Ms. Houpt – just to clarify – I think at one point you said a contractor's yard needed an SUP and then in another point you said it's not allowed in the zone district.

Commissioner Houpt – well no, it was the site for processing, storage or material handling of natural resources according to the staff report that needs a Special Use Permit. The contractor's yard is not legal. And that would be my motion.

Carolyn Dahlgren – so you're saying that within 60-days all of these activities must be ceased or permitted.

Commissioner Houpt - ceased or permitted. But if they require a Special Use Permit they need to cease because that's the heavy activities occurring.

Commissioner McCown – second.

Chairman Martin – motion and a second, any discussion? Hearing no discussion, we'll call the question. All those in favor?

In favor: McCown – aye Houpt – aye Opposed: Martin – nay

Chairman Martin – I think that is too stringent, we are looking at a vested property right even though it may be questionable in reference to the way it came about, I still think that a property right needs to be preserved – if it went through court, there was no corrective action that was handed down in written form, it would be allowed as a vested property right and I didn't see that, so.

Commissioner Houpt – there was nothing in writing to indicate this.

Chairman Martin – I realize that but there is nothing to say that it didn't happen.

Mike Sawyer for the applicant said we will be in contract with the County Attorney's office as to how we chose to proceed.

AIRPORT - CONSIDER THE CITY OF RIFLE AIRPORT MASTER PLAN. APPLICANT: CITY OF RIFLE – FRED JARMAN

Fred Jarman, Carolyn Dahlgren, Jim Neu from Leavenworth and Karp as the attorney for the City of Rifle and Bob Howard property owner was present.

This is a Referral of the proposed "Rifle Airpark Master Plan"

General Description

Airport Land Partners has proposed the "Rifle Airpark Master Plan" to the City of Rifle (the City) that is intended to be the overall guiding document for a 25 year phased annexation and development plan with specific uses that will diversify Rifle's long-term economic goals. The City referred the master plan to the County for review as well as so that the document may also serve as a general Annexation Impact Report required by Statute.

The Rifle Airpark Master Plan property (the Property) in question is a 731 acre property having six owners with Airport Land Partners owning the lion's share of land that surrounds the County Regional Airport southeast of Rifle proper. The County is one of the six owners with the Rifle Road and Bridge Maintenance Shop property consisting of 46.4 acres. The County Airport is not a part of the Property or the PUD but is directly affected by the development of the Rifle Airpark.

Note, the Tri-State Cogeneration Station and Western Trends properties comprising approximately 40 acres and are two of the six properties in the Rifle Airpark Area have already been annexed and are served with City water and sewer. This was accomplished when Rifle annexed a 10-foot strip of land along the Airport Road as it leaves Rifle up to the two properties.

More recently, the City annexed the 14-acre property owned by CMC for a future tech campus. All of the rest of the proposed Airpark property is in the County. The ownership is presented in the frame above.

Background

In 1981, the Board of County Commissioners approved the creation of the Airport Industrial Park Planned Unit Development (PUD) proposed by Rifle Land Associates which is memorialized in Resolution 81-56. This PUD has been modified several times where most recently, the PUD was amended to accommodate the uses for the County parcel which was donated by Airport Land Partners to the County for the Road and Bridge Shop.

Originally, to begin the development of the PUD, Rifle Land Associates also submitted a Preliminary Plan, which was approved but was never realized for failure of submitting a Final Plat. As a result, that Preliminary Plan application became invalid. No other plan has been approved to date. Therefore, today, only the PUD

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remains in place. The Board will recall the most recent action to occur within the PUD, which was the recent annexation action requested by the City of Rifle for the 14-acre parcel to be donated to CMC.

Potential Areas of Concern

It would appear on initial review that there are several areas of concern regarding land use processes and specific Garfield County interests, which include the Garfield County Regional Airport, the Garfield County parcel containing the Road and Bridge Shop, and the County roads that are located within the PUD. These issues are discussed below:

A. Existing PUD & Process

The proposed Rifle Airpark Master Plan area represented in the submitted documents appears to only include the northern portion of the original PUD. The Airport Industrial Park PUD currently in place contains a significant area directly to the south of what is depicted in the proposed plan. The PUD in place today is shown here for your review.

This PUD was approved with areas devoted to industrial and commercial uses as well as a substantial portion devoted to a variety of residential uses including Single-Family Residential, Urban Density Residential, Camper Park, and Mobile Home Park. These residential uses were contemplated to serve the housing needs of the employees need for the industrial and commercial uses that were envisioned to support the airport as well as the greater needs of the City of Rifle. The proposed master plan 1) does not include the portions of the existing PUD to the south and 2) virtually eliminates all residential uses. (Those areas are noted by the hashed areas in the map on the previous page.)

It appears that the main difference between the existing Airport PUD and the proposed Airpark Plan is that a large portion of the original PUD includes significant acreage devoted to a variety of housing uses including single family units, residential urban densities, recreational camper park, and mobile home parks whereas the proposed Airpark contains virtually no housing accommodation.

The Board should consider the following points:

- 1) It appears the proposed master plan does not include the entire PUD as originally zoned. If portions of the existing PUD are annexed into the City in phases, the remainder of the PUD in the County becomes invalid. Because the Property was approved as one PUD, phased annexation will not work. The entire PUD should be annexed at one time;
- 2) Because the Preliminary Plan has been voided years ago, Section 4.09.02 of the Garfield County Zoning Resolution requires the Board of County Commissioners to take the following action that would actually alleviate the invalidation of the PUD by partial annexations and revert the zoning to ARRD:
 - *Revoke approval for the uncompleted portion of the PUD, or*
 - *Require that the PUD be amended, or*
 - *Extend the time for completion of the PUD one (1) time, for a period not to exceed one (1) year from the expiration of the original time limit.*
- 3) The master plan ought to be modified to add a significant housing designation to alleviate housing pressure in other areas of the City and provide a live / work community rather than place those commuter work trips on road networks further exacerbating road and traffic challenges. Staff notes that the other commercial district allows for a variety of “community-like services” in further support of residential in the area;
- 4) The original PUD was approved to function as one project / property. The entire PUD (including the residential uses to the south) should also be included into the proposed master plan;
- 5) The proposal does not appear to annex the County owned parcel containing the Road and Bridge shop. Again, this parcel is part of the Airport Industrial Park PUD. Should the Board be amenable to this property being annexed into the City, Staff is concerned as to what zoning would be applied to it so that the County retains the flexibility it currently enjoys in the PUD; and
- 6) Staff suggests the parcels that Airport Land Partners intends to donate to the County should not be annexed with the rest of the area.

B. Garfield County Airport

The County Regional Airport (the Airport) has a master plan in place that has a 20 year horizon focused on serving the aviation needs of the County. As the Board is aware, the plan calls for acquiring additional land for runway and road realignments and on site structure and service improvements. Staff understands that Airport Land Partners has agreed to donate the adjacent land required for the realignment of the Airport Road and for a parcel at the eastern end of the airport.

The proposed plan shows the airport is bordered entirely to the south by the Airport Support District (A-S) Land Use Designations (refer to the map) that allow a variety of uses that are intended to support the functioning of the airport which is consistent with the existing PUD. Staff raises the zoning overlay issue with respect to structure heights in that district so that flight paths are not impacted. See page 50 of the Master Plan for reference.

The Board should consider the following points:

- 1) The County should require that an avigation easement be put in place prior to annexation of those lands surrounding the airport to protect the airport operations;
- 2) Staff suggests that Airport Land Partners should establish and provide an Airport Road Realignment Easement for the proposed road relocation of Airport Road and that the section to be realigned as well as the easement not be annexed so that the improvement can occur in the County so that FAA dollars can be used prior to annexation. Additionally, Staff suggests the Board enter into some agreement as to how that section of Airport Road is to be improved; and
- 3) Airport Land Partners should donate the land east of the County Airport and for the road realignment prior to annexation.

C. The Garfield County Road and Bridge Parcel

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The Master Plan designates the Garfield County Road and Bridge Shop Parcel (the R&B Shop Parcel) in a designation named “A-PD Public Institutional.” The only other properties in the Airpark area with the same designations include the future CMC campus property and the jointly developed Fire Station property, which were both donated from Airport Partners. The plan does acknowledge the County’s possible future plans of development for that property within their plan designation (see pages 2 & 8). Interestingly, the phasing plan (shown on page 75) does not include the R&B Shop Parcel in the annexation plan.

Airport Land Partners donated that parcel to the County. Staff is concerned as to the status of the access road into the parcel off of Airport Road that serves the County’s operations. The ownership, management, and future alignment and connectivity of this road need to be clarified.

D. County Roads that are located within the Airpark Area

The Airpark Area is presently served by the County’s road system which is owned and maintained by Garfield County (the County). More specifically, these roads are CR 319, CR 315, CR 333, CR 333(A), CR 352, and CR 352(A). Recall, when the City annexed the co-gen property, it did not annex Airport Road.

The development of the Airpark will primarily impact the County’s road system within the area. Staff recommends that all annexations be required to also annex the adjacent County road so that ownership and maintenance are assigned to the City as they should become City streets.

As with any development that occurs within a City, the Board should be concerned with this magnitude of development as to the impacts to Airport Road as it goes east from the Property towards the Airport Interchange at I-70. Is that road section physically capable of handling the traffic generated from this development?

The master plan contains a second binder, which includes a Traffic Impact Study prepared by Kimley-Horn & Associates. This study contains an analysis of traffic generated from a 15-year interim build-out at 2022 and at half build-out at 2030. Specific recommendations are as follows:

In summary, as mentioned at the beginning of this memorandum, the City of Rifle is requesting comments from the Board regarding the Rifle Airpark Master Plan. Staff has outlined several issues that require the Board’s attention primarily surrounding the following:

- A. Existing PUD & Annexation Process (Validity of Existing PUD with partial annexation);
- B. Impacts to County Airport (Airport Road and Runway Alignment & aviation easement);
- C. Impacts to County Road and Bridge Parcel (status of zoning and internal access road); and
- D. Status of the County Roads that are located within the Airpark Area that should be annexed

Bob Howard – presented an 8 minute video of the plan.

As to residential – Bob said he is open to that but they have been discouraged due to some entitlement battles and he doesn’t want to get caught in the battle.

Jim Neu – if we allow development now it will drive services; it may be fine once other developments are completed.

Bob responded to Commissioner Houpt’s concern regarding residential and the oil and gas development saying there are only three pads on this property. It is appropriate to have a higher density affordable housing but which comes first is the issue we are addressing.

Jim – sees an amendment to the plan once development comes in and it may be 10 years out.

Bob – they would impose restrictive and design standards and it would not be like what has occurred in the business park; there will be a lot of screening and it could be compatible. No piecemeal planning.

Commissioner McCown – a county or city issue, he would like to know what will occur on the County PUD.

Bob said they would let the annexation occur and then vacate the old PUD.

Fred – from a zoning perspective he agrees. A later phase for housing makes sense. What is the trigger?

Commissioner McCown – by not allowing the housing in the PUD we’re doing away with free enterprise. We talk about the affordable housing every day.

Fred – we did some master planning which included the housing and then the oil and gas showed up.

Commissioner McCown – the topography allows areas to be secluded – housing units would never be seen from the industrial park.

Bob – trying to develop a plan that Rifle wants; services are a huge expense.

Jim – this is the jewel of land.

Bob – proposes a 15-year build out.

Jim said he will take the housing concern to the City.

Commissioner Houpt – hearing that this is not for the needs we’re seeing today but in the future.

Bob – regional and national industrial uses are proposed and they won’t come here without housing.

Rifle will not start building housing yet. Subdivisions are not approved.

Bob – the old PUD goes away, the one from 1999 where we gave you the 46 acre parcel we had a tri-party agreement with the city, county and Bob and you are obligated in return for getting water and sewer to annex into the City.

Jim – we have put that off, these are all the agreements we will deal with through the annexation process.

This is the master plan and Bob will petition to annex his land, we’ll deal with Don and Carolyn to get the County piece in and we are all on the same page.

Carolyn said the pre-annexation agreement did have some specific clauses about what happens if Rifle won’t zone it the way we want it zoned.

Jim Neu said we will zone it the way you want it zoned.

Commissioner McCown – other than just a few concerns aired here today I have no problems and have some concerns on the housing development but you’ve been a good neighbor to Garfield County and we appreciate what has been done.

Chairman Martin – as to the college, do you not allow dorms there?

Jim – no.

Bob – the whole new theory of CMC is to have urban campuses and they are moving away from student housing right now.

Jim – we will continue the dialogue about housing and recognized the message heard today.

Fred – we’ll come back to the Board with negotiations and agreements with the City.

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BUILDING AND PLANNING CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR “MATERIAL HANDLING OF NATURAL RESOURCES” FOR AN EXPANSION TO AN EXISTING COMPRESSOR STATION - ENCANA LOCATED 10 MILES NORTH OF THE TOWN OF PARACHUTE OFF COUNTY ROAD 215 AND WITHIN THE NORTH PARACHUTE RANCH – DAVID PESNICHAK

David Pesnichak and Carolyn Dahlgren were present.

The Applicant requests a SUP for a “Material Handling of Natural Resources” in the RL zone District

BACKGROUND

The Building and Planning Department received a Special Use Permit (SUP) application for “Processing and Material Handling of Natural Resource” for expansion of an existing natural gas compressor station on a 27,000-acre property owned by EnCana Oil & Gas USA, Inc. The site is located at the end of County Road 215, approximately 10 miles north of Parachute and is also formerly known as the old UNOCAL property where oil shale processing once occurred. The location of the 9-acre compressor facility is just beyond the private gate at the end of CR 215.

More specifically, the Applicant requests approval from the Board for expansion of an existing natural gas compressor station. This compressor station currently serves as a collector point where gathered natural gas is sent for dehydration and compression of gas collected in the North Parachute Ranch. The request is to expand the existing facility by adding four electric-driven compressors (three electric compressors and six natural gas compressors currently exist on the site), one slug catcher, and one JTZ skid (liquids condenser and separator). The current facility is permitted under Resolution 2005-85 (See Exhibit A). This Resolution identifies the compressor station facility to be a 3-acre tract. The Applicant is requesting that the permitted facility area be increased to 9-acres in order bring the current facilities into conformance. It is the Applicant’s opinion that the 3-acre identification was an error within the approved Resolution 2005-85. The requested expansion is not expected to increase the impact area beyond the 9-acres currently impacted.

REQUEST

The application is for expansion of an existing compressor facility (“Processing and Material Handling of Natural Resource”), which is a special use in the RL zoning district.

STAFF RECOMMENDATION

Staff finds that due to 1) the limited nature of potential impacts to surrounding properties, 2) the remote location of the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic, 3) the fact that the site itself will be situated in an industrial area already characterized by intense industrial activity from the oil shale exploration / gas processing activities, and 4) the site has previously been permitted for use as a compressor facility and the area of impact will not increase above the current 9-acres, Staff recommends the Board direct Staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.

Commissioner Houpt – this site is growing substantially, new compressors added last year and when these sites grow the impacts may not be in the immediate area but where you access the property. How do we gauge or measure that impact beyond borders? We look at sound and impacts on wildlife and those are put in place so granted his is in an area that has been industrial, but are we also looking at and should there be a broader discussion on impacts to intersections, the growth of industry for the public good?

A motion was made by Commissioner McCown to not refer this to the Planning Commission and to set this as a public hearing to be heard directly by the Board.

Commissioner Houpt seconded and asked staff to take a close look at the other aspect of going through the Planning Commission.

In favor: McCown – aye Martin – aye Opposed: Houpt - aye

PUBLIC HEARING:

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT ALLOWING RESORT AND RECREATIONAL SUPPORT FACILITIES. APPLICANT: ORCHARD LAKE LODGE, LLC. – CRAIG RICHARDSON

Carolyn Dahlgren, Craig Richardson, Mark Kessler and Tim Thulson and Dave Massey, Ranch manager were present.

Carolyn reviewed the noticing requirements for the public hearing and the posting was on CR 209; she determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Craig submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D -Application materials; Exhibit E – Staff Report; Exhibit F – Memo from Jake Mall, Road and Bridge Department dated 2-15-2007; Exhibit G – Memo from Steve Anthony, Vegetation Management dated 2-23-2007; Exhibit H – Memo from Jim Rada, Environmental Health Department Manager, dated 3-5-2007 and Exhibit I – Letter from Dean Riggs, Area Wildlife Manager, Colorado DOW, dated 3-5-2007.

Chairman Martin entered Exhibits A – I into the record.

DESCRIPTION OF THE PROPOSAL

The applicant is requesting approval of a special use permit to allow a resort on the subject property located northwest of DeBeque on County Road 209. The proposed resort would include a ranch house, lodge, spa and fitness center, museum, and up to six cabins.

The subject property consists of 40.196 acres and is located northwest of DeBeque, Colorado on County Road 209, surrounded primarily by a 3,198-acre parcel owned by Colorado Nature Ranch, LP. The proposed resort facilities will be located on the subject parcel. Resort guest will have access to approximately 23,000 acres of land in the surrounding area.

The resort will offer hunting and fishing activities to guests that will occur on the subject property and other land accessible by the Applicant. Resort activities will accommodate up to 48 overnight guests. The Applicant is proposing the following improvements.

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The proposed resort will operate on a year-round basis. As represented in the application the Applicant expects to operate by the following estimated business cycle.

Definition of a Resort

The Zoning Resolution defines a Resort as a “Dude ranch or guest ranch; hunting or fishing camp, cross-country or trail skiing lodge (any of which shall not exceed twelve (12) dwelling units or forty-eight (48) beds or visitor capacity), land used for the purpose of recreation, which provides lodging, recreational activities, dining facilities, commissary and other needs operated on the site for guests or members.”

The proposed resort will provide lodging, hunting and fishing activities. A maximum of 48 overnight guests will be accommodated. As proposed, the application meets the criteria for a resort defined in Section 2.02.448 of the Garfield County Zoning Resolution, as amended.

Cabins – single or two story structures of 500 sq feet each.

An application for a Resort must address the following standards and criteria in order to be approved by the Board. The requirements / standards are listed below in bold italics followed by a Staff response:

The Applicant has provided a copy of Water Division No. 5 decree of Augmentation Case No. 01CW373, which provides augmentation for the existing Colorado Nature Ranch Lodge Well that will utilized by the proposed use. The agumentation plan provides 0.250 cfs conditional for domestic and commercial purposes. The Applicant’s consulting engineer, Colorado River Engineering, Inc. has estimated the approximat daily use for guests to be 100 gallons per day each. The application represents that the current well yield is sufficient for the proposed use.

Because the well will serve more than 25 people, it is considered a transient non-community public water system. The Applicant is seeking approval for this system from the Colorado Department of Public Health and Environment (CDPHE). Once approved, the water system will be reclassified as a public water system if occupancy exceeds 25 people for at least 60 days out of the year. As a condition of approval, Staff recomends that the Board require the Applicant to provide documentation of approval by the CDPHE prior to the issuance of this SUP.

The application identifies the location of four Individual Sewage Systems. Spacing requirments for multiple systems on a single parcel are identified in CDPHE Water Quality Control Division’s guidelines on Individual Sewage Disposal Systems. Garfield County Environmental Health Department would like to review the design of the proposed Individual Sewage Disposal Systems, in order insure these standards are met. Staff recomends that as a condition of approval the Board require that any improvements requiring a Building Permit utilizing an ISDS, obtain an approved ISDS permit prior to the issuance of the Building Permit.

The subject property is accessed by an existing driveway off of County Road 209. A copy of the application was forwarded to the Garfield County Road and Bridge Department. They have no objections to this application with the following comments.

- The driveway access to the lodge at the entrance to Cr. 209 (Brush Creek Road) will be rebuilt to meet the driveway access standards and a driveway access permit will be issued with conditions specific to the driveway upon approval of this application.

- A stop sign will be required at the driveway access entrance to Cr. 209 (Brush Creek Road). The stop sign and installation shall be as required by the MUTCD (Manual on Uniform Traffic Control Devices).

- The gates across Cr. 209 at the entrance to Cr. 204 (Main Roan Creek Road) will be removed and a cattle guard will be installed if needed for livestock containment.

- The cattle guard can be the width of the opening where the existing gates are installed. If a cattle guard in not needed for livestock containment the gates will be removed from CR 209 as this is a public road. A utility permit will be issued for the installation of the cattle guard, if one is needed with conditions specific to the cattle guard installation.

It is represented on page 5 of the application that the maximum ADT for the proposed use will be 90 vehical trips. This total will only be reached if the resort is operating at 100% capacity and sees a 100% turnover. A typical peak day during the high season will have an ADT of 48 vehicale and an ADT of 19 during the low season impacting County Road 204. County Road 209 will see a possible increase of 16 daily trips due to the utilizing of neighboring properties. This increase will have a minimal impact on County Road 209

Staff finds that the current improvements are sufficient for the proposed use. It is recommended that as a condition of approval the Board require the Applicant to comply with all the requirments provided by Garfield County Road and Bridge Department.

The proposed resort is located in a primarily undeveloped area in a very remote portion of the County. The subject parcel is bordered by BLM and 23,000 acres of Colorado Nature Ranch property. The adjacent uses will not be affected by the proposed use and Staff finds that no screening or landscaping is necessary to minimize the impact on adjacent properties.

STAFF RECOMMENDATION

Staff finds that the proposal is in compliance with the Garfield County Zoning Resolution of 1978, as amended. Staff recommends that the Board of County Commissioners approve a Special Use Permit to allow “Resort and Recreational Activities” on a 40.196 acre parcel owned by Orchard Lake Lodge, LLC. (Parcel Number 21650340030) with the following conditions.

- 1) The maximum number of overnight guests staying at the resort shall be 48;
- 2) Any lighting installed at the resort shall be directed downward and inward;
- 3) The driveway access to the lodge at the entrance to CR 209 shall be rebuilt to meet the driveway access standards;
- 4) A stop sign shall be required at the driveway access entrance to CR 209. The stop sign and installation shall be as required by the MUTCD, (Manual on Uniform Traffic Control Devices);
- 5) The gates across CR 209 at the entrance of CR 204 shall be removed. If required a cattle guard may be installed for livestock containment once the Applicant has obtained a utility permit from Garfield County Road and Bridge Department;

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- 7) The Applicant shall provide Garfield County with approval from Colorado Department of Public Health and Environment for the proposed public water system design prior to the issuance of this Special Use Permit;
- 8) The Applicant shall provide an approved water well permit from the Colorado Division of Water Resources, allowing the proposed uses prior to the issuance of this Special Use Permit;
- 9) In the event any representations made in the application for which this permit is granted change and are no longer consistent with the representations in this application, ~~including without limitation the ISDS master plan~~, the Applicant shall be required to submit a new permit application to the County addressing the changes;
- 10) Prior to issuance of building permits, the Applicant shall obtain an approved Individual Sewage Disposal System permit to be utilized by the proposed improvement;
- 11) The proposed improvements shall comply with all requirements of section 3.10.04 of the Garfield County Zoning Resolution of 1978, as amended;
- 12) The Applicant shall inventory and map the property for County Listed Noxious Weeds prior to the issuance of the Special Use Permit;
- 13) The Applicant shall provide a weed management plan for the inventoried noxious weeds approved by the Garfield County Vegetation Management Department prior to issuance of this permit;
- 14) Any straw bales that are used as sediment barriers or as mulch shall be certified as weed-free;
- 15) All food waste shall be contained within a bear-proof garbage receptacle and disposed of accordingly;
- Craig added Conditions:
- No. 16 – scratch the language in No. 9 and “the applicant shall comply with Colorado Water Quality Control Division Policy Number WQSA-6 regarding multiple individual sewage disposal systems” and the purpose of that policy determines whether or not you can have multiple systems and the spacing required for them.
- No. 17 – All construction equipment shall be washed and visually inspected for seeds, soil and other debris prior to leaving the site, this was a condition that Steve Anthony recommended due to the number of County listed noxious weeds on site.
- No. 18 – follow the recommendations as submitted by the DOW.
- Tim Thulson - Two points to make, one is on the map showing the boundaries, the most obvious aspect of this project is that it is highly isolated, they are surrounded by a ranch of 23,000 acres and this is right in the middle of it. A reference to the 3,198 acre parcel in the staff report is only one of the parcels purchased and CNR also owns another 23,000 acres and will not be impacting other people. With regards to the Department of Health public water permitting system, we’re done and have received notice and we also have our well permit in hand and we have an active weed management plan for the Nature Ranch as a whole and we are refining that and it should be done this week along with the mapping. One question to clarify, Craig was going to amend No. 9 to require compliance with ISDS regulations.
- Craig recommended this be stricken and added Condition No. 16.
- Carolyn noted that this will replace being “without limitation the ISDS master plan” and as I understand the new 16 will replace this.
- Tim – with regard to this, the applicant shall be required to submit a new permit application with the County addressing the changes; we want some flexibility in there for slight changes without having to come back.
- Craig – to the ISDS?
- Tim – yes, as long as we’re in compliance to the regulations.
- Craig – as long as what you represent, the numbers changing doesn’t alter what you represent.
- Tim – okay we can live with that.
- Commissioner Houpt – so do we need to specify that in here?
- Tim is comfortable with the wording. In closing we are here to take any questions but we are acceptable with all of the conditions as set forth in the staff report.
- Commissioner McCown – it’s only appropriate to segue into the question, do you own the mineral rights?
- Tim – on this 40 acre parcel we do.
- Commissioner McCown – and the 23,000 acres surrounding it? You have about a 123,000 acres belonging to a neighbor adjacent to you that is going to be in the process of ramping up their drilling activity. Are you guys and them going to be able to co-exist in basically the same valley with one little drainage separating you and part of the lease, the nature of the lease operates on is Chevron. Are you okay with that, they are coming, they have the mineral rights and will start a drilling program in the valley and they may own the mineral rights under the property that you’re sitting on? This is fair warning that these are two totally separate entities that will need to operate in this valley and I just want to make sure that you at the table are okay and not come back screaming and gnashing in two years of this drill rig scaring our birds away.
- The Applicant stated yes they are okay with it.
- Carolyn back to No. 9 – referencing the 4 systems, the concern is that you would end up with 8 leach fields.
- Tim – this would be fine, if we come to a boulder somewhere and need to change.
- Carolyn - this issue is that it would radically change the number of ISDS and the number of people served.
- Tim – we will deal with this in our permit.
- Commissioner McCown – questions about that and didn’t know if there is a maximum of ISDS that you can keep adding or what point do you have to apply for a treatment facility – I thought it was 2,000 gallons a day.
- Jim Rada – 6,000 gallons per day is a point or the accumulation of systems has to go to review of the State Health Department and they are at about 5300 gallons with the current design.
- Applicant’s representative Sam – the 2000 gallons per day is still applicable but the health department developed a policy that they recognize in rural areas where you have stuff like this happening and one owner does have the right to do multiple systems and their policy basically states and they came up with a 6000 gallon per day limit as a policy but it is still the 2,000 gallons per day per system. What they also did in that policy is actually increase some setback requirements so basically it says we’ll let one owner do multiple systems but we’re also going to limit you to 6000 and we’re give you a higher standards on spacing. The number of systems isn’t as critical as what we’re perfectly comfortable with is that we’re staying within their policy and once we go to the final design on these systems depending on architectural and how we split them

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up, we need some flexibility as to where they go but we will stay within 2000 gallons per day for that limit and 6000 as a whole.

Carolyn – the application for the well permit was not in the name of the current owner, and also knows you have a quit claim deed and all water rights from the Nature Ranch to the Orchard Lake Lodge LLC, does the State require you to actually amend the well permit to put it in the name of Orchard Lake Lodge LLC? She requested that we have this as well as the well permit if the well permit was issued in the other name.

Tim - the well sharing agreement and deeds, so we wouldn’t need to change the name of the well due to a well sharing agreement.

Carolyn asked the applicant to provide an approved water well permit and execute a copy of the well sharing agreement.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing. Motion carried.

A motion was made by Commissioner McCown we approve the Special Use Permit for a resort and recreational support facility with conditions of staff amending No. 8 to include the ownership of the well permit and a well sharing agreement be included; striking in no. 9 ~~including without limitation the ISDS master plan~~, adding No. 16 the verbiage about the Colorado Water Control Division, water quality, the testimony by Craig, No. 17 to include the recommendation by the Division of Wildlife as conditions of approval and No. 18, this is an unenforceable regulation of washing every vehicle and it is an unreasonable requirement and he didn’t add a No. 18.

Chairman Martin – motion to approve with Conditions 1 – 17.

Commissioner Houpt seconded.

In favor: Houpt – aye Martin – aye McCown - aye

Executive Session – one pending case – Gypsum Ranch – CDOT and the position to take in this case.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action:

Statement from Executive Session – Bond to authorize file of disclaimer for Gypsum Ranch.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

MARCH 19, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, March 19, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

CREEKSIDE SUBDIVISION

Davis Farrar with Tom Huer, and Deric Walter were present.

Davis – We are here to discuss the Creekside Subdivision. You should have received a letter and a set of drawings from me in your packet. On the 15th of January, we came to the County Commissioners for our preliminary plat in a public hearing. Our design at that time included a 50,000 gallon pond for fire protection. As noted in my letter and as you recall from the meeting, there was a lot of discussion about that pond, safety, animals getting in etc. Subsequent to the meeting, Mr. Huer said he found a 30,000 gallon tank. Tom is representing Mark Sills who is actually the property owner. We came up with a 30,000 gallon storage tank which is the requirement for fire volume. I talked with County planning staff about making that change to the plan. We could keep the pond for esthetic reasons, but we would like to be able to put in the tank because it solves the issue of evaporation, kids falling in etc. The County planning staff expressed they agreed the tank was a good alternative to the pond. But because the application and approval is specific to a pond we couldn’t do that. What we wanted to do today was have a discussion with you about that. I think in the spirit of public safety and good planning we think a tank is a better option. If technically it’s necessary to comply with the requirement to have a pond, I suppose we could keep the pond and add a tank. We’re wondering what the commissioners thought about that option and perhaps the attorney would weigh in on that issue. I would add that the tank is 35,000 gallons, not 30,000. We have had discussions with Rifle Fire Protection district regarding the tank. We’re happy to design it to whatever standards.

Carolyn – There’s a public process issue and there’s a fairness issue. You well know that we do not have an amendment process presently and that’s some of the big issues we are working on in our new land use code. The way the code is set up now, the approvals you get are what this board decides after a full public hearing. Unhappily, under the current codes, if you’re going to change your approvals you’re going to start all over again. The second issue however that there have been a number of developers who have asked for similar changes to their approvals and they have had to go back and go through the whole process again. Question here would be how we can show a reasonable, rational difference between this project and any other project, other than the fact that it might be closer to the adoption of a new land use code than the others. The two legal issues are public process and fairness. Whether or not I could tell this board that any other group of developers would come to you and sue you on the basis of some kind of equal protection claim, I can not do.

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– It’s been four years since we started this process. With this in mind we’re trying to get together and put some kind of system in place. Do it on its own, allow this to happen or move this other land use plan up a little bit further.

Carolyn – Those public meetings are scheduled now.

Chairman Martin – The time and expenses for everyone involved, this has really dragged on.

Commissioner Houpt – We have had extensive discussions about fire planning. A fire plan was required; it is part of the condition. If the fire plan mitigation becomes a tank why wouldn’t that be okay, we don’t have every specific detail? Wouldn’t that fall under it, would it allow them then to create this tank?

Carolyn – You approved a specific fire plan at the time that did not include the tank. This amendment would require engineer drawings being sent back to your county engineer. It’s not just a matter of substituting one picture for another picture. I would ask you please to hear from Fred.

Fred – Carolyn’s got it right. Most recently, remember the Big R scenario, very similar situation. It was a fire protection plan change, in fact the change he wanted to make was suggested by the district and it makes a lot of sense. The code you had in place and had in place for so many years didn’t allow you to do that. It doesn’t allow someone else to vary something away from what you have said and this was what you granted your approvals for. This is the same scenario here. When Davis came to us and said, can’t we just swap out a pond for a tank? I don’t think we really care necessarily as long as the protection is there from a practical stand point. From a legal stand point Carolyn is right on the money. We required as we should have, reading our rights literally, bringing it back to you. Our response to them has to be consistent knowing part of the intent in trying to change our language is to make this kind of thing easier. So long as protection is in place and the fire department has approved it. It’s your call.

Davis – The end result is that we end up with a less satisfactory solution. If we had the pond and it met all the requirements that we submitted and we added a tank, would that be a problem as well, an addition to the project above the minimum requirements?

Fred – I don’t know if I could debate that with you here. If we give you more than what you asked for is that okay?

Commissioner McCown – There really is no need to go there because it is still an amendment to the plan.

What we approved is what we saw on a sheet of paper and if it comes in with extras, it’s an amendment just as if it came in short. We don’t have the ability to move off of that at this point. One of the main purposes of this whole land use re-write is to come up with some type of an amendment process that will allow these things to be done administratively. When they make perfect sense and it does then I don’t have a bit of a problem with it from a common sense stand point, safety, it’s all there. We can’t do it under the process we have. Adding an additional tank and additional fire system would be no different than if we permitted a SUP with a site plan and they say we are going to make it better, add extra buildings. That doesn’t work and there is just nothing we can do under the present scenario. I don’t think anyone here is in disagreement with what you are presenting. The process won’t allow it at this time.

Davis – Hope you can get process going.

Commissioner Houpt – We need it to go through.

Fred – We can probably be pretty quick.

COUNTY MANAGER UPDATE – ED GREEN

HUMAN RESOURCES - APPROVAL OF AMENDMENT TO PERSONNEL MANUAL SECTION 4.03 – RETIREMENT PLAN (BOCC DECISION JULY 17 AND DECEMBER 11, 2006

Carolyn Dahlgren presented the revision to the Commissioners regarding the wording to reflect the changes made and approved on July 17, 2006 regarding the change in eligibility for participation in Garfield County retirement plan effective the first pay period in 2007. She explained that an employee must now work a minimum of 30 hours per week to be eligible for the retirement plan. These changes were approved and signed by the Chair in the meeting December 11, 2006.

Ed – About 6 months ago we brought the changes; one of those changes was to extend 6% benefit to employees with over 10 years of service. A comment change to that was to reduce the eligibility from 20 hours to 30 hours. In part this was to help pay for the new benefits for the long term employees. Carolyn, Marsha and I looked at our HR code and it was very specific in its wording and what we decided to do was provide a more generic type of wording so that every year when we modify our COERA contract we don’t have to go back and change the HR policies.

Discussion:

Commissioner Houpt – If somebody comes to work with us, they started at 20 hours and they received the retirement benefits are they grand-fathered in?

Carolyn – No. When you made the motion back in July of last year, the motion was very specific and there was no grand-fathering. Those folks would keep in their account what they had at that point in time, but the accrual stopped at that time. But they didn’t lose anything.

Commissioner Houpt – With this type of wording do you anticipate this number going back and forth?

Ed – What number?

Commissioner Houpt – With the wording in this, there is now no defined hours.

Ed. – That’s right and it’s dependent upon what you approve as a part of your contract with COERA every year.

Carolyn – And as part of your budget deliberation...

Ed – Next July if you decide you want to go back to 30 hours you can.

Carolyn - There are other places in the personnel code where we have done this to take out specific language, put more generic language in because the decisions are so often a part of your budget decisions.

Commissioner Houpt – If we keep it this general then it really doesn’t allow people to plan.

Ed – It’s very specific in the agreement we have with COERA. And we usually have a summary sheet of benefits that is available to particularly new employees.

Carolyn – Ed always puts your decisions in Green Acres. And in this case, HR sends it out, has had one on one discussion with each of those four people. HR also sends out these pages when they change a policy to every employee with a description of why the changes were made.

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Commissioner Houpt – But we changed to a specific number of hours. And so not having that specific number of hours indicated in here really gives the employees nothing to hang their hat on. You are suddenly saying, well we could change this next year, you may have retirement or you may not.

Chairman Martin – But it is subject to change every year. Based upon budgeting, based upon our decisions we have to renew that every year. We either affirm or change and that's our only opportunity to change if we need to.

Commissioner Houpt – Does it make sense to have a retirement plan if we don't come up with a consistent number of hours that we are going to cover?

Commissioner McCown – This is consistent with most part-time employees, they don't have a retirement plan.

Commissioner Houpt – I'm not concerned about the change we made, I'm concerned about this generic language.

Carolyn – It's generic in the Personnel Policies Manual. It's very specific elsewhere. This is so you don't have to change your personnel manual every year when you make budget decisions.

Commissioner Houpt – That's what concerns me, if you have personnel policies people are relying on them, we could clarify every time we hire somebody that they may or may not have retirement if it's one of those floating things. I had assumed that we had committed to retirement for a certain number of hours per week. We were not going to change that every year. But we had changed it this particular year because of some extenuating insurance issues. When we did that it wasn't my understanding this was going to be a flexible policy annually.

Ed – It is flexible. The budget situation was dire to eliminate retirement completely. It's completely up to you

Commissioner McCown – And change the percent, there's no lock on that percent.

Carolyn – Is your concern communication with employees?

Commissioner Houpt – It is. People should be able to go and understand what their status is as an employee in the County and this doesn't give anyone any indication of what that status might be.

Ed – I think a benefit summary document can serve that purpose.

Carolyn – It's just like with our health insurance, the personnel policies don't tell us what are benefits are.

Commissioner Houpt – You don't have to spell out the benefits, I'm just talking about who qualifies. This doesn't indicate who qualifies.

Commissioner McCown – I don't think there's an employee hired working 25 hours a week that has any doubts that they are not eligible. When they are hired they are told you are not eligible for retirement unless you're hired in a 30 hour position. They are told that by HR...

Commissioner Houpt – Anybody pulling up our personnel policies would not have an indication of whom, somebody who might be interested in a job, they would have no indication of who qualifies and who doesn't. It's a style issue and I'm not comfortable with it. If you are, that's fine.

Chairman Martin – It's going to make someone dig a little bit deeper in reference to their background checks. What was the decision and when was it made etc. I think this just perks them up saying; I need to do a little more research.

Commissioner Houpt – You shouldn't have to if you have personnel policies.

Carolyn – The other option is to every year at budget time, change specific sections of your personnel policies and procedures.

Commissioner Houpt – Qualification years typically don't change. We do change the amount that people have to match. That's part of the detail you get in benefits. The qualification for benefits isn't something we change on an annual basis.

Carolyn – It's up to you. The code sections that are tied to your budgetary authorities can be specific and it can be HR's job to make sure that each year changes are made as budget changes are made or you can have a more generic personnel policies and procedures.

Commissioner Houpt – This particular issue that I'm raising doesn't change annually.

Ed – But it could.

Carolyn – It's up to the commissioners how you want to do this. Administration has to follow your lead and either the personnel policies and procedure changes when your budget decisions change or one's generic and one's specific.

Ed – Actually it has changed probably once out of every two years since I've been here. And the reason is remember we started with 3% and we went up in ½% increments over time in order to get it to a point that people could actually retire.

Commissioner Houpt – What I'm really talking about is just the number of hours that people work. What is the definition of part time in this county and who receives this benefit? I'm not talking about matching percentages or how much employees are required to put in I'm talking about who qualifies for this benefit. And has that changed, it changed last year?

Ed – It changed last year and that is the first time that happened.

Commissioner Houpt – That would be the only thing I would want to qualify in this, what that specific number of hours per week is.

Carolyn – Administration can do it either way.

Commissioner McCown – I don't have a problem with it either way.

Chairman Martin – I need a motion, if we are going to make any changes or if we are going to go ahead and keep it the way it is.

Commissioner Houpt – I make a motion to adopt the language for the retirement plan with an amendment to specify the number of hours per week for those people who would qualify.

Commissioner McCown – Second

Chairman Martin – Is there need for clarification?

Commissioner McCown – What number do you want plugged in there?

Commissioner Houpt – 30 hours per week

Ed – We'll add 30 hours in the text at the bottom.

In favor: Houpt – aye McCown – aye Martin - aye

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HUMAN SERVICES - GARFIELD COUNTY METHAMPHETAMINE TASK FORCE UPDATE AND REQUEST – MARTIN BEESON AND LYNN RENICK

Martin Beeson, Lynn Renick, Jeff Cheney and Lou Vallario were present.

An update was provided on the progress made in this effort. The task force has met twice and determined the initial efforts to be two-fold: data collection and analysis and develop a Steering Committee to provide organizational leadership. There is no fee for the data collection however Dr. Gizzi, PHD, Associate Professor in Criminal Justice from Mesa State College is supervising the college students and he is asking for the students' travel expenses from Grand Junction and Glenwood Springs.

Jeff Cheney from the 9th Judicial District has submitted a grant proposal to the El Pomar Foundation for approximately \$3,000 to assist in the start-up efforts. The Foundations looks for a 50% match. The DA's office has committed \$800,000 and the task force is requesting \$2,200 from the County Commissioners to provide the balance of money needed to complete the data collection, analysis and development of the Task Force's strategic plan.

Discussion:

Lynn Renick – I believe everyone knows Garfield County is starting a Methamphetamine Task Force and I'm going to turn it over to the others as they have been much more involved. Joyce Christensen is also here from DHS and she has been adding some support services to the task force. District Attorney's office has put in \$800.00 for data collection and data analysis so we could go forward.

Jeff Cheney – Last fall in October there was a meth summit in Mesa County, Grand Junction, the purpose of that summit was to bring together most entities from Western Colorado to address what has been identified in Mesa County as a methamphetamine epidemic. Garfield County has been involved in the system in one way or the other and have ample anecdotal evidence that methamphetamine is present in our county. What we don't have is empirical data. Based upon the meth summit, we formulated an informal group to seek to test our data, test our community to see if we had a problem. Any time you form a group and you have meetings, draft what is called a white paper so we can present to the community and you - that costs money. What we did initially, we didn't want to do this without coming to you for permission; we used some funds from the transportation budget in the District Attorney's office. This was to pay only for the travel of students from Mesa State coming from Grand Junction to Glenwood Springs. The students have been combing through the data. What they are going to try and do is present an empirical analysis of where meth is in our cases, how its present, how often is it present, the frequency with recidivism and also those crimes that aren't necessary called possession drugs. They may be something else, but meth is there nevertheless the motivation for the crime. Students have been doing this and we have some data initially collected and I will give you a ball park percentage. The percentages of the cases when the net was cast was about 50% of the cases had meth as an ingredient. Professor Mike Gizzi is the person we are thankful who had the students participating in the data gathering. What we want to do base on this data is to put together a white paper or some type of point paper for you and the community to identify. A: do we have a methamphetamine problem and B: how we are going to address it? Prosecution is not the only way; it is one of the three pillars. Our goal of the meth task force is prosecution, treatment and public awareness to get that message out early to kids. Methamphetamine is an epidemic for them and a poison that could ruin lives. We don't want to just rely on the county. We want to go to our industry energy, our other players in the area and seek money from them to address this meth issue if there is one from that three prong approach. Today we're asking for \$2,200.00. If you add \$2,200.00 to the \$800.00 already committed by the district attorneys office you know that's \$3,000.00. The reason we are asking for \$3,000 we applied for a grant to Pomar Foundation. That was a joint grant through Delta, Montrose and Mesa County. We all went in as a group. We thought we would have more weight if we came together as a group. And we have \$3,000.00 as part of the grant, but we only get it if we match it. So we are asking for the match and asking that you fund it for the purpose of us being able to come back to you and show you what we find. If we find nothing, we'll show you that. I'm pretty confident that we are going to find something.

Chairman Martin – We have seen it in the jail, we have seen it in recovery, and it's the number one killer of women in this area. We know it's a national epidemic going on. We need to put it together, make sure we are well educated and if they continue to choose that path, it is a path of self destruction.

Commissioner Houpt – Is this \$2,200.00 enough to really move this forward at this point?

Jeff – I think when you add that in concert with the \$3,000.00 we anticipate getting through EL Pomar I think it will get us to a point to put together and memorialize the problem on paper.

Commissioner Houpt – When you put your problem on paper is that when you will develop a budget?

Jeff – Yes, basically we all had antidotal evidence, like John referred to. We've heard or we've seen, but we don't have anything in empirical terms. What we wanted to do before we came here, ideally we wanted to have data and I guess we have thrown out some data for you. I wouldn't bet on that yet, there's much more analysis to be done. The only pond that we are fishing in right now is the court system. We know there are other places we can gather data. Community Corrections, the jail and the Sheriff have been kind enough to show interest. We'll have to work out the logistics of giving it to the jail and gathering that data there. Once we get this money we will be able to move forward. We will be able to get a white paper together. Show you what is the problem identify it and come up with solutions.

Chairman Martin – Educating folks again, scare tactics are not going to work. It is just going to be a choice.

We have already progressed beyond what we are talking about now. We know it's there.

Commissioner Houpt – I make a motion we commit \$2,200.00 to the Methamphetamine Task Force.

Commissioner McCown – Second

In favor: Houpt – aye McCown – aye Martin - aye

Meth continued

Carolyn – Mr. Martin, do you remember about a year ago we had a discussion about public health regulations because of your statutory authority as a BOCC to deal with meth clean-up and the Sheriff's?

Chairman Martin – Yes – not to mention the new legislation that passed that pushes that on to us as well.

Carolyn – Is there someone from public health on the task force?

Jeff – The task force now is in the initial start up, it hasn't gone public yet. What we've done is just invite all comers, anybody and everybody that we can think about that would have a stake in it. We call those people

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stakeholders. We are inviting them to be a part of it. We have ample investment from the Department of Human Services, people from Youth Recovery Center and from private treatment. The sheriff, other local law enforcements that are part of it, we're not excluding anyone who wants to be a part of it. There have been people here from Eagle County and the Vail Police Chief was at our first meeting. What we know is we need to focus on the problem here locally and then get that as a first step. If we want to venture out we can. Rio Blanco, Rangley, Meeker, people are expressing interest to do a joint judicial task force. What we realize now is we need Garfield County. We are inviting everybody and anybody.

Carolyn – Sounds like you're not dealing with the real property aspects of it. You're dealing with a human being.

Chairman Martin – That's why everyone, there isn't a person listening or non listening area that isn't affected, that isn't a stakeholder. It effects everyone in every walk of life, every business etc. Child welfare, the hospitals, crime and including property owners, real estate clean up, etc.

Lou – We have been working on a document regarding the identification, plaque guarding of properties that may be involved with methamphetamine production, the real estate issues, the ownership issues, so I think that is where you we're headed..

Carolyn – Right, it was a real practical issue. Sounds like two separate aspects of this.

Lou - I think there are but the piece we worked on could be brought into the overall picture. We are looking at the whole thing of enforcement, rehabilitation and education. Of course we could even throw in the actual steps taken for what has to happen with real estate when there is an issue.

Carolyn – We have a draft set of regulations, at some point those regulations on clean up need to be brought to this board for action.

Chairman Martin – Does that also include the hotel rooms, motel rooms, the camp grounds, the state parks, etc. Because that is all clean up too that needs to be addressed.

Lou – The good news is the trend in this county for meth labs are declining. So we are doing a good job of whatever it is we're doing to make that more and more difficult.

ROAD AND BRIDGE - PROCURE ONE TANDEM AXLE DUMP TRUCK – MARVIN STEPHENS

Marvin Stephens and Tim Arnett were present.

There were two bids for this equipment and the staff recommends procuring one tandem dump truck from Western Colorado Truck Center at a cost of \$130,292 after trade in of one Mack Dump Truck.

Discussion:

Marvin – As I mentioned before, when the last dump trucks were authorized, I hadn't had the 3rd because I didn't get a trade-in on it. I pursued that and received a trade-in and got a pretty good price, \$130,292.00 from Western Colorado Truck. I would like to move forward with this.

Chairman Martin – It is in your budget?

Marvin – It is in the budget and I have substantial savings I would like to visit with you about.

Commissioner McCown – I make a motion we approve the purchase of a truck from Western Colorado Truck Center, one Mack Granite dump truck and a B-Box Sander with snow plow in an amount not to exceed \$130,292.00, including trade-in.

Commissioner Houpt – Second

Commissioner Houpt – The trade-in value is \$52,000.00.

Marvin – That is the reason I got good savings because of trade in.

In favor: Houpt – aye McCown – aye Martin – aye

Marvin – Last year we were going to purchase a boring machine, it didn't happen as I didn't have enough money. I would like this opportunity to purchase the boring machine.

Commissioner Houpt – That will be paid for with the savings?

Marvin – Yes.

Commissioner McCown – I will support that, I don't know that will need a motion.

Chairman Martin – No, make sure you follow the chain of command on spending the money.

Executive Session items

Ed – I have a couple of Executive Session items – Just making these as a place marker. Contract negotiations with Airport Land Partners and the other deals with contract negotiations on County Roads.

COUNTY SHERIFF UPDATE – LOU VALLARIO

Lou provided the Commissioners with a memorandum outlining the 2006 year end report. He highlighted the following:

- Crime Statistics – there was a 2% increase in the number of cases from 2006, a 14% increase from 2004. For arrests there was a 4% decrease over 2005.
- Emergency Operations – there were three major fires in 2006: the Savage Fire, the Jolley Mesa Fire and the Red Apple Fire. Search and Rescue responded to 31 missions.
- Patrol – these officers address traffic enforcement when possible and had an average of 96 calls per day. In 2006 we added two K-9 units for the Patrol Deputies.
- Use of Force – during the years of 2004 through 2006 the Patrol Division made 4366 arrests and out of those use of force beyond minor physical contact occurred 18 times and pepper spray was used in 3 and tazers were used in 5.
- Detentions – staffing is still a problem and we are rarely fully staffed. One of the major factors creating an impact is the economics. The daily population increases and the need to build an additional facility in the next five years is being discussed and planned with respect to the County Capital Improvement plan. ICE detainees play a part in that average daily population and the revenue from that is \$360,000.
- Animal Control – the discussions are continuing regarding a west end shelter and in 2006 an agreement was made to place this in the 2008 Capital Improvement plan.
- Administration – www.garcosheriff.com – is up and running and has valuable information about every aspect of the Sheriff's Office including records, media releases, employment and applications, Emergency Management, Patrol, Investigations, Civil processes, Jail, Victim Advocates and policies and procedures.

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In 2006 the addition of a Community Relations Deputy was implemented and Tanny McGinnis from the Eagle Sheriff's Department was hired. Other highlights included in 2006 were the reality of ChildHelp River Bridge Center, New World accounting and management system for seven law enforcement agencies, five fire districts, an ambulance district, dispatch, District Attorney and TRIDENT. Funding for the infrastructure and radios for the 800 DTR radio system for all law enforcement vehicles and officers was also added.

Lou – I gave you a copy of my year end report, which I have done annually since I've been Sheriff. It's not all inclusive. I just wanted to touch on some of the highlights of 2006 and where we are headed in 2007. Lou went over crime statistics as above. This is similar to what we went over last year. Citations, I haven't provided in the past, the reports by geo-codes, that's how we gather. But the number is really what is indicative here, people that are concerned about traffic enforcement. We issued 1787 citations, the year before that 1790 in 2005. We have been consistent the last two years. I don't keep statistics on warnings; we probably write one out of three people that we stop. We do a fair amount of warnings. My psychology is, educate first and enforce when necessary. If we pull someone over and we are giving them a warning or talking with them or they are asking for directions, people going by see us, see the car, see the visual and they slow down and abide by traffic rules. That is a big part of it; it's those people who don't get the education piece. The third one is called "calls for service", it indicates how busy we are in terms of responses. A call for service is marked every time we have new responses, anything from calling somebody to a homicide case. No time break on that could be short or very long. We saw projected increase of 5% over last year and the reason I say projected, we are a dispatch center. Our tracking system went down in July and those numbers were projected out for the rest of the year. Finally on the arrest report we actually saw a 4% decrease. We are really proud of being able to help put together the, what we now refer to as the Garfield County Hazardous Materials Response Team. This is a multi jurisdictional team that consists of technician trained hazmat operators and fire departments, from Rifle Fire, Glenwood Fire and some of the other fire departments who have come together to respond hazmat situations. We have enough equipment to respond and share as a resource for most hazmat situations. What I found was interesting, in the three full years since we have tracked this and have initiated tazers into the department, the Patrol Division, over three years, 2004 – 2006, made 43,066 arrests. Out of those arrests the use of force beyond what we would call minor physical contact, you might have to take them by the arm and walk them out, we only had to use 18 times. Three of those included OC spray, pepper spray and 5 of those tazers. If you compare the use of force, you'll find out of those 43,066 arrests the use of tazers represents less than 1/10 of 1%. Or another words it is an average of less than one application of a taser per 1,000 arrests. There are certain groups running around that disagree with the use of these instruments we use. Some refer to them as torture. I would say to that is we use these things sparingly. We are well trained and it's obvious by the statistics that we don't use these devices recklessly. Anyone who cares to stand in our shoes for 24 hours or work in the jail, might have a different perceptive of why we need to use these things. Detentions, staffing continues to be a problem, we are rarely fully staffed. We are out there fighting in the same economic factor that every other employer is. I don't believe it's specific to the detentions position, I don't think it's specific to the salary. There is just a shortage of workforce in this community. For example in one week I lost two deputies to the gas industry. The money was too enticing to them. We assumed the court house security in 2005 and we completely secured it in 2006. Entering the court house has become routine for people. We do occasionally get some people yelling about their constitutional rights. I've met with the judges, probation and other people who work in the building in January and they all seemed pleased. Couple issues about late night trials, we have worked out. Overall it seems it is becoming routine. Average population of course seems to grow and we are discussing with you and the County's improvement plan a possibility of a new detention facility, additional in Rifle within the next five years. Parts of those numbers are ICE folks, but the flip side to that is we realize about \$360,000.00 revenue from the contract with ICE. They are paying for the service we are providing in fact they are probably paying more than the individual cost in helping offset the cost of the jail.

Commissioner Houpt – Is it your opinion that would be the main driver for building a new detention?

Lou – No I don't think so, even though those numbers add into our daily population, short term, one day, two days, three at the most. Generally our population may be 160 throw in 20 ICE holds coming in the night before, drives it to 180. Another number included in that which, will actually lower our numbers for a short period of time, is the community corrections folks. Once they get into there own facility we no longer count them. The reason we count them, we have to have a counting of everyone in the building in case of emergency. That will drop that number to an average of 28 to 30. I suspect with the growth in the county and as busy as we get we will be seeing an increase.

Ed – The population around Rifle is going to explode.

Lou – Everyone telling us we will be triple in population in the next 25 years or so. We have to lay the ground work now to be prepared for that. Animal Control continues to be a popular subject to say the least. We are working together to look into a 2008 building. We are in the process of architectural discussion, flushing out some square footage cost right now. We've been doing okay with it, we have modified our program to meet the needs of CARE who is working with us. We will continue to move forward with that. Commissioner Houpt – your website is really great.

Lou – The one thing that is on there, I don't know how popular it is with other sheriffs or chiefs, all of my policies and procedures are on there because I believe those are public documents. We worked on funding for the infra-structure and radios for the 800 digital trunking system. All four towers in Garfield County are up and complete 100% operational. Every law enforcement vehicle will have an 800 radio in the vehicle and every police officer will have a pack set on their hip as well. The last thing, after I went to some excellent training put on by National Sheriffs Institute, talking about looking toward the future, planning the organization in four and five year increments. We developed our vision statement which is simply "See the Future and Prepare for it Today".

Ed – We are going to have an improvement project to change the east side access of the courthouse. We have to figure out how to reduce the interference when that project actually goes into construction. We may have to have the flow of people be on the West side for a while.

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Lou – Your right, we didn’t give much thought to when we were originally looking at the idea. We will work with the construction company and see what we need to do. I imagine at some point we will have to temporarily move people which will be interesting but it will be short term.

Ed – Second thing deals with hiring. We have talked about over hiring if it is possible. For example Lou’s group you have to go through the training process in both areas. We can use the vacancy savings to accommodate.

Chairman Martin – There is one issue and that was I mentioned to you Buffalo, Wyoming is experiencing the same issues we have around Rifle and Parachute. Growing, they want to build a jail facility on an old school site, which is behind their courthouse. However; they wish to see how our complex is working because their City Hall is close by as well. The City Council did a petition drive to stop the jail, in the downtown area. They wish to have it outside; I hope those folks come to see you.

Lou – I’d be happy to show them the facility and the whole area.

COUNTY ATTORNEY UPDATE – DON DEFORD

Executive Session: Litigation Update; Legal Advice

Carolyn – I have ten items for Executive Session. Ed previously mentioned his items.

Don DeFord– Silt litigation, get direction on contract negotiation with the housing authority on Glenwood Meadows, Discuss and provide advice to the Board on pending oil and gas legislation, An update on Glenwood IGA for the South Bridge Crossing, We need to discuss pending litigation in front of BAA, Carolyn needs to talk to you about contract negotiations with Mr. Howard and Airport Land Partners, Provide you with legal advice in state contracts indemnification language, and I need to get direction from the Board concerning property you own in Rifle Village South and lastly Carolyn and Michael need to talk about Vezzoso litigation.

Carolyn – One other item has to do with potential conveyance of mineral property owned by the County.

Jesse – I want to update you on the MOU co-operating agency and some changes and their requirements.

Don – I also have Dan Hardin, engineer you have retained to analyze the Glenwood Meadows project is also here.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried.

Action Taken: None

TRAILS AND TRANSPORTATION - FUNDING REQUEST FOR I-70 CORRIDOR STUDY FOR A PASSENGER RAIL SYSTEM – BERNIE ZIMMER

Bernie Zimmer and Bob Briggs were present.

Bob Briggs – What we are doing is working on a rail project that started with the passage of fast track in Denver in 2004. The feeling was there was an envelope of time that we had the opportunity to go to the citizens of Colorado and say, let’s do a state wide system. In addition to the Fast Track System and this system being the center of the hub and the state wide system ties into that system. It would allow people who are traveling in and out of Denver to be able to do that. We started the process in 1992; the federal government put together a program called Eleventh High Speed Rail Corridors and they have designated ten of those. The one that’s left, see exhibit, the corridor we think should be the Eleventh High Speed Rail Corridor fills a small chasm between the Mississippi River and California. In the area we live in they did not include any high speed rail or any rail in this area. We think it is appropriate to ask for and get designated the Eleventh High Speed Rail Corridor. We asked the state to fund the feasibility study; they have done so. They said we had to form a local government, which we have done, called the Rocky Mountain Rail Authority. Aspen and the Roaring Fork are members of that and we would invite you to become a member. We had to raise \$311,500.00 to match local monies and we have raised at this point around \$370,000.00. We are making progress. We have extended the study from what CDOT had originally proposed. They stated the I-70 corridor would be from DIA to Eagle Valley Airport and we have extended it to Utah line. We know 90% of the states population is on the I-25 corridor and the I-70 corridor. If we can address the issues and there’s three issues you have to address when you are dealing with the Class I railroads, because you’re going to use their tracks. They have three choke points, otherwise they can’t get through. One of them is called the Sitting County of Denver. It takes them two hours to take a 100 car train through Denver. It takes about two hours to take that same train over Monument. The other choke point is the Moffat Tunnel and they can only do 22 trains a day through Moffat. That is running at capacity, nothing else can go through unless we do some modifications. This allows us, as an organization, to study those three choke points and suggest alternatives and go forward in solving those three choke points; take the existing tracks and put passenger rail on them. That’s what we are studying and our goal in life is that by sometime in the early part of 2008 we have a feasibility study that is completed. That gives us an opportunity to interact with the Governors Taskforce on transportation. We hope the movement is to have this be the rail project included in the funding of the transportation infra-structure that will take place in the election of 2008. That is our process and progress.

Commissioner Houpt – What is an overview of membership at this point with respect to the other governmental entities?

Bernie – We went to an organization that was formed a number of years ago in the metropolitan area called Metro Area County Commissioners. It was made up of the five metropolitan counties plus the City and County of Broomfield and the City and County of Denver and we asked each to contribute \$50,000.00. We felt since the crossroads were in Denver, the majority of the economic benefit would be had by those counties. In addition as we are moving out from Denver we are asking the counties and the cities to each contribute \$10,000.00 a year for two years. The reason we are looking at it for two years is we feel the end of the study will put us in a different position and we will know where we are going from that stand point. As far as contributions from counties, those seven involved, one is Arapahoe County who has already committed their money. Douglas County is in the final throws we believe and we have been assured they are in the final throws for putting in their full \$50,000.00. Jefferson County is in same position. We are making a presentation to them later this week. Denver has indicated that they are very interested, unfortunately they had

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a little snow storm that threw their public works department into a bit of a tizzy and so they are looking for money. Broomfield, we will be in front of this week. Adams County for political reasons has basically said no. Both Bob and I are Ex-County Commissioners. The vast majority of money came from entities like yourselves who have put in their \$10,000.00. The most interest has been from those outlying areas. And we feel for good reason. To add to Bob's comments about the why, we feel very strongly, Bob and I do that every city and every county who is on either of those alignments should be a participant and should contribute. Because you have a vested interest in making sure that you're at the table so that when those subjects come up, where the alignments go, where the tracks go, how does it work, then you'll have a say. Commissioner Houpt – So we'll have a seat at the table. There has been some concern that the majority of the table will be comprised of front-range seats and I am assuming the commitment to look at the I-70 corridor is as strong as it is to look at the I-25 corridor.

Bernie – The commitment from our stand point is at least as strong if not stronger because we feel that while the I-25 corridor may be easier to solve because there is already existing tracks. If we look at it from a congestion standpoint east west congestion is and will continue to be a choke point on state transportation. With all due respect to everybody's sensibilities you can only put so much pavement out there before you start losing whole towns.

Bob – The other point I found when I started going up and down the front-range, I was told unless you solved the I-70 corridor don't come and talk to me about the I-25 corridor. I've heard from you all, we need to have the I-70 corridor, but there is a tremendous amount of support in the state of Colorado to solve the I-70 corridor. Rail has to be at least a big part of that solution. The other members, if we start on the other side of the I-25 corridor, we have the City and County of Pueblo, City of Colorado Springs, Monument, Castle Rock and Larimer County, and the City of Westminster. Those are the other ones we have made presentation to. Other groups I haven't received a final yes yet. That's the groups we can say we have our \$370,000.00 from. Commissioner Houpt- Now you're presenting us the I-70 corridor?

Bob – We are presenting wherever we can get an audience. We took the opportunity to go across the street and meet with the City Manager from Glenwood Springs and made an offer to their council for us to come and talk; we would be delighted to come back to make a presentation.

Bernie – At this point we have made presentations to Club 20, the Mayor of Grand Junction and Mesa County Commissioners. Although Mesa County has not put any money into the pot, they sent a letter of support to Representative Salazar and Senator Salazar. Senator Salazar is supporting that effort to get Federal funding into the second part of the feasibility study.

Commissioner Houpt – Isn't Harry Dale on your board?

Bernie – Harry is the chair of our board. I missed Clear Creek County it was the two original assignments of the enabling legislation for this was Clear Creek County and Monument. To give you an example of how this was used, E470, the toll road, was an intergovernmental agreement authority put together by two governments. So we are using that same law to do this one.

Commissioner Houpt– John and I have both spent a lot of time in the discussion of a need for finding solutions for the I-70 corridor and beyond.

Chairman Martin – It is going to be physically challenging to put any kind of new rail service in Garfield County from the Glenwood Canyon to the DeBeque Canyon. It is pretty limited on the scope as to where you can put it. I would imagine that you would need to make sure there is a contract or an agreement with the Union Pacific.

Commissioner Houpt – They are talking about that in DC, really working on the liability issue.

Bob – The contractor that we would probably use is Amtrak. Amtrak has the ability, whatever that liability issue is, Amtrak's liability is about half of what the railroads liability is. So any service that we provide beyond Dotsero would probably be done with a contract through Amtrak, they have the least amount of liability.

Bernie – It would be our goal to improve upon Amtrak's efficiency.

Bob – What Amtrak's biggest choke point is, is Moffat and that whole area. We think we can address some of those issues and if we can address those issues we can make Amtrak on time. Because we will be working with both Class I railroads we will have a better understanding with them when we get done as to what the passenger commitment will be made on those existing tracks. We hope to be able to offer multiple daily services on these tracks from Grand Junction to Denver. That is what we anticipate happening and we think by the time we get done negotiating with Union Pacific and Burlington Northern, we will be able to do that.

Commissioner Houpt – There are a handful of groups working on this discussion, looking for solutions.

What is your vision for interfacing with these groups, how are you now working together?

Bernie – Simplistically it is our goal to interface with each and every one of them, many we have already made contact with and are participating with. If we don't mention a group this morning that you are aware of that's working on this, please tell us.

Bob – We work very closely with the I-70 Coalition and I have attended most of those meetings. We are on the agenda in April or May to make our presentation to that board. We are working with CASCA and Trans-Alliance, we are trying to reach out and be a part of that because we know the only way we will be successful on a long term basis is to get the input from the local communities. If we don't solve the problem for you all, we haven't solved the problem. The object is to solve your problems and your problems are my problems.

My goal is to represent you in a way that solves your problems.

Commissioner McCown – With the bottle neck at the Moffat tunnel eliminated, given the geography, is the single track set up adequate from Dotsero to Grand Junction?

Bob – That's a great question. We plan on, when we re-open that north side of Tennessee Pass, to double track that. Any new track we build we'll put in a double track. The answer to your question, from Dotsero this way, I don't know because we haven't got the exact number of trains that will be running. We know that in a lot of places there exists a by-pass track. We don't know because we haven't actually been there and done the homework yet however if that by-pass track is in the right spots and is capable of allowing us to get by, then what I'm telling you is, I don't know the answer. We are studying it and if you ask me that same question in six months I should be able to come closer to answer you and tell you what we think. If you're going to do a good job with passenger rail across the United States what you're going to have to do is to

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double track the entire freight system so you can allow passengers systems to pass. We may not do that immediately; our long term goal in a perfect world would be to double track everything, east, west, north, and south. Any track we build on the Eastern Plains will be double track. And the object is, once you do that it gives you the capacity if you need to run a passenger rail on that you can do it.

Ed – Would you envision passenger car trains like those that are popular in the East coast? For example, they load up the car and the passengers and they go down the east coast to Florida and probably the biggest concern I’ve heard from people in Denver is sure I can get on the train but if I don’t have my car to go camping once I’m over here so what good does it do?

Bernie – I have an answer for them. Look at it and the way we envision the mountain corridors are not going to be the same as east coast traffic. First of all the last time I checked the east coast had less challenges than we have from a geographic area. Aside from that we have a different kind of passenger; at least we envision we have a different kind of train. The east coast trains run what I call “real trains”. In other words you have an engine with cars etc. Those are not necessarily the kind of technology that will work in the landscape that we have. There are several alternatives we are studying as far as technology but none of which really fit the pattern. To say absolutely positively, no we can’t. To say that probably not is much more in tune with where we are now.

Bob – The other answer is there has been more than one person who made that suggestion. And the bigger challenge is as you load the vehicle, if everything was a perfect world and you could have a train vehicle all for Glenwood Springs or all for Grand Junction or all for Aspen, whatever it is that would be the simple part. The reality is that probably won’t happen.

Ed – You would probably have to have very limited unloading facilities.

Bob – You have two opportunities for discussion; one is how do you load it and the second is how you unload it. The local freight delivery service that exists will still be in existence. What we are going to try and do is persuade most of the local service to take place between midnight and five. We think we could offer that type of service if you could do it at a time other than when the passenger rail was running. So they could come within 24 hours and pick up their car. I’ve been having real nightmares trying to figure out what they are doing. Like ferries, they load everybody and then they take you across, but you’re driving it. It’s one thing to load you up and not have you driving it and I haven’t quite got it all figured out.

Commissioner Houpt – You are really in the planning stages right now. This is a planning effort and I think it’s an effort that everyone’s beginning to recognize nationally and at the state level and locally. It’s really important to move forward. I recognize that it’s really important for everyone to interface as we move forward. This is a discussion and the Rocky Mountain Rail Authority already has a loan and it’s important for us to be at the table. I’m going to make a motion that we, we can’t commit to two years by law, but we can commit \$10,000 to join the Rocky Mountain Rail Authority to become a member and have a seat at the table.

Commissioner McCown – Second

Chairman Martin – This would be general fund dollars you are looking at.

Bob – May I make a suggestion, March is about to end and you could do in April.

Ed – This will be an amendment to your budget.

Chairman Martin – What really scares me, if you are talking about the Tennessee pass, that’s one of the most expensive maintenance issues for the Denver Rio Grande Railroad.

Commissioner Houpt – You haven’t settled on anything yet at this point. We are at the table talking about what routes are feasible.

Bernie – I have my own personal preference and biases. I do not intend to voice them on the study committee. I believe certain things to be true and I believe they are logically true and self evident. That does not mean that I am an engineering or planner. I hold a lot of knowledge but most of it is not technical. I don’t like monorail because it is a closed loop system and it doesn’t work.

Commissioner Houpt– You can’t come to that conclusion yet.

Bernie – I have come to that conclusion for my own personal self. That doesn’t mean that technology won’t be looked at but what it means is that I personally will not interfere with those decisions.

Commissioner Houpt – I think the members would expect to have all systems open at this point in the discussion.

Chairman Martin – Because of the feasibility study, there is a lot of ground that has already been covered including sitting down with the motor carriers who are objecting to the train system. Simply because they lose money on their buses so maybe we could include them.

In favor: Martin – aye Houpt – aye McCown – aye

Bob- I need a delegate and an alternate to be on the board.

Commissioner Houpt – We will need to talk about that.

Chairman Martin – When we get your schedule.

Commissioner McCown – Are all your meetings in Denver?

Briggs – No we are rotating them and it will be on the first Friday of the month at 1:00 PM. Next one is Castle Rock and the one after that is in Fort Collins. So far it’s April 6th, first Friday and May 4th.

HUMAN SERVICES COMMISSION

Kay Vasilakis, Jan McCollar and Julie Olson were present.

The second round for 2007 Human Service Grants totaling \$71,000 and the amount funded of \$49,400 was presented as follows:

Advocate Safehouse -	\$ 4,100
Alpine Legal Services -	2,500
Catholic Charties -	-0-
Colorado West Counseling–	7,000
Colorado West Recovery -	-0-
Columbine Home Health -	2,500
Columbine Homemakers -	2,500
Family Visitor Program -	2,000
Feed My Sheep -	3,000

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Girl Scouts -	3,000
Literacy Outreach -	3,000
Mountain Valley Dev -	-0-
Roaring Fork Family -	1,800
Sopris Therapy Services -	-0-
Yampah Mountain High Sc -	-0-
Youthzone (Parachute)-	<u>20,000</u>
First time requests:	
Habitat for Humanity	3,000
Ranch Good Days, Inc.	-0-
Human Services Commission	-0-
Total funded	\$ 49,400

The committee left a balance of \$21,600 for emergency funding during the year or rolled over into the 2008 grant cycle.
Discussion:

Kay – The Grant Allocation Committee, which included Jane and me, Dana, Larry, Ed, Tish and Laurel. Jan looked over the grant requests. There were nine of us and there were some diversities, but I think we came to a consensus in regard to the determinations.

Chairman Martin – The total amount was for \$71,000.00. You allocated \$49,400.00 and keep the rest in reserve for emergency funding during the year and the roll out is 2,008 Grant cycles. So that money goes in if it is not used in an emergency situation. I think it is a wise business choice.

Commissioner McCown – There is a brief explanation on these and the logic behind it. I know I personally found this one was much harder than the big grant process that we went through earlier. Some of the reasoning for requests here was quite different than we had seen in the original draft process. That was basically the grounds for some of the denials that we looked at. Part of that as an example would be additional housing cost and the benefits for employees. We don’t feel that is a critical need. We had to sort through a lot of those in this round of applications.

Commissioner Houpt – I noticed there was a brand new organization that didn’t receive their grant. It was determined by the committee that there was no evidence of stability, would that happen with any new non-profit that comes forward?

Kay – Yes, we look at stability of the organization to see if the money we give will just be gone because the organization is just not there the next year?

Commissioner Houpt – It’s more to support those organizations that are established.

Commissioner McCown – If they haven’t proven a line of other finances that would lend to their stability, we would oppose a first year applicant. But if they have nothing else to show and you’re requesting \$3,000.00 we don’t look favorably at that as well.

Jan – This was new, after the final calculation we realized we had additional monies. We determined to offer it to the individual agencies who had already received the monies through the first grant round. And because we had so much information on them they were able to do it via a one page letter. That may or may not have been really appropriate because some people gave really excellent grant requests. And some people gave us no information at all. Based partially on some of these difficulties, the Human Service Commission has decided to put together a committee to offer guidelines for the next round of fundings. I think it’s an excellent idea.

Commissioner McCown – I make motion to approve the Garfield County Human Services Grant, as proposed by the Committee

Commissioner - Second

In favor: Houpt - aye Martin – aye McCown – aye

ADVOCATE SAFEHOUSE PROJECT - LETTER OF SUPPORT

A letter supporting the request for an emergency shelter grant was submitted and the request was made for all three Commissioners to sign. This is being made to Verda Martin, Division of Housing in the State of Colorado.

Julie – Advocate Safehouse is requesting the County Commissioners sign a letter of support for our Mercy Shelter Grant. The funds that we receive from Garfield County are the match for this grant.

Commissioner Houpt – I make a motion we sign the letter of support to Division of Housing for the Advocate Safehouse Project.

Commissioner McCown – Second

In favor: Houpt – aye Martin – aye McCown – aye

Julie – I’d like to invite you to two events, The Opening Reception, June 4th and a banquet June 5th. This event is going to be held in Leadville and it’s a five county event. We have this event every four years and we rotate it among the five counties.

HUMAN SERVICES

Lynn Renick presented the report.

APPROVAL OF EBT/EFT DISBURSEMENTS FOR FEBRUARY 2007

For the month of February 2007 the total funding for the food assistance, LEAP, EFT/EBT totaled \$421,546.75. Lynn requested approval.

Commissioner Houpt – so moved; Commissioner McCown – seconded.

In favor: Houpt – aye Martin – aye McCown - aye

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PROGRAM UPDATES

COLORADO HEALTH CARE POLICY AND FINANCING

This is an annual financial compliance audit for the SFY 05-06 Single Entry Point program scheduled for March 19, 2007.

CHILD CARE ASSISTANCE PROGRAM

Lynn said this is a request for a negative supplemental in regard to the program due to under expenditures in low-income child care on a statewide basis. The impact decreases Garfield County's allocation by \$43,574 and there is a potential for a change in the overall allocation formula of the CCCAP program formula.

Discussion:

Lynn – We are getting a decrease of \$43,574.00 in our allocation, it is taking it down to \$609,021.00 because of utilization this will not have a negative impact with our recipients this year. Because the allocation of methodology changed we have been getting fairly good increases over the last couple of years. I do have a concern they're reviewing that allocation formula which may essentially have an impact, but we don't know what that will look like yet so we are monitoring. The department is in the process of amending its Colorado Works County plan in order to add on some special projects this year. The fatherhood initiative project, it is still evolving in terms of services we are going to be offering. As well as increasing case management and services to eligible residents and what that means there is a fairly broad base of residents making actually \$75,000 or less, having a child or living with them in a fifth degree of relationship. So we are hoping to increase our service capacity to a broader section of Garfield County and also just some support of services to our basis of cash assistance participants. We will try to get those to you by the third week in April; it maybe a little bit later.

HB 1451 – COLLABORATIVE MANAGEMENT PROCESS – AT RISK POPULATIONS

This is a bill for a collaborative management process involving various organizations, governmental entities and families to increase the overall quality of services to targeted at-risk populations.

Lynn – We are looking into that, talking to some of the stakeholders to see if that makes sense. There are some incentives possibly to come down and enter into those types of agreements.

BOARD OF HEALTH

PUBLIC HEALTH - EPSDT CONTRACT REVIEW WITH (HCPF)

Mary Meisner submitted a contract with The Department of Healthcare Policy and Finance. It is for early periodic screening and diagnostic program. This program links clients with providers, Medicaid providers. The amount is the same as last year, \$23,212.00.

Carolyn – This is a HCPF contract not a Colorado Department of Public Health and Environment Contract. You're not dealing with the master contract and then task orders on top of that. Instead what you have here is a base contract and then HCPF has extended it by documents they call contract amendments, each year. In this year they included a new special provisions form that adds the immigration language and added the new paragraph about vendor offset. Neither of these was surprising. But in the indemnity paragraph they deleted the magic language at the beginning of paragraph three. This was especially surprising to me because the underlying base contract does say to the extent authorized by law. But yet this year special provisions they dropped it out. I would think that maybe there is a new AG. Probably representing the controller, but I'm noticing this is happening on all state contracts. I've brought together a group of county attorneys to deal with this issue. At the present time I would ask that your motion allow Mr. Martin to the extent authorized by law and initial it. I know at least one other county has had success doing this. I will continue to track down if this was a mistake or if the AG's office has made a decision contrary to the agreement reached with the Colorado County Attorneys Office. This has to do with county money going to the state should there be a lawsuit.

Commissioner McCown – I make motion we approve the contract with the Health Care Policy Financing Department. With the amount not to exceed \$23,212.00 and the chair be authorized to sign with the alterations alluded to by the County Attorney

Commissioner Hought - Second

A motion was made by Commissioner McCown and seconded by Commissioner

In favor: Hought – aye Martin – aye McCown - aye

PUBLIC HEALTH - ENVIRONMENTAL HEALTH PROGRAM UPDATE – JIM RADA

Jim Rada handed out the update to the Commissioners that explained the programs and progress.

Jim – Quick update on a couple of studies, one the health risk assessment. As a result of some of the work down at the legislature, I've asked Dr. Koontz to come in and give you an update during Ed's time on the 9th of April. You may want to consider questions you might want to ask her. Her study will address some of those issues. I don't have a lot of other information other than the study is still underway. We still intend on having the study completed by end of the year per the contract terms. We are collaborating extensively with the State Health Department as well as looking at the data we are collecting in our air quality study and trying to coordinate all the information into the health risk assessment. The data collection portion of the air quality study is due to be completed, the PM10, as of the end of next month. At the end of May will be the end of the BOC collection. The data collection will actually be completed at the end of May. We will then enter the analytical phase. With the health risk assessment on going I've received advice from professionals, it is important if you are going to have data that you have an explanation of the data. I'm working with a group as well as state health department to develop a plan on how to pull all of this information together and disseminate it in an appropriate fashion. My hope is, through my work with the EAB's education committee that we can initiate some community information this fall that will lead into the health risk assessment. At this stage to begin in September putting on some kind of an Air quality 101 program working through the EAB to try to introduce folks to air pollution. What it is, where it comes from, relate that to our community. Move closer and closer towards the whole toxicology end of it and at that point we would be at a good position near the end of year beginning of next year to be rolling out the information from our studies. The idea being that if can get the community informed to a certain level the information that is given at the time the studies are released will make more sense to folks and then help us to move towards the community based

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air quality management program that I've been envisioning since the very beginning of my stay here in the County. If this makes sense to the Commission, I will continue to move forward in that direction. Chairman Martin – A news release, to let people know we are doing something every now and then. Let them know the information is being gathered and coming up. People are frustrated there isn't any information out there they can bite into.

Jim – I have had the thought perhaps doing an interim report or at least a news release when the study is completed. At least to let people know the period is over. Perhaps some general information about findings and also at that point letting people know this information will be incorporated into the health risk and we will have more to share as time goes on. I've also been involved with a stake holder effort with storm water and I've been following a couple pieces of legislation that I would like to speak about. Update on storm water, stake holder effort, you may recall we talked to this stake holder effort that was commissioned by the water quality control commission after the adoption of storm water regulations or retaining of storm water regulation back in January, 06. Since the last time we spoke a couple of things happened. Number one the general construction storm water permit is coming up for renewal it's on a five-year cycle. It comes up at the beginning of next fiscal year, state fiscal year. It's out to public notice it went out to public notice in December. We also had another stake holder meeting in February on the 27th, in which time the state reviewed the proposals that it was going to put before the Water Quality Commission at the May informational hearing. The process has been very interesting, lots of opinions and positions. At this point the proposal from the State Water Quality Division on storm water, the draft came out and they are not proposing any regulatory changes at this point. They will come out with a final draft in a couple of weeks. If things change dramatically I'll up date you immediately. At this point it doesn't look like any regulatory changes. The things that the industry was interested in doing, in term of streamlining the permitting process and the inspection process the state has ability to incorporate into the general construction permit and apply it across the board to the entire construction industry. The west slope storm water coalition folks were very comfortable with that. I did send you a memo a month or two ago updating you on what was in here. If there are any concerns you see, I would be happy to take those back to the group or we can work on our own position here. I mentioned in that memo the RAPS document, reasonable, prudent practices for storm water management in oil and gas. COGO was steaming forward with having that document verified by an independent 3rd party and after the February 27th meeting COGO has decided to withdraw that effort. The State Health Department's position was they would only use that as a guidance document and it would not become a regulatory document. COGO felt it was unnecessary to spend the money to try to get the document field verified. There is an MOU being developed between the Oil and Gas Conservation Commission and the State Health Department. Apparently there is already somewhat of an MOU in place between the two agencies. It appears at this time that MOU will not change substantially. It's looking like, as we move closer to this informational hearing, there won't be a lot of changes.

Commissioner McCown – The regulations will stay in place, if you create any new roadway or any building envelope, all of the waters from that construction must stay within the confines of the construction?

Jim – I believe it is worded there would be no discharge of sediments or pollutants to state waters.

Commissioner McCown – A lot of people are reading that to mean, all of the waters have to be contained on the project. It is causing some concern in the wildlife arena as well as the ranching community because often times stock ponds, up in the summer range, are filled from water bars across roads that drain into water impoundments. If you go in and do no construction and improve that road, even in our contract we have with the forest service maintaining their road, we have to take those water bars out and ditch that road. All that water stays within the confines of that road. So all the rancher's ponds are drying up and the people that are hoping to re-establish the population of the sage grouse are losing all the watering holes for the wildlife. I know it was unintentional by the regulations created by the Colorado Water Control Division, but on one hand not letting silt and debris run off the road way had stopped the ability for ranchers to water their cattle and all life to exist.

Jim – I can't answer specifically to that. The use of best management practices does not require that water be maintained or retained on the sites. It just says that sediments can not be discharged. They need to use BMP's that will control the discharge of sediment but not necessarily stop the flow of water or retain the water on site. On many of these sites it is a matter of what the surface owners needs are and how that can be addressed with an appropriate storm water BMP.

Chairman Martin – It is interesting that the Federal legislation is changing navigatable waters to all waters belonging to United States government. How is that going to affect you? That's in front of the congress right now.

Jim – To conclude, the final proposal from the storm water folks at the water quality division will be finished mid April. At that point comments or letters of supports or if a resolution is desired to be included in the record we will need to submit that to the Water Quality Commission. The public notice on the general construction storm water permit will be the new one because these recent changes will be out on March 23rd. There will be a public comment period published with that notice. My question to the board is how would you want to proceed in terms of support or not any action on this?

Commissioner Houpt – If we have an opportunity to review and discuss with you and you could bring recommendations.

Chairman Martin – We don't want to support something we haven't read and we don't want to condemn something we haven't read.

Jim – I'll take information as it comes in, review and send you a recommendation. The next issue, some of you may know I spent a lot of years working on this ISDS issue across Colorado. In terms of leadership in Colorado in this program there really hasn't been any state level leadership. Twelve years ago I formed the first sub committee at the Environmental Health Association to deal with Colorado's ISDS issues. I participated in the steering committee appointed by Jane Norton, when she was head of the health department and the steering committee came up with a report, recommendation to the state board of health on ISDS. Not only to provide leadership but also to strengthen the ISDS program statewide. This year, House Bill 1329 is a fee bill. That is being brought forward by the Water Quality Control Division to fund their Clean Water Act programs as well as there safe Drinking Water Act programs. In addition, they have added a fee on to that

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bill to a state wide ISDS program or NFTE to conduct there activities at the state level. It is a short section of the fee bill and it provides for a \$23.00 surcharge on new permits at the local level to fund 1.2 FTE at the Water Quality Divisions, specifically for ISDS technical assistance as well as leadership to move forward on issues that have been hanging out there for decades. I wanted to bring this to your attention not only because it is near to my heart professionally, I believe firmly that the state needs to move forward. There has been no leadership. The regulations are outdated. There is a lot of technology that is in the field that needs to be reviewed, perhaps approved or not approved for use in Colorado. Because the state currently has 1/10th of an FTE dedicated to ISDS it doesn't get attention. I'm bringing this before the board today, I'm also the president of the Colorado Directors of Environmental Health, there has been a request made to support this legislation. I'm reluctant to sign my name unless I feel comfortable that I have the support of my own board. I believe firmly that this is needed. In terms of Garfield County it will amount to somewhere between \$2,000.00 and \$2,500.00 a year in permit charges. It will mean about a 50% increase in the current septic system permit fee for Garfield County. Our fees are pretty low.

Chairman Martin – The reward is taking the safety aspect and really improving our environment.

Commissioner McCown – What will be the direct benefit that a homebuilder will see in doubling the septic fee application and that money going to the state? What will they see as a benefit, we will have to explain that to them.

Jim – It is going to be hard to show it as a direct benefit. They are not getting anything more for their money. Other than the fact that at the state level there will be somebody to answer those difficult questions, to work on those difficult issues, to certify technologies that perhaps has not been certified allow for technologies to be used. This position in my mind will afford the state health department to work on developing policy to deal with those hard questions so that folks at the local level will be able to deal with it better.

Commissioner McCown – To my knowledge in Garfield County we basically permit two types of ISDS's, your standard system with a septic tank and a leach field and an engineered system. Whatever the civil engineer comes up with on the engineered system, this is what we go with. Is the state going to set down guidelines that will eliminate the need for engineered systems?

Jim – Perhaps not to eliminate the need for engineered systems, but perhaps more consistencies among those professional engineers.

Commissioner McCown – What set of guidelines will trump the other; will the states guidelines set direction for the engineers on how you have to engineer a system?

Jim – No I don't believe that will take the place of an engineer making those evaluations. But it may result in a more consistency on how engineers design. Right now there is no other than what is state prescriptively in the code; there is nothing to guide the engineers. If you're an engineer and you have designed a system and you certify it went in the ground and you leave town there is no protection on the homeowner.

Chairman Martin – I put one in and not only did we have to do a detailed drawing, have an engineer put it in, and then it had to be inspected by the Health Department of the State of Colorado. Before they could even cover it up, they had to check it.

Motion:

House Bill 1329 is a fee bill. That is being brought forward by the Water Quality Control Division to fund their Clean Water Act programs as well as there safe Drinking Water Act programs. In addition, they have added a fee on to that bill to a state wide ISDS program or NFTE to conduct there activities at the state level. It is a short section of the fee bill and it provides for a \$23.00 surcharge on new permits at the local level to fund 1.2 FTE at the Water Quality Divisions, specifically for ISDS technical assistance as well as leadership to move forward on issues that have been hanging out there for decades. I wanted to bring this to your attention not only because it is near to my heart professionally, I believe firmly that the state needs to move forward.

Commissioner Houpt – Jim, it sounds as if you think this will really cover a need that is currently not being covered in Colorado. I will support you. She made motion to support.

Commissioner McCown - Second

In favor: Houpt – aye Martin – aye Opposed: McCown – Aye

PUBLIC HEALTH HOUSE BILL 23 – OIL AND GAS WITH STATE HEALTH

Jim – the last thing is House Bill 23. That bill requires the oil and gas commission to work with the State Health Department to develop regulations. It states, "The commission shall promulgate rules in consultation with the Department of Public Health and Environment and to provide on going consultation with the Department of Oil and Gas on oil and gas permit applications". The commission shall not issue a permit to drill until the consultation with the department approved by rule has occurred. I believe there are some requests to put a letter of support in on this and on this one I have been reluctant.

Chairman Martin – My concern is a consultation and there is no end result positive that they have to follow or not, other than they sit down and talk to each other and say thank you very much for passing your time. This is what we recommend but it's not binding. It's like 'feel good' legislation.

Commissioner Houpt – Except, the rules that would be put in place in consultation would have that binding effect and it's just solidifying the relationship between those two departments.

Commissioner McCown – At what level of government would the consultation take place? Would it take place at the State, with the Colorado Oil and Gas Conservation Commission, when APDS come in or will Jim have to go out and meet with each land owner?

Commissioner Houpt – No this is at the state level. This is between COGCC and CDPHE and it is to make sure that those concerns people are having, who have activity in their residential area, are being addressed.

Commissioner McCown – This is going to be done on each APD?

Jim – I talked to one of the environmental directors at state health department. His take on it is not every APD would have to be reviewed. The regulations set-up under this law would dictate in what conditions or what circumstances an APD would have to be reviewed by CDPHE.

Commissioner McCown – That's not what the bill says.

Jim – It doesn't clearly state that, but it applies that.

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Chairman Martin – If there is a requested site review that is when that would kick in and all the parties having concern would be there and then a consultation would take place. Any recommendation would be put into place and then an APD would be issued. On the land owners request of a site review I think is as far as the sub-committee got.

Commissioner Houpt – I think this particular bill is more general. I don't think they will come up with a process until they have completed the rule making

Jim – Rule making has to occur by June 1, 2008.

Commissioner Houpt – I make a motion that you would be allowed to support.

Commissioner McCown – Second. I have a big fear this will become a state mandate and it will end up being passed down to the counties to run this program. It will become a significant issue for us.

In favor: Houpt – aye Martin – aye McCown – aye

Carolyn – On both of these bills, were you authorizing Jim to sign a letter on behalf of the Colorado Directors of Environmental Health or were you authorizing him to sign a letter that the BOCC supports?

Chairman Martin – He has the support of the board on this stance.

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-fund Transfers
- d. Changes to Prior Warrant Lists
- e. Authorize the Chairman to sign a Resolution and Plan for the Strang Exemption. Applicants: Michael and Katherine Strang – Fred Jarman
- f. Authorize the Chairman to sign the Resolution of approval for a SUP allowing “Processing, Storage and Material Handling of Natural Resources.” Applicant: Pine’s Stone Company – Craig Richardson
- g. Authorize the Chairman to sign the Resolution of Approval for a SUP allowing “Resort and Recreational Activities.” Applicant: Orchard Lake Lodge, LLC. – Craig Richardson

Jesse– Remove B and C

Commissioner McCown – I make a motion we approve the consent agenda

Commissioner Houpt – Second

In favor: Houpt – aye Martin – aye McCown – aye

COMMISSIONER REPORT

Commissioner Houpt– Thursday, meet with Rural Resort Region and CCI on Friday

Commissioner McCown – Wednesday, I have a Club 20 taskforce meeting in Grand Junction, Thursday

Communication Board meeting in Rifle at 1:30.

Commissioner Martin - Attended a meeting with the wool growers, the National Cattleman’s Association, the BLM, the Forest Service, Department of the Interior Under Secretary, some Environmental groups, CCI NACO National Association of Counties; Western Interstate Region with the conflicts of use of public lands in Denver Thursday and Friday. Out of that came a working group, we will continue to work on issues.

Commissioner McCown – I have a letter, basically back to the Northwest RAC, it’s a letter of reference for Craig Meis who is applying for the Northwest RAC and the elected official position. He’s the chairman Mesa County, County Commissioners and I would make a motion we send a letter of support for his appointment to the Northwest RAC and chair would be authorized to sign it.

Commissioner Houpt – I will second for discussion. I will not support the letter simply because I think he is already involved with specific industry. I would rather see someone who is outside of the realm.

In favor: McCown – aye Martin – aye Opposed: Houpt - aye

EXECUTIVE SESSION - Continued

Don DeFord – Asked to go into Ex. Session. Provide update on Silt litigation, discussion this morning with attorneys on pending oil and gas litigation, Provide update on Glenwood Springs BOCC IGA for the South Bridge, Discuss status of properties in Rifle Village South and Carolyn and Michael need to go over Vezzoso. A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into Executive Session.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action taken: None

Public Meetings:

BUILDING AND PLANNING - CONSIDER PLAT AMENDMENT WP7 AND WP8 ASPEN GLEN SUBDIVISION. APPLICANTS: DAVID AND LINDA WEISS – MARV RAY

The applicant requests approval to eliminate the lot lines in order to create a one acre lot. This has been reviewed by the Aspen Glen Design Committee and they have approved the requested action.

Staff recommendation:

The applicant has provided all required documentation and has satisfied the applicable standards for a plat amendment. Therefore, the Planning Staff recommends that the Board of County Commissioners pursuant to Section 6:10 of the Subdivision Regulations of 1984, as amended, approve this amended plat request with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. That the title of the new plat shall read as follows: “Amended Plat of Lot WP7 and Lot WP8, Final Plat Aspen Glen Filing No. 3 Sections 18 and 19, Township 7 South, Range 88 West of the 6th P.M. County of Garfield, State of Colorado.
3. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the board and recorded in the Clerk and Recorder’s office of Garfield County. The amended final plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in Section 5.22 of the Garfield County Subdivision Regulations.

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4. That the applicant will include a plat note stating the purpose of this plat is to remove the building envelope on lot WP7 and the lot line between lots WP7 and WP8.

5. That the applicant will add a plat note stating that all other plat notes from the original Aspen Glen, Filing No. 3 shall apply to this plat.

Marv – WP7 and WP8 are both owned by applicants. Subject property involves two lots. Marv presented a slide presentation. Showed where applicants reside. Wants to combine both lots and will have one acre once they are done.

Dave Weis– We purchased a lot to maintain our view corridor as well as some privacy. It adds additional open space to the Aspen Glen area and reduces the density.

Commissioner McCown – I make a motion to approve amended plat for Lots WP7 and WP8 with the conditions of staff.

Commissioner Houpt – Second

In favor: Houpt – aye Martin – aye McCown - aye

BUILDING AND PLANNING: CONSIDER A REQUEST TO WAIVE THE ANNEXATION IMPACT REPORT FOR THE CITY OF RIFLE REGARDING THE RIFLE HEIGHTS ANNEXATION. APPLICANT: THE CITY OF RIFLE – FRED JARMAN

The City of Rifle is currently considering an annexation petition filed by Rifle Heights Land Company for a tract of land - 32.602 acres that is situated in Garfield County. This annexation will have minimal impact to the County.

Discussion:

Fred – Follow along with the map, shows property we are talking about. Rifle has piece of ground right in the center of town, it is unincorporated Garfield County. The proposal before you is to contemplate an annexation of this site into the city. We are talking about 32 acres with quite a bit of access.

Commissioner McCown – I think that particular section of White River is still county road and that would be part of the agreement. They would accept that road as a City street upon annexation of this property?

Fred – My understanding is that is part of the annexation agreement.

Commissioner McCown – With that I have no problem, made motion to waive the annexation impact report as requested.

Commissioner Houpt – Second

In favor: Houpt – aye Martin – aye McCown - aye

AIRPORT - CONSIDER THE AIRPORT PARK MASTER PLAN AS THE ANNEXATION IMPACT REPORT FOR THE COUNTY. APPLICANT: CITY OF RIFLE – FRED JARMAN

From the previous meeting held it was decided that Jim Neu will continue the dialogue of the housing piece and Fred will come back to the Board in negotiations.

Today the action requested of the County Commissioners is to accept these documents (submitted at the March 12, 2007 meeting) as adequate to satisfy the requirements for an Annexation Impact Report for the phased annexation plan.

Fred Jarman – I wanted to bring this back to see if you might need anything else. I’ve only modified the document a little bit, please see page 10 the salutatory requirements. You can see what is in an impact report. What was submitted last week does that satisfy what is required? In our view it does and so the question, I wanted to make sure we had a clear position from you for the record that those documents could serve as the annexation impact reports as pieces are phased into the city.

Commissioner Houpt – So you just need a motion, so moved

Commissioner McCown – Second

Chairman Martin – Component of housing, still not in there?

Fred – This report would sit on top of those documents and that together serves as your impact report.

Commissioner McCown – Carolyn you’re comfortable enough with our pre-annexation agreement that we will still have the ability to do as we basically had said we were going to do with the 40 acres that the County owns?

Carolyn – Pre annexation agreement would trump anything that was said here.

In favor: Houpt – aye Martin – aye McCown - aye

BUILDING AND PLANNING - CONSIDER AN ANNEXATION IMPACT REPORT FROM THE TOWN OF SILT FOR THE RIVER PARK. APPLICANT: TOWN OF SILT – FRED JARMAN

This is regarding a 15.263 acre parcel known as “River Park” and desires to annex said parcel into the Town of Silt so as to be able to regulate the parcel under the town’s municipal ordinances.

Fred – Discussed with community development planner Janet Aluise and they wish to submit to you. This does not presently affect any county roads. That may or may not change with what happens to the county road that connects with what you know as Stillwater to the I-70 corridor. The map shows exactly where this is; they have actually done a nice job in detailing where the utilities are, where the property is located, what is expected from an access perspective. County Road 311 is the only access point to this property.

Commissioner McCown – Doesn’t the frontage road access the property as well to the East?

Fred – Eventually it comes back around, it does drop south. We found there would be no impact to the county on this so that is what our recommendation would be to you.

Commissioner McCown – I make motion we approve the annexation impact report from the Town of Silt on the River Park parcel.

Commissioner Houpt - Second

In favor: Houpt – aye Martin – aye McCown – aye

PUBLIC HEARING:

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT TO ALLOW “ACCESSORY DWELLING UNIT” ON A PROPERTY LOCATED T 4399 COUNTY ROAD 301. PROPERTY LOCATED AT 4399 COUNTY ROAD 301. APPLICANTS: ARTHUR AND ETHNA WIESSNER – CRAIG RICHARDSON

Craig Richardson, Arthur and Ethna Wiessner and Carolyn Dahlgren were present

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Carolyn – Carolyn reviewed the noticing requirements and the documents were consistent with the testimony. Carolyn did have a couple of issues, the proof of publication was a couple of days late and secondly, the legal description used does not match the legal description on the deed. The legal description on the deed actually says the applicants owned more than they noticed. They did indeed identify their property by its road address. Please rule on those two before we go any further.

Chairman Martin – Actually your two days short of the 30 day notice I reference to the publication.

Commissioner McCown – I’m fine with the notice.

Chairman Martin – 28 days is a good notification. And the other issue in reference to the property in full description?

Commissioner Houpt – I’m fine with that as well.

Chairman Martin – We will accept such, no challenges to that notification? We will enter that into the record. swore in those to testify.

Craig – Read the exhibits: A. Proof of Mail Receipts

B. Proof of Publication

C. Garfield County Zoning Resolution of 1978, as amended

D. Staff Memorandum

E. Application

Chairman Martin – Asked applicants if they had aware of items.

Arthur & Ethna – Yes

Chairman Martin entered exhibits A – E into the record.

Craig presented the staff report saying the applicant requests the Board of County Commissioners grant a Special Use Permit (SUP) for an Accessory Dwelling Unit (ADU) located on a 40 Acre parcel described as 4399 County Road 301. The proposed ADU is an existing 736 sq ft unit. The Applicant is seeking approval of this Special Use Permit to allow the construction of a new primary dwelling unit

The proposed ADU is an existing unit. Water and sanitation service are provided to the unit by an existing well and ISDS system. Well permit number 196756 allows the use of ground water for up to three single family dwellings. The current ISDS has a septic capacity of 750 gallons. A new ISDS will be required for the future improvements planned for the property

The subject property is accessed via an existing driveway off of County Road 301. The existing access is sufficient for the traffic that will be generated from this use.

The proposed ADU is in character to the surrounding properties and should not adversely impact surrounding owners. If approved, the applicants shall use minimal lighting that is shielded to prevent light trespass on other properties and is inward and downward facing towards the structure. This standard is met.

The property contains 40 acres, which exceeds the minimum required for an ADU. The proposed ADU will be on a portion of the property that has no slopes exceeding 40%. This standard is met.

The applicant has provided documentation that the gross floor area of the existing unit which is proposed to be converted to an ADU is 736 square feet. Building Department records support the Applicants representation. This standard has been met.

There is no Homeowners Association or restrictive covenants on this parcel. This requirement is not applicable

The exiting ADU is served by a permitted well. Garfield County may require additional information during the permitting process of new structures. This standard has been met

The existing ISDS (750 gal) is adequate for the proposed ADU. A new ISDS will be constructed along with the proposed primary dwelling unit.

The Applicant understands that only leasehold interests are allowed in the unit. This standard is met.

The structure to be used as the ADU is an existing unit permitted by Garfield County. This Standard has been met.

RECOMMENDATION

Staff finds that the existing structure is in compliance with §3.02 and §5.03.21 of the Garfield County Zoning Resolution of 1978 and recommend that the Board approve this request to allow an ADU on a property owned by Arthur and Ethna Weissner located at 4399 County Road 301, with the following conditions:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
2. All lighting associated with the ADU shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
3. The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended, and shall meet all building code requirements.
4. The accessory dwelling unit shall not be conveyed as a separate interest but may be leased.

Craig – The water is provided by a well. The water is permitted for three single-family dwellings. The waste water is managed by ISDS and the existing zoning is AARD. The applicant wishes to construct a new primary dwelling unit. The existing unit is a permitted 736 square foot unit. We have all the building papers on that plus a floor plan provided by the applicant. The applicant has met all of our requirements for an ADU. A new system will be constructed along with the home. This will not increase street improvements and traffic volume. With the conditions provided in the staff reports we recommend approval.

Commissioner McCown – I move to close public hearing.

Commissioner Houpt – Second

In favor: Houpt – aye Martin – aye McCown - aye

Commissioner McCown – I make a motion we approve the SUP for an accessory dwelling unit located 4399 County Road 301, with the conditions listed by staff.

Commissioner Houpt – Second

Carolyn – Asked staff to remember to use legal description from deed rather than the application.

Chairman Martin – So noted for clarification

In favor: Houpt – aye Martin – aye McCown - aye

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PUBLIC HEARING:

BUILDING AND PLANNING - CONSIDER A CONDITIONAL USE PERMIT TO ALLOW A “CHURCH” ON A PROPERTY LOCATED AT 0097 LIONS RIDGE ROAD. APPLICANT: BASALT CONGREGATION OF JEHOVAH’S WITNESSES – CRAIG RICHARDSON

Craig Richardson and George Winne were present.

Carolyn reviewed the noticing requirements for the public hearing. A Homeowners Association actually owns an interest in the roads; did you also notify the Homeowners Association?

George - We did not

Carolyn – Is there a representative of the HOA here today?

George – Yes

Carolyn – Did you post the property?

George – No, we have a representative here who did that.

Don Glenn – Mr. Glenn posted the property on the 18th of February. It was visible from Lions Ridge Road, which is a public right-of-way.

Carolyn – Mr. Glenn are you an authorized representative of the HOA.

George – Basalt Congregation of Jehovah’s Witnesses.

Carolyn – Is there anyone present from homeowners association that we could have come forward?

John Laatsch – I’m secretary of the HOA for the Lions Ridge HOA and a property owner at 0318 Lions Ridge Road.

Carolyn – Are you willing on behalf of the homeowners association to wave written notice?

John – Yes

Carolyn – May I review your documents? They were mailed on time, proper publication, posting, HOA was not notified but formally waved on record.

Chairman Martin – Any challenges? None

Chairman Martin swore in the speakers.

Chairman Martin entered Exhibits A – E into the record.

Craig presented the Basalt Congregation of Jehovah’s Witnesses (the Congregation) has applied for a Conditional Use Permit (CUP) to allow a “church”. A church currently exists on the subject property as a legal nonconforming use existing prior to the Garfield County Zoning Resolution of 1978 as amended. The Congregation has decided to construct a new church that exceeds the maximum lot coverage of 15 % defined in §3.02.05 of the Garfield County Zoning Resolution of 1978, as amended. This proposed change will require a Variance from the Board of Adjustment and the proposed increase of unconformity (§7.04) requires the Congregation to obtain a Conditional Use Permit from the Board of County Commissioners (the Board). The Applicants have chosen to seek the CUP prior to presenting the request for a Variance to the Board of Adjustments, as suggested by Staff in order to have the parcel permitted for the use prior to the change.

Church: A building where persons regularly assemble for religious worship, and which building is maintained and controlled by a religious body organized to sustain public worship. A church use may include accessory buildings and uses such as a rectory, school, parish house or parsonage, where authorized by specific terms of a conditional or special use permit, as is required by a church use, or special use permit, where a church is a use by right.

There are several legal nonconforming uses on the subject property. The nonconformance is due to the creation of the lot and the use of the church prior to the existing zoning and subdivision regulations of the County. The use, lot coverage, and size of the lot have been in use prior to the Garfield County Zoning Resolution of 1978, as amended, and the Subdivision Regulations of 1984, as amended. The following are the nonconforming issues on the property currently zoned ARRD:

- The subject lot (.95 acres) does not meet the minimum lot size of two acres.
- The existing overall lot coverage, including the building and associated uses (57.85%), exceeds the 15% maximum allowed.
- The church requires permission through a Conditional Use Permit; this permit has never been issued.

The subject property is 0.95 acres located east of the Town of Carbondale, in the Lions Ridge Estates Subdivision. It is located within a common area at the entrance of the subdivision; the property is described by metes and bounds only. Improvements include a single story structure and two parking areas.

Water is provided to the subject property by a public water system owned and operated by the Lion’s Ridge Estates Homeowners Association (the Association). The Limited Member Service Water Service Agreement (the Agreement) allows the use of water for one domestic use and no other purposes. To clarify the allowed use, Patrick Dalrymple, President of the Association provided a letter citing that the Congregation has been in compliance with the provisions of the Agreement with Lion’s Ridge Estates.

Wastewater is managed on-site by an Individual Sewage Disposal System (ISDS). A 1250 gallon replacement tank was permitted in December of 1989. Paul E. Rutledge, Design Engineer cites in a letter dated January 11th, 2007 that the existing system is adequate and functioning. He recommends that its use continue to accept wastewater from the existing restrooms and one bedroom lodging unit. It is also suggested that the septic tank and sewage effluent line be inspected periodically and maintained as needed.

The property is and will continue to be accessed from Lion’s Ridge Road. Issuance of a Conditional Use Permit will not result in the generation of additional traffic. The purpose of this application is to bring the current use into conformance in order to pursue a variance for additional improvements. A further review may be required for additional applications resulting in a change of use.

The existing church was designed using residential architecture and landscaping. This use has existed in a residential setting for over thirty years. Staff finds that the existing structure complies with this standard.

STAFF RECOMENDATION

The application and existing use comply with Garfield County Zoning Resolution §2.02.145 and §5.03. Staff recommends that the Board approve this request with following conditions.

4. That all representations made by the Applicant in the application, and at the public hearing before the Board of County Commissioners, shall be conditions of approval, unless altered by the Board of

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5. Appropriate building permits shall be obtained for any future improvements.
6. There shall be no off street parking associated with this use.
7. The Applicant shall comply with all requirements of the Garfield County Zoning Resolution of 1978, as amended.
8. An engineered Individual Sewage System shall be constructed simultaneously with any future improvements.

Discussion:

Craig – There is only one issue and that is with the site plan provided to you. It shows the property actually crossing Lions Ridge Road and parcel data we have does not reflect that. As a condition of approval we are requesting they have their surveyor research that and provide us with a correct site plan. Staff is recommending approval as submitted above.

George Winne – I just wanted to be sure the board understands the purpose for us doing this. We did apply earlier last year for a variance to do some new construction and to improve our parking situation. It was inadequate and also improper, inappropriate for today’s standards. We found out we needed a CUP before we could do anything. If this becomes approved we are now in a position where we can apply for variances and also seek building permits at a future date.

Commissioner McCown – One of my concerns, are you aware, if we approve this today it simply allows the activity to take place? It does not allow you to build on the bigger footprint; that still is another process.

John Laatsch – The Homeowners Association is in support of the activities and the reconstruction of church and development and the CUP. We do have several interesting concerns; one, the road is a county road and the construction will take place off of the county road which then provides us our only access to our homes. I’m assuming that within the county requirements and engineering requirements there is proper traffic control so that during construction the safety of homeowners need that road for access and it will be maintained. As well as the surface of the road, which is only a minor chip and seal surface, so it doesn’t take much to degrade that surface and rip it up. There has been some damage of that as a result of snow plowing in the last several years. It may behoove the applicants to take photographs of the road before they start construction for documentation. This would benefit all of us after the fact. The plans we saw last year identified that there was some excavation in the back of the church greater than what is there now. We are certainly concerned with the stability of the slope and the resulting engineering documentation that the retainage of that slope is sufficient to provide not only protection for the County Road and our gas and water facilities that are within the public right-of-way. My house sets right above the church. We also want to identify that the survey, I was the one who worked with our surveyor for the Lions Ridge Owners Association; the property lines are rather skewed. And the alignment and the construction of the road are rather skewed, not only at the intersection of County Road 100 and Lions Ridge Road but also right in front of the Church. It is rather a country solution as you will. The other concern we have is maintaining of the parking lots they are of a residential nature; we are a residential area even though we have two acre zoning. Some of the lights that are on now have exposed light sources that are rather objectionable as you pull into our street. It is very dark and that is one of things we like about it. It is dark and the lighting reflects that. Last of all there are times in which there are additional parking requirements because of weddings or activities at the church. That is pretty easily accommodated but there are occasions where people exit the parking lots without looking up hill. There is a rather steep curve coming around just before you get to the parking lots. The applicant should be required to at least provide some signage, stop signs or yield signs that are of a residential size. That would allow some recognition or additional notification to people who are leaving. Remind them they are entering onto a public right-of-way. Landscape plans were in the character of a residential setting. Last, if lights were left on because of security concern, we are in a residential neighbor, we are not an industrial zone where we need lights on like a used car lot all night for security. If there is a need for security, we would ask that it be contained to the doors and access around the building so we can maintain the residential character that we do enjoy.

Gary Pax – I live at 0434 Lions Ridge Road. Mr. Laatsch is the senior property resident. I’m simply a homeowner with children along with my neighbors who have small children. About a year ago I was sitting in this room to bring these concerns out and the meeting was cancelled. The applicant had approached our architectural committee and we had expressed many of the concerns Mr. Laatsch had just mentioned. One specifically is the continuing issue of coming out of their parking lot; we are talking about a lot of cars. They come out like something’s chasing them. There is a hill and trees in the summer that obscure your view. There is also a small utility house which obscures your view. A year ago we expressed these concerns. We were told there would be stop signs installed and they would highlight this to the congregation, that’s 1 year ago. Since then I have had 3 incidents, one in my car, and one in my wife’s and one with my children on their bicycles in front of me and I almost watched them get taken out. The car coming out paid no heed whatsoever. I feel like we got lip service and got blown off a year ago, there was no reason those stop signs could not have been put up in a neighborly fashion out of concern for our children.

George Winne - I would like to make a general response. Over a year ago when we decided to make some improvements to this property. We knew we had to go for a variance we didn’t know we had to go for the CUP. Our intent has always been and still is and will be that whatever we do to this property our biggest issue is the parking arrangement. There is no really defined entrance to these parking spaces. If you drive up there it is mostly gravel parking and we flow out into the street. Our new design will have access isles, islands, buffers and control points with stop signs and control signs. The reason we haven’t done it yet, we just saw the process and we needed to back track and go through this first.

Commissioner Houpt – There is no access point off of a county road?

George – The parking lot has no access isle. We are going to correct it and make clarifications to the parking lot. The lighting is going to be reduced. The building will have that also.

Commissioner Houpt – Will that be off when not in use?

George – Right now it is on a timer but I think it’s probably on too long we can adjust that. We do have meetings that occur and go on until 9:30-10:00 PM; after that they could be shut down. Retaining issue, we want to cut into the hill 5 or 6 feet. A retaining wall will be issued at that time.

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Carolyn – It sounds like as their plans go forward they may need a new road and bridge permit. At that point in time decisions would be made if a stop sign is going to be in the County right-of-way or on private property.

Commissioner McCown – I think we can handle a lot with conditions of approval.

Craig – I agree with the lighting, we have a standard condition and a stop sign as well.

Commissioner McCown – I move we close public hearing.

Commissioner Houpt – Second

In favor: Houpt – aye Martin – aye McCown – aye

Commissioner McCown – I make a motion we approve the CUP to allow for a church with the five conditions noted by staff adding number 6 that a site plan with a corrected survey needs to be presented. All lighting needs to be downward and inward and access routes from the parking lot need to be established along with access permits from County Road and Bridge. The appropriate traffic signs, which are going to be a stop sign, will be established prior to the entering of the county right-of-way.

Commissioner Houpt – Do you want to add that the lighting condition be off when it’s not in use?

Commissioner McCown – I think they testified to that it would be on a timer, other than the two meeting nights it would be off.

Commissioner Houpt – Second

In favor: Houpt – aye Martin – aye McCown – aye

EXECUTIVE SESSION:

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

Commissioner McCown – Litigation issue

Chairman Martin – Item in reference to zoning

Don – Direction on contract negotiations for County Road 204.

In favor: Houpt – aye Martin – aye McCown – aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried

No Action

PUBLIC MEETING:

CODE ENFORCEMENT - ABANDONED VEHICLE – RAYMOND PRIVATE PROPERTY

Chairman Martin – This is a meeting requested by Mr. Raymond

Robert Raymond – This is in regard to an Incident report which happened the 21st of February. This actually started about a year ago on my mother’s property on 0738 Cattle Creek Road. I hadn’t been out there for several months. When I went down there, there were abandoned cars everywhere. The guy renting the property at the time was Allen Maze. We did get out quite a few of the cars; he took them out. What we couldn’t find out was who was bringing them in. About the first of February I have two young guys renting now and they called me and stated when they came home that evening there was another car setting there. Mr. Raymond stated he would be there on Wednesday. By the time I got there Wednesday there were three more cars. I took a camera into Pine Stone, who is directly next to our property and I gave it to the guys in the yard and asked if anyone could get a photograph of whose dropping these cars off – if you do, I’ll give you a one hundred dollar bill. As I left and started up Cattle Creek Road, a red pick-up truck was towing an old camper down the road. I pulled off, watched him in my mirror and he pulls down into our driveway. Josh, who is living in the house came up the road and stopped them so they can’t come down. I pulled in back of the guy. We got him; he’s already dumped four cars and the one he has is the fifth. I called the sheriff, they sent out Sherri Michael and we tried to tell her they were dumping cars, she stated “there’s nothing we can do”. I stated, what do you mean it’s posted, no trespassing. Why can’t you do anything about it? Mr. Raymond stated Sherri said “It’s a civil matter I can’t do anything about it”. Then they sent out some sergeant, Schuckers and he stated “it was a civil matter and could not do anything about it”. All they did was told this guy that was dumping them; you have to take them out. What I need to know from you three and the gentleman here, is it legal or is it not legal to dump abandoned cars on someone else’s property? Lou – It is illegal without the property owners or the person responsible for the property consent. And the issue here is according to our investigation, your previous renter apparently entered into some type of contractual agreement with these folks to bring these vehicles there. So he was the renter, he made arrangements with these folks and these folks were acting on good faith in accordance with what he said. Obviously after you evicted him or he left or whatever, you uncovered this problem. But it doesn’t make it illegal in the sense that the tow companies bringing those there were not acting illegally. There was no criminal intent, they had consent. Just like if I agreed to let them drop property off on some acreage I owned south of Silt, it was an agreement between your renter and them. Although I would argue it was an illegal agreement they entered into, none-the-less the tow companies were not acting illegally. They were doing what the person in control of the property’s consent.

Robert – Mr. Maze was evicted by court order in July, 2006. This is February, 2007 nobody had given consent to dump these cars. Sherri Michael, I told her four separate times, she said “This guy says that the guy you gave consent to lives here”. I stated, he doesn’t live here he has never lived here and he has never had permission to dump those. She threatens to put me in handcuffs and put me in her vehicle. How could I not be frustrated? All I wanted her to do was to cite him for abandoning a vehicle. If it’s legal I’ll bring them to your house and dump them. This is a tremendous problem

Lou – I agree it’s a problem for you Bob. The point is we base it on criminal law and there was no intent with the guy in the tow truck to violate the law. In fact when we pointed it out to him that he could no longer do this, did he not only take the one he had and come back to retrieve the additional four he was responsible for? We have no way of knowing if he dumped any of the additional cars or if other tow companies dumped the additional ones. The question is whether he was aware if there was a change in property responsibility. Under the abandonment of a motor vehicle, any person who abandons any vehicle, on a street, highway right-of-way or any other public property or upon any private property without the expressed consent of the owner or person in lawful charge of that property commits abandonment. Our contention, after investigation was that they had expressed consent of the person lawfully in charge at the time.

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Robert – This was not a towing company, this was a private citizen bringing these vehicle in there. What about the other 18 he brought in there?

Lou – That is something you would have to handle through a civil process to have those removed. A couple of options, you could incur the expense of removing the vehicles and try to go after your previous tenant who authorized this or the other is to go through the civil courts and try to have them removed. You have to get a writ and then it becomes the responsibility of the Sheriff’s civil department.

Chairman Martin – File a claim in reference to the court. A FED.

Carolyn – That’s to get a tenant off, sounds like this is beyond that now.

Chairman Martin– It’s a writ and then the responsibility falls on the Sheriff after you go to court.

Lou – There is recourse if it is a civil problem according to what the deputies explained to you. We could argue all day long, we do not have probable cause to believe a crime was committed so nobody is going to be cited for this.

Chairman Martin – If the towing company or the individual showed up again.....

Lou – Yes, now he’s been told it’s clearly posted.

Commissioner Martin– Through the investigation Bob says there are about 18 more left out there? The same company towed them; do we know that for a fact?

Robert – It’s not a company.

Lou – It is an individual and he admitted he towed these four and took responsibility for those. We have no idea who brought in the others.

Commissioner Martin – File within the court and get a writ, see if you can’t get him to move them with a writ.

Lou – In our opinion we don’t have a crime here. The guy didn’t intentionally violate anything. But you do have recourse in the civil court for this.

Commissioner Martin – Take another step, say no trespassing, no vehicles dumped on this property

Lou – The problem remains you may have two or three different people doing this.

Robert – I have paper work which states Texaco is one of the people that brought a car in there.

Lou - Go to court, get a writ which gives the Sheriff’s the court order to remove those cars for you.

Robert – Is there a specific law we would reference to do this?

Lou – I don’t know they may be able to advise you at court clerk’s office.

Commissioner Martin – That’s what I would do

Lou – No one can come back and say you hauled off my car, it was valuable.

Robert – Right, legally I can’t remove them because I don’t own the cars.

Lou – That’s a problem with private owners in general when this happens is to try and get salvage title or secondary title and you can’t find out who owns it. Tow companies don’t want to tow them because it costs them money. State level makes it so difficult for private property owners to get the information to be able to get them towed and it is a problem but it’s at the state level.

Commissioner McCown – Are these vehicles beaters, is there any value?

Robert – These are cars picked up off the side of the road.

Commissioner McCown – So we have an abandoned vehicle issue with that one individual.

Lou – Only argument here is your tenant seems to have been in some type of agreement.

Commissioner Martin – Jim Bradford at the county court or the clerk is who you need to see and walk over there today.

Carolyn – We should warn Mr. Raymond that the court clerks cannot give you legal advice.

Commissioner Martin – He is gong to see how he files a writ.

Robert – You’re going to have to watch Cattle Creek Road.

Lou – Knows he has to they have had other cars up there.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

APRIL 2, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, April 2, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

OIL AND GAS - NEW OIL AND GAS ADMINISTRATIVE ASSISTANT

Jesse introduced Kathleen Middleton the new oil and gas administrative assistant. She is from Chicago and graduated from the Western State University with a degree is public administration and is currently working on her Masters Degree and has a desire to work in government. She has been doing some work in water testing.

New Oil and Gas Liaison position:

Judy Jordan will arrive June 4th to begin her duties as the oil and gas liaison person.

COUNTY MANAGER UPDATE – ED GREEN

ROAD AND BRIDGE ANNUAL AWARD FOR MAGNESIUM CHLORIDE – MARVIN STEPHENS

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Marvin and Tim submitted the bids received for this contract award. A list of County Roads were submitted along with the gallons of product estimated to be used. GMCO Corporation out of Rifle was the lower bid. The recommended contract award was to GMCO for a net cost of \$408,231.24.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the bid to GMCO Corporation for applying 909,201 gallons of Magnesium Chloride to the Garfield County roads for a net cost of \$408,231.24.

In favor: Houpt – aye McCown – aye Martin - aye

FAIR - 2007 GARFIELD COUNTY FAIR – MARKETING CONTRACT – JESSE SMITH

Jesse presented the Purchase of Services Agreement and explained that Renelle Lott dba as InPress P.R.

located out of Carbondale was the independent contract wishing to provide services to the Commissioners with the 2007 Garfield County Fair. This contract will commence on April 1, 2007 and end December 31, 2007. The amount of the contract is on a commission schedule of 25% on all personal sales of advertisements and sponsorships plus a fixed fee of \$5,000. The scope of work to be performed was included.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the 2007 Garfield County Fair marketing contract with Renelle Lott dBA InPress P.R.

In favor: Houpt – aye McCown – aye Martin - aye

HUMAN SERVICES - REQUEST FOR NEW MEMBER FOR THE HUMAN SERVICES COMMISSION

A letter of request was submitted for Gary Munyer who is on the Board of Directors for the Garfield School District 16, to be considered as a member for the Human Services Commission.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the appointment of Gary Munyer for the Human Services Commission.

In favor: Houpt – aye McCown – aye Martin - aye

TREASURER - PRESENTATION OF CLAIMS RECEIVED FOR OIL AND GAS ROYALTY REVENUES – GEORGIA CHAMBERLAIN

Georgia Chamberlain and Don DeFord were present.

The public notice was submitted notifying that the Treasurer’s office currently holds funds in the amount of \$235,572.00, which were received by the Board of County Commissioner prior to the 1985 through the current date as royalty payments pursuant to mineral leases and mineral rights that relate to County held property.

Georgia explained that the Commissioners could proceed to expend and utilize such funds.

Don explained this procedure is the one we are following and it is according to the Board’s direction.

Commissioner McCown – it is the claimant’s responsibility to prove to this Board what amount they feel is due to them.

Don agreed and if they need more time okay, however the outside time limit is 90 days.

Don asked the Board to authorize Georgia or Don to send correspondence to each claimant advising them of the closure of claims for oil and gas royalty revenues and also asked the Board to set a date between 90 and 120 days to complete research and forward that information to us.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt that this is how we will move forward and give them 120 days.

In favor: Houpt – aye McCown – aye Martin - aye

AIRPORT - OUT OF STATE TRAVEL REQUEST FOR MIKE BALLARD – BRIAN CONDIE

Brian submitted the request for out of state travel for Mike to attend the snow symposium and airport safety and operations specialist school as part of the continuing education for airport employees. The school is in Buffalo, New York; Mike would be gone from 4-20-07 through 4-26, 2007 including travel time.

The FAA determines the product used for de-icing.

There is an advance safety school and would like Mike to attend.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the out of state travel request for Mike Ballard for the snow symposium and airport safety and operation specialist school not to exceed \$1,777.

In favor: Houpt – aye McCown – aye Martin - aye

AIRPORT - OLSSON ASSOCIATES RTC #9 TAXIWAY – BRIAN CONDIE

Brian submitted the release to contract No. 9 for the modification of the Professional Services Contract for Hangar taxiway construction between Olsson Associates and The Board of County Commissioners. The total for all tasks is estimated at \$16,450 and additional inspection services, if requested, will be provided at the rate of \$1,100 per day.

Commissioner McCown made a motion to approve the release to Contract #9 with Peter Olsson.

Commissioner Houpt seconded.

Carolyn – if it goes over that amount, Peter and I will have to come back to the Board for approval.

In favor: Houpt – aye McCown – aye Martin - aye

INSURANCE WAIVER - HABITAT FOR HUMANITY

Ed said Linda Morcom is putting together the \$3000 grant and wanted to know if it would be okay to waive the insurance requirements for that specific grant.

Commissioner Houpt so moved; Commissioner McCown seconded.

Chairman Martin suggesting letting the legal department know of this motion.

In favor: Houpt – aye McCown – aye Martin - aye

DISTRICT ATTORNEY RESOLUTION CONCERNED WITH PROCLAIMING APRIL 22-28, 2007 AS GARFIELD COUNTY CRIME VICTIMS’ RIGHTS WEEK

Commissioner McCown made a motion to approve the Resolution and authorized the Chair to sign.

Commissioner Houpt seconded.

In favor: Houpt – aye Martin – aye McCown – aye

COUNTY ATTORNEY UPDATE – DON DEFORD

NATIONAL FOREST RESERVES RESOLUTION CONCERNING DISTRIBUTION OF RECEIPTS

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Patsy Hernandez, Georgia Chamberlain and Don DeFord were present for the Resolution. Georgia explained this was the annual action and the receipts from the National Forest Reserves for 2006 is \$467,024.41. She explained the distributions made to the school district and the road and bridge fund.

Patsy stated this allows the County Treasurer's office to distribute the \$467,024.41 as it's broken down in Section 1 and Section 2. The reason it's broken down this way is because these are the directives we receive on how to break it down. We're required to give at least 5% of that total amount to the School Districts; of the remaining 95%, 15% of that has to go into Title 3 projects and these are projects in our Road and Bridge money that qualify for the Title 3 work that they do on National Forest road and the remaining 85% of the 95% goes to Road and Bridge.

Chairman Martin stated this is broken down in Title 2. This also allows the County Treasurer to report back to the State Treasurer on how it was distributed and this language makes it very clear and easy for the County Treasurer to report back to the State. And failure to do so means we are not in compliance and then we lose the entire \$400,000 plus. We've been working on this one for a long time.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Resolution concerning distribution of receipts from the National Forest Reserves Funds 2006 and direct the County Treasurer to so notify the State Treasurer.

In favor: Houpt – aye Martin – aye McCown – aye

TRAILS AND TRANSPORTATION - ROCKY MOUNTAIN RAIL AUTHORITY DESIGNATION OF COUNTY REPRESENTATIVES TO BOARD OF DIRECTORS

Don presented the Addendum to the agreement creating Rocky Mountain Rail Authority entered into by Clear Creek County and the Town of Monument effective November 20, 2006 and the Board of County Commissioners of Garfield County that hereby approves this addendum in order to become a member of the Rocky Mountain Rail Authority. Don stated the Board approved the contribution of \$10,000 for the fiscal year 2007 however they did not take action to designate the representative and alternate.

Commissioner McCown – since Tresl has shown a great deal of interest in this, he nominated Commissioner Houpt as the representative and Chairman Martin as the alternate.

Chairman Martin agreed and seconded.

In favor: Houpt – aye McCown – aye Martin - aye

Executive Session: Discussion and Direction the Vezzoso litigation; Discussion and Direction regarding Glenwood Meadows Affordable Housing Project; the informal review of the code violation and receive direction; a land use involving CMC - land acquisition for the airport; update on the Silt Litigation and BAA litigation. Also, property transfer owned by Garfield County in Rifle Village South, Carolyn –advise for a form lease for private development at the Airport and Ed's topic - bids for the airport.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session to discuss the aforementioned items. Motion carried.

Staff needed would be Marvin Stephens for the County Road 204; Ron Van Meter and Andy Schaller for the code violations; and Brian Condie for the Airport

A motion was made by Commissioner McCown and seconded by Commissioner to come out of Executive Session; motion carried.

Action Taken

No action will be requested on Items 2a – Meadows Affordable Housing or 2c: CR 204 but there may be later action on those today.

AIRPORT – FUEL SPILL

There is a need to conduct remediation activities at the Airport as a result of the fuel spill that occurred last week and because of the emergency nature of that I think the request is to authorize the staff to proceed with Terracon immediately starting tonight and it would seem appropriate if Ed would state a dollar value for having Terracon doing that work and completely waiving your contracting requirements based on the emergency nature of this process.

Ed said the bid is \$22,800.

Commissioner McCown made a motion that Terracon be the emergency clean up vendor in an amount not to exceed \$22,800.

Commissioner Houpt seconded.

In favor: Houpt – aye Martin – aye McCown - aye

JUSTICE CENTER - MEETING WITH THE CITY OF RIFLE CONCERNING THE PROCEEDING OF THE NEW JUSTICE CENTER IN RIFLE

The decision of the Board was to continue that item from the 16th meeting rather than setting a special meeting so if you would direct staff to agenda a meeting with the Rifle City Council on the 16th agenda for a 17th continued evening meeting at 6:30 p.m. at the Human Services Building. This was later changed to the 18th.

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-fund Transfers
- d. Changes to Prior Warrant Lists
- e. Authorize the Chairman to sign a Resolution of approval and Conditional Use Permit allowing a church at 0097 Lions Ridge Road. Applicant: Basalt Congregational of Jehovah's Witnesses – Craig Richardson
- f. Authorize the Chairman to sign the Resolution of approval and Special Use Permit Accessory Dwelling Unit at 4399 County Road 301. Applicants: Arthur and Ethna Weissner – Craig Richardson
- g. Approval of the February 20 and 28 Board Minutes – Jean Alberico

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a – g; carried.

REGULAR AGENDA

PUBLIC MEETINGS:

RETAC ISSUES- DISCUSSION – NANCY FRIZELL

Tim Hohan of Grand River Hospital, Nancy Frizell of Valley View Hospital, and Carl Smith were present.

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Carl Smith presented the progress report prepared by Danny Barela for the 2007. There are a number of goals. This report was approved by the NWRETAC on March 12, 2007. This involves the system development goals for 2005 – 2007. The report outlines the goals and what has been done and what is still needed for each goal. The report was very comprehensive and complete.

They are developing a standard medical procedure for all hospitals and hopefully publishing these this week. They are also working with Pitkin County in establishing the same plan.

Carl reviewed the goals with the Board. He highlighted the work done by the NW RETAC.

RETAC - IGA DISCUSSION

An IGA was submitted for the Board's signatures establishing the Northwest Regional Emergency Medical Services and Trauma Advisory dated January 25, 2007 between the Garfield County Board of Commissioners, Mesa Commissioners, Moffat Commissioners, Rio Blanco Commissioners and Routt Commissioners known collectively as the "Five Counties". Some changes to the IGA between the NW RETAC and the NW County BOCC's was submitted as well and explained that the IGA is still important to pursue whether or not we are trying to become a non-profit. This was drafted by the Routt County attorney and recognizes there are some things they need to do. He asked for direction on the IGA.

Don has been in discussions with the Routt County attorney. RETAC's are established by the State Statutes and an IGA is not needed. The current RETAC doesn't have authority to hire and retain vehicles and a real question about whether this Board or others would want to establish and set out duties – you don't need an IGA to perform the statutory duties but if you want to go further you do.

There was a long discussion of the pros and cons of going beyond the statutes and hiring a director. The statute doesn't allow this. This is strictly to develop a plan. This RETAC and others are doing a great deal more than this. If you limit your activities to the statute it doesn't provide for hiring personnel and purchase of vehicles. If you do, then we need an IGA to do this and create a funding source.

Nancy Frizell – there are 11 RETAC's and most are 501 3c – others are like we are but all have coordinators and involves a lot of time developing the plan and carrying out the work and reports as to where things stand. Don said we would need a comprehensive IGA that sets a funding source and liability.

Carl Smith thinks that other RETACs do have IGA's.

Commissioner McCown – when the RETAC was formed another \$75,000 was given to form the RETAC for administration and now that it has gone beyond. The administration costs have started eating into the portion that used to come directly to the County in a \$15,000 grant. This has a lot of heartbreak with a lot of counties. We did get the \$15,000 in 2007 but have been told this may be the last because of the rising administration costs. This raised the question with AGNC by Commissioners there as to what authority are they raising the administration costs and they don't have the authority to hire anybody. Yet they are taking money out of the historical funds that is already coming to the County to purchase vehicles, pay for fuel, insurance, and hire a person. This has gone beyond the \$75,000 they were given initially to administer the program. This IGA is establishing a Northwest Regional Emergency Medical Service – that's already established – it was established by statute. The IGA that you're wanting the counties to sign goes well beyond the authority of the statute and allows it to go forth and do whatever it sees fit at the direction of its members.

Claire said a County can take a position.

Commissioner McCown doesn't have a problem of the AGNC taking control.

Commissioner Houpt – there is a need to find an avenue for being able to access grants.

Nancy – this is the 501 3c process. The IGA and 501 3c are not the same and they voted not to proceed with the 501 3c.

Chairman Martin – this establishes a separate legal entity and it would become a new governmental activity.

Carl – it clearly defines what we can and cannot do.

Don – RETAC is a state advisory committee established under state law to provide and develop the medical services plan and this is all that is in the statute. If you want to do more it becomes a separate entity and accomplishes things that the County performs such as dispatch. Right now this is an entity in terms of liability, it is a State operation.

Nancy – they are not even authorized to have the Coordinator.

Don – John Merrill and he have talked and they both have some concerns. By default the RETAC has been asked and have done various things not covered under the statute. If you want the RETAC as an organization, then there will be staff and property that go beyond establishing the plan and it requires some action.

Commissioner McCown – the \$15,000 has always come to the County for distribution. It has gone from \$75,000 basically which is born by AGNC and then the office space is donated by Garfield County. If you had to go out and work in the real world, that \$150,000 would not operate your entity.

Nancy – That \$15,000 or \$75,000 does come through the State from RETAC. Garfield County is the entity to receive the funds.

Commissioner McCown – Do we have the authority to create a government by signing an IGA?

Don – yes, the same way as you created the dispatch authority and the communications authority. It can be a separate legal entity as long as it is going to provide services that are within County powers then you can create a separate legal entity to do that.

Commissioner McCown – but on that entity, the County's controls the representation on that Board; here, the State Statutes control the representation on the RETAC board.

Don – if you create a separate legal entity you determine who sits on that board and the point you made earlier about if state law goes away, the separate entity would not go away because it essentially would be performing services other than just the development of a plan.

Commissioner Houpt – we can debate the pros and cons of this particular IGA forever but we just received a report on some extensive work that's been done and couldn't have been done without some coordination and couldn't be continued without some formal or organized or understood coordination and so the question is as a county, do we really think this is important and if so can we at least work with these guys to figure out how to continue to make that happen and give them tools to continue the service that they are doing. If you need to have some greater authority to be able to continue that, we need to figure out as a commission whether we agree - whether it be through this IGA or some other format – how we give them the tools.

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Chairman Martin – it needs to be a uniform approach and we need to have Eagle, Pitkin and others on board. Northwest AGNC is in those 5 counties and is supposed to coordinate and that’s our plan. We need to make sure that the coordinator is doing enough interaction with the other coordinators so those plans do go together. Maybe we should have the AGNC folks doing more work than these guys because they’ve been assigned tasks and then they report and put their plan together. Remember this is advisory, it’s about a plan – it’s how to initiate that plan and if that plan is there and there are step by step functions that are being done then we need to keep these guys informed and the coordinator is the one to make sure it works together and he’s already getting paid.

Nancy – We all do work in our own counties because the needs of this county may not be the needs of the whole region. The coordinator brings expertise to all the county levels and not sure how we’d do it without a coordinator.

Chairman Martin – that’s why the 5 counties came together with that conclusion.

Dale Hancock – the County, as my understanding, has a responsibility to license those ambulances apparently into perpetuity in that licenses and RETAC are within two different statutes or some subdivision thereof. The other part of this has to do with the finances where there’s been a concern identified today and in a meeting with the finance director to talk about finances in general with respect to all the RETAC. In pursuant of a policy type answer we will be having a sit down with our auditors this week to at least identify what the county’s solid financial position is with respect to having a relationship with RETAC. Just to identify especially they have undertaken some different practices and how this \$15,000 is being expended; part of that revolves about some carry over money from the 2006 subsidy that the auditors will have to identify whether that is eligible for carry over or not or returnable to the state or to the County Treasurer.

Commissioner McCown was under the understanding that Garfield County was one of the few counties that draw that money by invoice only. The other counties have chosen to take the full \$15,000 – Garfield County through their ambulance personnel and emergency management personnel are drawing that money down by invoices at the AGNC. That money will stay in AGNC’s account until it’s all gone.

Dale said they met with RETAC representatives last year and briefed finance on this and determined it to be acceptable at that time. The carry forward provision is what’s complicated and we will discuss this with the auditors this week.

Commissioner McCown – the problem is how does this carryover gets to the County Treasurer when it goes to ambulance districts directly from AGNC. We should never see it. If we don’t draw the \$15,000 in distribution, we should never see it.

Dale – if we don’t see that then how do we fulfill our statutory responsibility of licensing ambulance agencies?

Commissioner McCown – that money is not earmarked for licensing ambulances – its separate deals.

Carl said that money does not come to the RETAC council until November 15th and you can’t spend money until you get it so we have carried over money to be fiscally responsible in doing multi-year projects. How do we go from here?

Commissioner McCown – the MOU is an agreement for the AGNC to be the entity.

Commissioner Hought – requested information on what other RETAC’s are doing without coordinators.

Nancy – all RETAC’s have a coordinator.

Chairman Martin – am I going to agree to go ahead and do an IGA, no, not at this time. There are too many things that give me heartburn as well as in state Statute, and then we have the funding source that we’ll be responsible for in the end. What is the role of the state and what happens to their money, etc?

Commissioner McCown – this is an example of how the bureaucracy grows. The RETAC was given very specific tasks when they were formed and they have taken it on themselves to hire directors and go beyond that and do training for everyone at the direction of their boards is how this all happened.

Nancy said on Coordinators – your Board had to approve hiring Danny Barela to be the coordinator. She said they brought this proposal to the Commissioners. All the Commissioners approved before we could do that. Commissioners McCown – I don’t recall seeing that but I’m not saying it didn’t. He wants what is best for the County.

Nancy – historically, the Trauma Advisory Council, which was one of the precursors of the RETAC, had a coordinator and when the RETAC was formed those two councils were put together and initially we started out with two coordinators but that evolved and now we just have one. There was always a coordinator of some percentage or FTE. The RETAC and the SENTAC – one is regional and one is State.

Commissioner McCown – these are state mandated programs but they just didn’t go far enough.

No action was taken on the IGA.

Don will be the contact person for the other information requested regarding how other RETAC’s are handled.

BUILDING AND PLANNING - VACATION AND RELEASE OF “ACCESS EASEMENT” AS SHOWN ON PLAT RECORDED MAY 13, 1986 UNDER RECEPTION NO. 370998 – MACKIE SUBDIVISION EXEMPTION- BOB NOONE

Bob Noone was present representing Ursula M. Cowgill.

A draft letter was submitted from the Commissioners to Ms. Ursula M. Cowgill from Carbondale to confirm that the Board of County Commissioners claims no interest in the access easement as outlined in the letter.

This showed up on a deed.

Bob Noone said it was never conveyed but in 1986 on an exemption plat; it appears but there was no conveyance or acceptance by the County. It was never placed on the County road map but 13 years later there was an amended plat and on the face of the plat an anomaly occurred and this was before the County adopted regulations for vacating a public road. It is our position and the title companies are amenable to accepting this with the approval of the Commissioners. This cures the title. Ms. Cowgill owns both parcels on each side of the easement.

Don – this ground was originally intended to be used for access to the County road which no longer exists.

A motion was made by Commissioner McCown to sign the letter of release of access easement for the Mackie Subdivision Exemption.

Commissioner Hought seconded.

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In favor: Houpt – aye McCown – aye Martin - aye

WILLIAMS PRODUCTION UPDATE – STEVE SOYCHAK

Steve Soychak, Blake Rouse, project manager and Susan Alliviar, human relations director were present.

Steve provided the Board with a Power Point on Williams Production and the plans for 2007.

Steve said it was formerly Barrett and now Williams. They joined the community in 1984 and employee 130; 70% live in Garfield County and there are 1900 contractors and of those 30% reside in Garfield County.

In addition there are 130 Denver employees that support the facility, basically engineers and support staff.

Economic impact is more than \$257,000,000 for 2006 and each rig creates 50 jobs with average salary of \$50,000.

In 2006 they drilled 420 wells and in 2007 they plan to drill over 500. 90% will be in Garfield County. They plan to invest \$1 billion in 2007. Energy is provided to 2,400,000 homes.

Piceance Valley

A map was shown within the 20 mile corridor of Grand Valley Field, Parachute Field and the Rulison Field. Technologies improving the development process and technological advancements have been made by Williams. They were the first to reduce natural gas flaring by 95%, recycle and handle produced water in more environmental friendly way, reduce odors through combustion devices, work with the community to monitor air quality, implement wellhead automation, design and implement offshore rig design for pad drilling and up to 75% less surface. They have the ability to view all well activity from their facilities and this reduces truck traffic.

Directional drilling extends reach with minimal impact and they developed the ability to tap multiple wells through single well location with less surface impact.

The new rig they designed to accomplish direction drilling is the new 21st century technology to drill multiple wells with even less surface impact. They have a 3-year commitment for 10 next generation rigs. They can drill 22 wells off a single well pad.

They will be getting four (4) new rigs for Nabors – the Super Sundowners will be arriving in May of 2007 which will be comparable to HP rigs.

The benefits of the new rigs is more compact and eliminates the pipe handling, more fuel efficient, fast reclamation, less vehicle traffic, and safer operation through automation. They are also quieter with reduced emissions. Skidding ability greatly increases efficiency.

Improvements have been made to wildlife habitat and they purchased over 1000 acres in 2005 and 2006 to improve the habitat of mule deer, turkey and trout. Due to some year around drilling on BLM lands, Williams has participated in mule deer studies and has seasonal restrictions on some of the offsetting private lands.

Environmental programs – they implemented a three year pilot program with BLM and DOW and contributed \$600,000 to the Mule Deer study. They have a pad reclamation study with CSU School of Agriculture. The HP pad has potential to reduce surface disturbance by 75% versus conventional rigs. Staff has increased by 50% in the past year, implemented a storm water management program to comply with new regulations, ongoing facility camouflage study with Departments of Energy, Interior, and Defense and they received the COGCC award for outstanding operator new technology.

Susan and the entire Williams staff have worked on community outreach involving tours, the “South of the River Field Operations Plan” and distributed these to residents, they conducted baseline Hydrogeologic study for Holms Mesa and held community meetings on the study and results. They received the COGCC Best Operator AWARD for Community Relations mostly due to the \$1 million contribution to CMC.

Piceance Highlands – Blake Rouse, in charge of this area.

Leases were acquired in 2005 and he has since drilled 70 wells which are producing. They have operations in both Garfield County and Rio Blanco County. Garfield County statistics: 57 producing wells, 24 MMcf/d gross productions, invested \$120,000,000 in the last three years. They employee 6 full time and 200 contractor employees.

2007 - 37 new wells and approximately \$95,000,000.

Wheeler Gulch Road Project – approximately 4 miles in length, tunnel 3,200 feet in length 24 feet wide, 12% grade. It is 7,876 altitude at the lower portal and 8,240 feet altitude at the upper end portal. This will save 5,750 gallons on diesel saved per well drilled and helps minimize traffic impacts on the Roan.

Willow Creek Project in Rio Blanco - Susan Alliviar – public relations director presented. This is a new gas processing plan in Rio Blanco County and will process 450 million cubic feet per day. This will go on line in early 2009; the pipeline extension will be completed in 2008.

There will be more traffic on Hwy 13 getting the equipment to the area.

They presently have 10 rigs in the County and will have 4 new HP rigs for Nabors.

PUBLIC HEARINGS:

John Gorman and Lisa Warder were present.

Chairman Martin swore in the speakers.

ASSESSOR - ABATEMENTS – LISA WARDER

GM OVERLIN, INC. 07-142

Schedule No. R043020

The petitioner states that the taxes assessed against this property for 2006 are incorrect because the property was replaced by the Overlin Park Subdivision, but the original property was never deleted off of the tax role for 2006. split last year in the Overlin Town Homes. It was double taxation. The abatement amount is \$2,099.92.

One motion

ASSESSOR – ABATEMENT - CITY OF RIFLE, COLORADO - 07-141

Schedule No. R410037

This property was given to the City of Rifle on November 29, 2006 which would make the property exempt for the rest of 2006. The abatement amount is \$1012.48

ASSESSOR – ABATEMENT SAFEWAY STORES 46 INC. 07-144

Schedule No. R007042

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The property was protested in 2006 and stipulated before the BAA Docket #46603 and went to hearing. The 2006 and 2005 values were based on same data; therefore the 2005 must be abated to reflect the 2006 stipulated value. The abatement is for \$4,992.04.

A motion was made by Commissioner McCown to approve the abatements: GM Overlin, Inc. 07-142 Schedule No. R410037 in the amount of is \$2,099.92; City of Rifle, Colorado - 07-141 Schedule No. R043020 in the amount of \$1012.48 and Safeway Stores 46 Inc. 07-144 Schedule No. R007042 in the amount of \$4,992.04.

In favor: Hought – aye McCown – aye Martin - aye

PUBLIC MEETINGS:

AIRPORT - DRAFT HANGAR LEASE DISCUSSION – BRAIN CONDIE

Brian Condie and Carolyn Dahlgren were present.

Brian submitted the draft hangar lease and requested discussion on the draft.

Carolyn told the Commissioner they have approved conceptually a number of private hangar operations out at the Airport however the Board has never had a formal hearing under our minimum standards, which requires 7 days notice to be published. Then the BOCC approves or disapproves considering the recommendation of your airport manager on each and every one of those applications. We're hoping to get those scheduled before the Board on April 16th. Over the last couple of years we have talked about Sky Griffin which is also Tectonics, Mr. Savage on his small hangars, WestIn GA, Mr. Woodward, Mr. Wooldridge and Mr. Evans. Again those all have been concept plans.

Also, the BOCC has not yet approved a form private hangar agreement and that's in the packets today and we have some very specific content issues to discuss. We are hoping on April 16th for the Board to make formal decisions on each of these applications and to have the Chair authorized to execute individual leases assuming you have approved the operating rights. These documents include both the operating rights and the lease hold interest in the land.

More amendments to the Minimum Standards are needed to clear up the fact that we have different types of private hangar operations and we realize that our minimum standards do not match what Brian and the Board wants to happen on the ground.

This draft hangar lease discussion has gone out to all hangar operators who are interested in developing private hangars at the airport. Some comments have been returned.

AIRPORT - FORMAL ACTION ON OWNERSHIP OF THE METAL HANGARS.

Brain said back in 2003 –2004 we looked at why no private hangars were developed in the last 20 years and now the last 6 months a flood of operators have come forth. We are working on ownership structure of the private hangar that would actually allow them to get to retain the structure and they could sell it, remove it or negotiation a new lease, sell it or move the hangar.

Commercial operators – the title passes to the County when the lease expires. That was the big change presented to the Board back in July 2004.

Lease Term – now 40 year lease terms and the term is 30 plus 2-5-year renewals. Commissioner McCown suggested we might go to a 20-year lease with two 10-year renewals with a punch list at each time.

Currently we are out of room for the larger jet hangars and there is a waiting list for commercial hangars.

Savage and Wooldridge Hangars – discussion on a cap on the structure not to go up every year (currently we are tied into the CPI so we go up every year.) They asked for 100% lease cap rate so that the lease rate would not increase more than a .5% and the motion was made not to consider a .5% rate of 150% for the hangars out here for private hangars. "Ed ran the numbers and after 20 years we'd be .4cents behind at that current rate.

This is one way they could be protected; Carolyn disagrees with that. Carolyn cautioned the Board we did not have this in other leases."

This is a cap on what was discussed about 3 years ago.

Carolyn referred to specific sections of the draft that deals with these and also pointed out that these are sections on use and limit the uses that can happen under this private hangar agreement. It does allow for limited commercial use but these hangars are mostly for personal use of their airplanes and may be renting out to one other person who's bringing in their owned or leased aircraft or several others but it is not a full blown commercial operation and they can't sell portions of their hangars to anyone else. It would be on a use basis or a lease basis. Also the office space would just be for the use of somebody who has their plane there and needs a little office; it's not to run a separate business operation as you could in a commercial operation. This will be addressed in the minimum standards.

These folks would be allowed to do self fueling of their own airplanes not their tenant's airplanes nor anyone else's airplanes if they have a self fueling permit. It is expected they will purchase fuel from the FBO but they could fuel their own plane assuming Brian allowed that under his authority under the rules and regulations and minimum standards. In order to do that they would have to create a new containment area and self fueling tanks, storage areas because our fuel farm area is at a max.

The grant assurances that every aircraft owner has the right to fuel his own aircraft and also lets the operating authority decide how that's going to be done. We have set the precedence in the past with the Rifle Jet Center when they made a proposal to be the FBO, we said our fuel farm is sufficient and if you want to buy a new tank, you can give it to the County and we will give you exclusive right of that but we will own the fuel farm for the protection of the County. If they want to fuel their own aircraft they can do that but now they have to build a containment area and a tank to our standards, give title to the County upon completion then they can use that tank exclusively as long as it is operated correctly according to the state standards. The BOCC is the permittee under the state standards not the individual airplane owner. We want to control all the environmental concerns.

Because this is not a commercial operation, there is no opportunity to use the lease and agreement for financing either for business operations or construction – these folks are on their own for getting their money for putting their building up. The security arrangements for giving security to the BOCC before they start construction is performance and payment bond or at the BOCC's options letters of credit to cover all of that. This is not that much different from the FBO situation, these are not public works like when you build a jail or a new office building and you own it but this is public land where private developers will own the metal

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that is sitting on the land. We still want security on the front end so that just in case, the private hangar operator should leave and leave with a half way built hangar, their security is there to cover all material and labor on liens.

Brian - at the end of the 40 years for the commercial lease we own the buildings so we can decide what to do. Carolyn also put in the lease that at the end of 40-years a new lease rate may be negotiated at the County's discretion so if the County decides the land is more valuable for something else, a terminal building, storage, then we can tell the hangar owner to remove his building because the BOCC owns the fee ownership and the land.

Brian will point this out to the owners.

Carolyn – private developers would like the idea of a perpetual lease, a guarantee at the end of 40-years the Board will be forced to negotiate a new lease with them, there's no such thing by definition. A perpetual lease is a sale and we can't sell our public airport. However these operators have as assurance they can get that a future BOCC would be willing to negotiate with them, but it all depends upon the facts on the ground 40 years from now.

Chairman Martin – noted there were 38 pages to the document just handed to them and felt Carolyn and Brian should come back. He suggested agenda items that need to be addressed in a format where they BOCC can check them off and move so the lease could go into effect.

Commissioner McCown – those items previously discussed are in there.

Carolyn said these were discussions and never was put into a formal motion.

More discussion occurred on the private fuel tanks and Carolyn said these are in compliance with the state regulations.

The Board wanted the 40 year term but felt it better to have two 20-year terms with a punch list at each of the 20 years.

Chairman Martin requested a complete outline referencing the pages and recommended changes so they could determine the actions taken or recommended to make the lease consistent with the decisions made prior to today. At that point with these conditions and recommendations this is the new lease and we can go forward with that.

Commissioner McCown recommended giving this to the board in advance of the meeting so they can review, make notations and be prepared for action.

They will come back with a Resolution on the Minimum Standards as well.

The goal is to have this for April 16th.

AIRPORT - JOHN HERR HANGAR PROPOSAL – JOHN HERR

Brian Condie, Justin Carver the FBO Rifle Jet Center and Carolyn Dahlgren were present. Brian stated these John and Susan Herr and Joel Sax were applying for the same parcel of land. Parcel 12B1 and in talking with both of them, 12B1 is land landlocked by the Rifle Jet Center. We talked to the Rifle Jet Center and if they will allow aircraft access through their right of way then Brian would recommend the hangar for aviation. They looked at that and Justin looked at their rental car operation and parking and it came down to the fact that it would be really difficult or almost impossible to get an aircraft access through there. So with that in mind Mr. Herr decided to wait to see if any of the parcels that are now reserved fall through or he would wait to build in 2-years east of DBS when the ground work is done. He elected to put his proposal on hold but it still very interested.

AIRPORT - JOEL SAX/DHL SORT CENTER – JOEL SAX

Joel Sax, Justin Carver the FBO, Brian and Carolyn were present.

This is behind hangar #3. An application was submitted for the development of an 8,125 sq. ft. building for DHL Express on Parcel 12B-1 at the Garfield County Airport. The proposed use is to build a 65' by 125' metal building for the purpose of sorting and distribution of mail and small packages by DHL

Discussion:

The current facility located in Rifle is not efficient for processing mail. He explained the problems. We started looked about a year ago looking for an alternative facility between Rifle and Glenwood Springs. The County will benefit for the 15 employees in the County and the Airport benefits by buying fuel and the landing fees. The employees will benefit with daily traffic in an out of Rifle – 400 vehicle trips per week estimated.

Joel explained the procedure of DHL in accessing the planes and storing the vehicles.

Brian – a commercial building lease and he is asking for right of way through the Rifle Jet Center.

Justin – they will give the right of access to Mr. Sax for this operation. They don't want to grant access for aircraft but will allow van access.

Brian – DHL does have access through the public access area.

Carolyn – we're not releasing anything of the Rifle Jet Center – this is a private lease agreement between the two entities.

Commissioner McCown agreed this is basically the best use for the land.

The board approved the concept plan.

COMMISSIONERS - RIFLE JOINT MEETING – APRIL 18, 2007 AT 5:30 P.M.

The discussion will center on the design of the facility and the 18th Street access being left open.

COMMISSIONER REPORT – DISCUSSION – CLUB 20 LETTER

Commissioner McCown – Club 20 letter – asking the Governor to please convene a stakeholders meeting, a blue print for energy production much like the transportation round table. It seems there is a tremendous number of Bills this year and this letter does not direct attention to any bill but there are a specific number of bills that could create a perfect storm effect much like Amendment 23, Tabor and Gallagher has done with the well being of the state finances. Most of the Bills that are alluded to on this are Bills that affect the oil and gas industry information from the COGCC, they are simply asking that the governor have a go-slow effect and appoint a blue ribbon panel to come up with a state-wide energy blueprint and they are asking the various county governments sign.

Commissioner Houpt is very supportive of the various Bills that are being discussed in the Legislature at the present time, the reconfiguration bill, the public health bill, the wildlife resource bill, and I think that what they do is give the COGGC more tools to do their job and I don't think that you still wouldn't be able to have

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a blue ribbon panel on energy they actually might even compliment each other but if this is a letter saying hold off on signing these bills and put a panel together then I'm not willing to lend my support to this. Those bills need to go forward. Energy Bills has been discussed for a number of years and were discussed when Russ George was in office – this is not a new topic. She could not support the letter.

Chairman Martin – read it and it has no reference to any Bills other than what is your actual overall view and it states to please share with those that are affected. What we would like to do is have a conversation and that panel is one to get the conversation going. There's nothing binding, nothing that statute would prohibit in reference if the bills were passed in both houses and put on the Governor's desk for him to sign or to veto, that's up to him to do; we're not interrupting the process. Through Club 20 and again a non-political issue but what we are doing is affecting at least 12 if not 14 Bills that are just on severance tax alone and the redoing of severance tax and priorities of where that money is and also forgetting the impacts that we're supposed to be taking care of – give us an overall blue print of where you're headed with this energy policy, the changes etc. so that again we're able to address what we will have to – he has done this with transportation.

Commissioner McCown – this letter does not ask the Governor to delay the signing of any legislation.

Commissioner Houpt – well it says we may have different views on each specific bill but it's been introduced and collectively believe that the hurried debate needs to be slowed enough to consider the cumulative of impacts of these pieces of legislation. I do know that the governor received a letter last week saying please slow the process and don't sign these Bills and this implies the same thing. He has pulled off of the severance tax discussion, he's not talking about re-directing that right now but if there is any reference to the current legislations and any inference that we want it to be slowed and the discussion shouldn't be completed during this legislative session, I cannot support that. The bills before the legislature this year are well thought out and make a great deal of sense and also think the blue ribbon panel on energy would make sense, if that's what the letter is talking about but I have to ask that certain sentences to be taken out so there is not implied that those bills should be set aside until further discussion.

Chairman Martin – this is a Club 20 and we are members of Club 20 and it's already been sent that I know of by Club 20.

Commissioner McCown – they sent us a letter of a different nature, a group of legislators had signed a separate letter but this one is to ask the counties to look at and see if there's a willingness to participate and no one thought Gallagher, Amendment 23 or TABOR would either, but playing off of each other after a period of time we have seen how they didn't work and think the folks behind this and including myself, we just need to take a good look at what is going to be the residual effect of some of these actions enacting with the other legislation.

Commissioner Houpt – the severance tax question needs to be looked at and everybody wants a piece of that pot. But it's quite different from the authority Bills being presented.

Commissioner Houpt – wants the letter to be clearly stated that this is from two of the Commissioners, not her position to slow down the process. She will not sign the letter

Since both Commissioner McCown and Chairman Martin agree with the letter, it will be sent.

BUILDING AND PLANNING - CONSIDER PLAT AMENDMENT LOT 29 FOUR MILE RANCH SUBDIVISION. APPLICANT: ARCHITECTURAL LAND COMPANY, LLC. GREGORY KONTOUR – MARV RAY

Marv Ray presented.

This is a request from the owners of Lot 29 of the Four Mile Ranch Subdivision (currently a vacant lot) to reorient the previously approved building envelope and slightly increase the size of the existing building envelope. This would essentially rotate the previous building envelope by a few feet clockwise and remain in the same setback locations. No opposition was voiced by the Four Mile Ranch Design Review Committee or from affected adjacent property owners.

Recommendation:

Staff recommends the Board of County Commissioners pursuant to Section 6:10 of the Subdivision Regulations of 1984, as amended and approve the amended plat with the following conditions:

1. That all representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's office of Garfield County. The amended final plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in Section 5:22 of the Garfield County Subdivision Regulations.

A motion was made by Commissioner McCown to approve the amended plat with the two recommendations of staff. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING: - CONSIDER A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT GENERALLY LOCATED NORTH OF THE TOWN OF SILT AND SOUTH OF THE INTERSECTION OF COUNTY ROADS 237 AND 250 AT 1491 COUNTY ROAD 237.

APPLICANT: MS. LLOYD AND MR. PEGG – MARV RAY

Don DeFord, Marv Ray, June and Fiona Lloyd, and David Pegg were present.

Don DeFord reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Marv submitted the following exhibits: Exhibit A – Proof of Publication; Exhibit B – Garfield County Zoning Regulations of 1978 as amended; Exhibit C – Staff Memorandum dated 4-2-07; Exhibit D - Application and Exhibit E – Power Point Presentation.

Chairman Martin entered Exhibits A – E into the record.

DESCRIPTION OF THE PROPOSAL

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The Applicant is proposing to locate an approximate 1437 sq ft. Accessory Dwelling Unit on approximately ten 10 acres of property. Presently, the site consists of two (2) existing dwelling units built in 1920 and 1940. The issued well permit allows water services to the two (2) dwelling units. Therefore, one of the existing two structures, the smaller one approximate 844 sq. ft. “cabin” built in 1940 is planned to be removed. Then the existing larger dwelling unit built in 1920 and the proposed ADU will be serviced by the said well permit. The structure’s wastewater is handled via an existing ISDS permitted by Garfield County. The Applicant is requesting the Board of County Commissioners to approve a Special Use Permit to allow the location of the proposed 1437 sq. ft accessory dwelling unit on the ten 10 acre site along with the existing dwelling unit built in 1920.

Water to the unit is provided by a valid well permit # 64912 with an approved augmentation contract from West Divide Water Conservancy District (contract #S060921JNT (b)). Sewer is provided by an ISDS already permitted by Garfield County.

The proposed access is via an existing driveway off of (CR 237) which also serves the main house. Based on this information, the proposed access appears to be both legally and physically adequate. Staff finds this requirement is met.

The ADU is proposed to be located approximately 150 ft. south of the existing dwelling unit located in rural ten (10) acre setting thereby minimizing impacts to adjoining property owners. Staff finds this requirement is met.

The property contains 10 acres which exceeds the minimum acreage required and virtually all of the property contains slopes less than 40%. This standard is exceeded.

The ADU will combine an upstairs loft, main floor, and basement totaling 1437sq. ft. which is less than the maximum allowed. A floor plan is included in the application. This standard is met.

The property is not located within a subdivision. This standard does not apply.

The Applicant provided a valid well permit (#64912) which serves the main house. The well permit has been augmented by an additional 1-acre feet of water from West Divide Water Conservancy District to serve the ADU (contract #S060921JNT (b)). The application materials contain both the approved well permit as well as the approved augmentation water from West Divide. This standard is met.

The applicant received a permit (#3544) for the Individual Sewage Disposal System (ISDS) from Garfield County, which is adequate to serve the ADU. This standard is met.

The unit will allow leasehold interests in the unit only. This standard is met.

Future construction shall comply with the current 2003 International Residential Building Code and/or other appropriate construction code adopted by the county. This standard is met.

RECOMMENDATION

Staff recommends **APPROVAL**, with the following condition:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2. A well pump test provided prior to issuance of a building permit.
3. All lighting associated with the ADU shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
4. The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended, and shall meet all building code requirements.
5. The accessory dwelling unit shall not be conveyed as a separate interest but may be leased.
6. The smaller “cabin” built in 1940 consisting of approximately 844 sq. ft shall be removed from the site prior to issuance of building permit.

Applicant: The mother is from Scotland and not getting any younger and they would like to build her a home on their property and assist in taking care of her.

The square foots is less than allowed for an ADU. It has 3 floors, a basement, a loft and the main floor.

Commissioner McCown moved to close the public hearing; Commissioner Houpt seconded; motion carried.

A motion was made by Commissioner McCown to approve the Special Use Permit for an accessory dwelling unit with the 6 conditions as recommended by staff.

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - aye

PUBLIC HEARINGS:

BUILDING AND PLANNING: CONSIDER A REVISED PRELIMINARY PLAN FOR BIG R ENTERPRISES LOCATED APPROXIMATELY 2 MILES EAST OF THE CITY OF RIFLE ON HIGHWAY 6 & 24. APPLICANT: BIG R. ENTERPRISE, LLC – DAVID PESNICHAK

Don DeFord, David Pesnichak, Barb Clifton from Stuver, Lemoine and Clifton and Bob Regulski were present.

Don reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

David submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Subdivision of 1984 as amended; Exhibit D - Zoning Regulations of 1978 as amended; Exhibit E –Garfield County Comprehensive Plan of 2000; Exhibit F - Application materials; Exhibit G – Staff memorandum; Exhibit H – Resolution Number 2004-132; Exhibit I – Staff report submitted by Jim Hardcastle dated to the Planning Commission on 10-13-2004 and the Board of County Commissioners on 12-6-2004; Exhibit J – Letter from Mark Vanarelli of the State of Colorado, Office of the State Engineer Division of Water Resources; Exhibit K – Copy of well extensions approved by the Division of Water Resources, dated received 1-25-2007 and Exhibit L – Email from Matt Sturgeon of the City of Rifle, dated 1-29-2007. Chairman Martin entered Exhibits A – L into the record.

Chairman Martin swore in the speakers.

David noted in his staff report that this was heard before the BOCC on 12-6-2004.

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Davis reviewed the proposal and highlighted the changes made to the original application.

The access is from State Highway 6 & 24 and (CR 221 Emergency only).

Development Proposal and Site Description

The Applicant proposes to subdivide a 32.36 acre parcel of Commercial General zoned property into 10 commercial lots, 9 of which are approximately 2+ acres in size with one lot of 8.91 acres. The property is fronted by State Highway 6 & 24 on the southern property line and County Road 221 on the northern property line. The Applicant proposes to access the property at three separate points off of SH 6 & 24 as well as providing an emergency access point on and off of the property at the northern property line onto CR 221. The property is relatively flat and is partially cultivated and irrigated as well as containing several existing commercial operations throughout the property.

The Applicant proposes that each lot will be served by an individual well. The Applicant has well permits for each lot within the subdivision. The existing development on Lot 1 is served by two existing wells.

Existing land uses surrounding the proposal are commercial, residential and agricultural in nature. The surrounding zoning is **C/G** (Commercial General), **A/R/RD** (Agricultural/Residential/Rural Density) and **A/I** (Agricultural/Industrial). Additionally, the proposal is located within Area II of the Garfield County Comprehensive Plan and the 3-mile Study Area of the Rifle Comprehensive Plan and identified as County Commercial.

PROJECT UPDATE – REVISED PRELIMINARY PLAN

This commercial subdivision was previously reviewed by the Planning Commission on October 13th, 2004 and approved by the Board of County Commissioners on December 6th, 2004 by Resolution 2004-132.

The revised Preliminary Plan was heard by the Planning Commission on February 14, 2007. The Planning Commission is recommending that the Board of County Commissioners approve the revised Preliminary Plan by a vote of 4-0.

Due to physical constraints on the property, notably a high water table, the applicant is proposing an alteration to the fire protection system as specifically required in Condition Number (8)(1) of Resolution 2004-132:

The Applicant shall provide a minimum of 180,000 gallons of fire protection water to the proposed site. Hydrants shall be spaced a maximum of 500 feet from a structure and shall be capable of providing a minimum of 1500 gallons per minute at 20-PSI residual pressure with a flow of a minimum of 100 PSI. All pipes, pumps, etc. shall meet nationally recognized standards. The Applicant shall perform a pressure test of the underground piping (200 psi for two hours) and a flow test of the pump and hydrant for final acceptance of the system prior to the Final Plat approval.

As Colorado River Engineering has explained in a letter dated May 30, 2006 to Chief Morgan of the Rifle Fire Protection District:

During development of the final engineering design of the project problems were encountered that have prompted system design changes. *The primary design constraint was the size of the concrete tank combined with a high groundwater table posed a risk to future settlement of soils and tank degradation.* The complexity of the pumping systems also became mechanically complicated.

We have explored options and Mr. Regulski would like to *request that the fire suppression system requirements be reduced with an increased commitment to early detection and warning systems.* As proposed the revised plan would provide:

- Early Detection Systems installed in all of the existing enclosed buildings (six) and required installation on all new buildings.
- 100,000 gallons of on-site storage be provided using smaller +/- 50,000 gallon storage tanks and dry hydrants for direct pumping.

The Rifle Fire Protection District has responded in a letter dated August 22, 2006 stating:

The District understands that you intend to provide two (2) 50,000 gallon storage tanks that are connected together and a distribution system. It is also our understanding that notification systems will be installed for occupant evacuation and fire department notification.

The District has accepted your proposal with the following understandings:

1. Final approval and acceptance of all fire protection systems will be required upon completion.
 2. The District will continue to work with you and your engineers for final design and acceptance of the fire protection water systems.
 3. This decrease in water requirements does not negate any other building or fire code requirements including but not limited to future buildings requiring fire sprinkler systems.
 4. The systems installed on these properties will serve primarily as “life safety” systems.
- The ability of the District to suppress fires may be limited due to fire protection water capacities. The District accepts no liability for this adjustment in code requirements.

The Office of the State Engineer, Division of Water Resources has stated in a letter dated January 22, 2007 that (See Exhibit J):

Based on the above, it is our opinion, pursuant to CRS 30-28-136(1)(h)(I), that *the proposed water supply is physically adequate and will not cause material injury to decreed water rights*, so long as the Applicant obtains and maintains valid well permits for the proposed wells pursuant to a court approved plan for augmentation or pursuant to the District’s temporary substitute supply plan.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners approve the Revised Preliminary Plan for the Big R Commercial Subdivision for the following reasons: 1) Given that the only change from the original approved Big R Commercial Park per Resolution 2004-132 is pertaining to fire protection measures, and; 2) the Garfield County Planning Commission is recommending approval of this application by a vote of 4-0, and; 3) the Rifle Fire Protection District has recommended approval of the proposed changes, and; 4) that the State Office of the Engineer, Division of Water Resources has issued a letter of No Material Injury. Staff

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recommends approval with the following conditions (Alterations from the original Resolution 2004-132 are highlighted below. Note: Original condition number 3 from Resolution 2004-132 has been removed):

1. All representations of the applicant, either within the application or stated at the Planning Commission or Board of County Commissioners hearings, shall be considered conditions of approval.
2. Prior to Final Plat approval, the Applicant shall obtain and maintain valid well permits for the proposed wells pursuant to a court approved plan for augmentation or pursuant to the District's temporary substitute supply plan.
3. This has been satisfied. The Applicant shall submit an ISDS operation and maintenance plan which is adequate and consistent with other commercial approvals for a non-discharging system for the proposed subdivision prior to approval of the Final Plat. All ISDS must be designed by a Registered Professional Engineer in the State of Colorado and are for domestic waste only. An initial attempt shall be made to identify projected ISDS uses and all upgrades shall require a separate septic permit at the time of new building permit issuance.
4. The Applicant shall be required to develop a covenant prohibiting the discharge of any caustic materials or heavy metals prior to approval of the Final Plat.
5. The Applicant shall submit and gain approval of a City of Rifle Watershed Permit, and submit said permit to the Garfield County Building and Planning Department prior to BOCC approval of the Final Plat.
6. The Applicant shall create a Lot Owner's Association (LOA) and covenants to address in detail all future interior road maintenance of the proposed subdivision and modifications to the approved access permits in the Colorado Department of Transportation ROW due to increases in ADT. All documentation regarding the LOA and the allocation of payment and the responsibility and how such costs will be allocated within the lot owners for the CDOT improvements of the internal road shall be submitted with the Final Plat. The interior road shall be paved and built as a minor collector, constructed as per County requirements, dedicated to the public and maintained by the Lot Owner's Association and cannot be private unless approved as such through a Planned Unit Development. Parking shall be addressed at the time of all new building permit reviews.
7. The Rifle Fire Protection District requires the Applicant shall design and install fire protection measures and provide the proposed design and cost to be detailed in the Subdivision Improvements Agreement which shall be submitted prior to Approval of the Final Plat. These measures are noted below:
 - a. The Applicant shall provide a minimum of 100,000 gallons of fire protection water to the proposed site which is to be equipped with a dry hydrant connection. It shall be the responsibility of the Lot Owners Association to maintain the system including, but not limited to, filling and maintaining the water level of the cistern(s) at all times.
 - b. Each new and existing enclosed building shall be equipped with an early detection fire alarm system consisting of, at a minimum, heat detection, smoke detection where applicable and manual activation.
 - c. The main internal road, as well as all individual driveways and easements shall be constructed to accommodate the heavy weight of fire apparatus during adverse weather conditions. Roadways shall be a minimum of 24 feet in width and shall be in place and accepted prior to Final Plat approval.
 - d. The internal access road for emergency vehicles to County Rd. 221 shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of 13 feet 6 inches.
 - e. Addresses shall be posted in a conspicuous location so they are readily identifiable.
 - f. Each individual building shall be reviewed at the building permit phase to evaluate any additional fire protection requirements. These additional items may become necessary depending on the type of construction and use of the buildings.
8. The Applicant shall implement and follow the noxious weed management plan found in the application and place this plan in the Lot Owner's Association "Declarations of Covenants, Conditions and Restrictions.
9. The Applicant shall treat and remove Russian olive trees that are present on the property prior to Final Plat approval.
10. The Applicant has submitted documentation which states that all lots shall be prohibited from any dwelling uses. This restriction shall be detailed in the Lot Owner's Association "Declarations of Covenants, Conditions and Restrictions" to be submitted with the Final Plat. The document will further state that "future residential use is possible on specific lot(s) with approval of the BOCC pursuant to a re-subdivision process including preliminary and final platting with approval of a water supply plan, payment of school impact fees, review of traffic impacts and all other review required by the land use code of Garfield County then in effect."
11. All utility extensions shall be laid in the same trench.
12. The Applicant shall add these plat notes to the Final Plat:
 - a. "Individual City of Rifle Watershed Permits shall be required for all new uses on all lots and a copy of the current and site specific permit shall be submitted with any new applications for a building permits."
 - b. "The owners of all lots shall be prohibited from constructing or using any existing structures for any dwelling uses. This restriction is detailed in the Lot Owner's Association "Declarations of Covenants, Conditions and Restrictions" as submitted as part of this Final Plat. The document provides that "future residential use is possible on specific lot(s) with approval of the BOCC pursuant to a re-subdivision process including preliminary and final platting with approval of a water supply plan, payment of school impact fees, review of traffic impacts and all other review required by the land use code of Garfield County then in effect."

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- c. “All ISDS systems must be designed by a registered Professional Engineer.”
 - d. “Each new individual building shall be reviewed at the building permit phase to evaluate any additional fire protection requirements and no permit will be issued without a Rifle Fire Protection District approval letter.”
 - e. “Site specific geotechnical studies shall be conducted for individual new lot development and a copy of each pertinent study shall be included as a part of all new building permits applications.”
 - f. “The Maximum Lot Coverage for all Commercial uses shall be eighty-five percent (85%).”
 - g. “All streets are to be dedicated to the public, are not private, and shall be maintained by the Lot Owner’s Association as detailed in the Declaration of Covenants.”
 - h. “All permissible Commercial establishments in this district shall be allowed when these four (4) requirements are observed;
 - i. All fabrication, service and repair operations are conducted within a building;
 - ii. All storage of materials shall be within a building or obscured by a fence;
 - iii. All loading and unloading of vehicles is conducted on private property;
 - iv. No dust, noise, glares or vibration is projected beyond the lot;”
 - v. All outdoor lighting shall be directed downward and inward.
 - i. As each new Building Permit is submitted to the Garfield County Building and Planning Department, each lot owner shall also submit the most recent up-to-date “count of the actual average daily trip analysis” as required to be determined by the Lot Owners Association and approved by the Colorado Department of Transportation at various intervals throughout the development of the lots in the subdivision, as described in the Access and Utilities/CDOT Permit Compliance section of the Declaration of Covenants, Conditions and Restrictions for Big-R Commercial Park.
- J.** “It shall be the responsibility of the Lot Owners Association to maintain the fire protection system including, but not limited to, filling and maintaining the water level of the cistern(s) at all times, all associated fire protection infrastructure and the early detection system.”
- k.** “Each new and existing enclosed building shall be equipped with an early detection fire alarm system including but not limited to, heat detection, smoke detection where applicable and manual activation.”

Discussion:

Barb Clifton – this is coming back due to the problem with the fire protection and this is the only change.

Commissioner McCown noted a Scribner’s error on the numbering of the conditions.

David recognized the error and the 9 should be

A motion was made by Commissioner McCown to close the public hearing.

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown to approve the request the preliminary plan for Big R Commercial Subdivision with the conditions of staff as noted in the staff packet.

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR EXTRACTION, PROCESSING, STORAGE AND MATERIAL HANDLING OF NATURAL RESOURCES AND DEVELOPMENT IN THE 100 YEAR FLOODPLAIN FOR A GRAVEL EXTRACTION OPERATION. APPLICANT: GYPSUM RANCH, LLC. – FRED JARMAN

Don DeFord, Bill Roberts - operator, and Tim Thulson of Balcomb and Green for Gypsum Ranch, LLC. were present.

Don reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Fred submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Comprehensive Plan of 2000; Exhibit E -Application materials; Exhibit F – Staff memorandum; Exhibit G – Comments from CDOT dated 12-20-2006; Exhibit H – Comments from county Vegetation Manager dated January 3, 2007; Exhibit I – Letter from the Division of Water Resources dated 01-03-2007; Exhibit J – Letter from the USACE dated 9-14-2006; Exhibit K – Letter from the USACE dated 12-15-2006; Exhibit L – Memorandum from the County Road and Bridge Department dated 12-15-2006; Exhibit M – Letter from the Loesch and Crann Ditch Company dated 12-28-2006’ Exhibit N – Letter from the Mayor of the Town of Silt received 1-2-2007; Exhibit O – Resolution No. 23 from the Town of Silt demonstrating eligibility for annexation; Exhibit P – Letter from Mountain Cross Engineering dated 1-3-2007’ Exhibit Q – Letter to the Planning Commission from Jeff Payne; Exhibit R – Letter for the Planning Commission from Doug Grant; Exhibit S – Letter from the DOW to County dated 1-2-2007; Exhibit T – Letter to County from B & G regarding DOW donation dated 1-12-2007; Exhibit U – Anonymous letter; Exhibit V – Staff Power Point Presentation; Exhibit W – Email from Bobby Hayes; Exhibit X – Photo from Doug Grant; Exhibit Y – Photo from Dug Grant; Exhibit Z – Email from Ken Brenner dated 1-10-2007; Exhibit AA – Letter from the Loesch & Crann Ditch Company dated 2-5-2007; Exhibit BB – Letter from John Savage dated 3-7-2007; Exhibit CC – Photos from Banks & Gesso dated 1-18-2007; Exhibit DD – Letter from the Town of Silt dated 1-26-2007; Exhibit EE – Road Impact Royalty Agreement; Exhibit FF – Environmental Noise Impact Review Analysis (EDI); Exhibit GG– Revised TIS by Felsberg, Holt, & Ullevig dated February, 2007; Exhibit HH – Revised Berming Screening & Buffering Plan dated 3-15-2007. Exhibit II – letter from Will Spence from DOW – email received today; Exhibit JJ – letter from Western Power Administration received on March 29, 2007.

Chairman Martin entered Exhibits A – HH into the record.

REQUEST

The Applicant requests approval of a Special Use Permit for “Extraction, Storage, Processing, and Material Handling of Natural Resources” and Development in the 100-year Floodplain for a Gravel Extraction operation on approximately 110 acres of a 168-acre property. On November 13, 2006, the Board of County Commissioners referred the request to the Planning Commission for a recommendation.

GENERAL LOCATION / SITE DESCRIPTION

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The property, in its total configuration, consists of 163 acres, which is split by I-70. The Application proposes all of the mining activity to take place on the southern 110 acres below I-70 which has historically been used in agricultural activities primarily including irrigated hayfields, pasturing, and other farming activities. The property is served by two irrigation ditches (The Rising Sun Ditch and the Last Chance Ditch) as well as several laterals used to irrigate the fields which are proposed for relocation.

The property is characterized as relatively flat Colorado River bottomland. The Colorado River forms the north property line of the property with only a small shoreline fronting the southern half of the property proposed for mining. The riparian areas along the Colorado River include limited stands of mature cotton wood stands. The property contains several areas of jurisdictional wetlands comprising approximately 7.31 acres.

Improvements to the property include several farming structures and abandoned buildings to be removed along with several dry utilities along the southern property boundary (some of which are to be relocated). There is an existing natural gas pipeline in the northeast portion of the property with several other proposed natural gas pipeline shown on the “pre-mining” map. Lastly, Antero has just finished drilling on one pad on the eastern portion of the property and is currently drilling on a second pad in the SW corner of the property.

GENERAL PROJECT DESCRIPTION

The Application proposes to actively mine the southern 110 acres (area below I-70) over the course of the next 11.1 years to extract the sand and gravel at a rate of approximately 500,000 tons per year. The proposed mining plan includes 5 specific mining areas to be mined in an east to west direction. The mining activity includes locating a processing plant in the center of the property which includes product sifting and sorting machinery and asphalt and concrete batch plants. Following this, top soil and overburden are removed and stockpiled and the resource is dug out of the ground by heavy machinery. The pits are to be dewatered since mining is proposed well below the ground water table to a total depth of 25 feet. The resource is then made ready for sale where it will be weighed at the remote scale next to the office then sent out to market.

As the mining of one phase is completed, it will be reclaimed as the mining for the next phase begins which primarily includes regrading / re-contouring the slopes of the pit walls with overburden and topsoil to grades that allow for wall stability and also vegetation and wildlife mitigation to occur. At that point, dewatering will cease allowing the water table to seep into and fill the pit. Once the water has fully recharged the pit, the water-reliant plant species are to be established along the banks of the pit.

The property is also located within the “Colorado River Corridor District” which is an area along the Colorado intended to “recognize development potential of the land adjacent to the Colorado River, while at the same time preserving the floodplain, open lands, historic values, and sensitive riparian environment.”

In further support, based on the letter from the Mayor of the Town of Silt, the Town was (and remains) eager to annex this property and the proposed use into the Town. Specifically, the letter states...***“The Town of Silt was not opposed to a gravel operation within our boundaries...In fact, if the applicant had submitted the same proposal to the Town of Silt that they have now submitted to the County, they would already have been annexed and be operating.”*** To this end, the Town signed and recorded a Resolution of Substantial Compliance with stating that the property was eligible for annexation.

GARFIELD COUNTY COMPREHENSIVE PLAN

If the County’s Comprehensive Plan is to be used in this review regarding future land use designations, the property has been designated in Study Areas 2 and 3 as ***“Privately owned lands with site specific limitations to be evaluated at plan review.”*** To this end, virtually any land use, so long as it was consistent with the uses in the AI zone (underlying zoning) district would be considered “compatible” in this location so long as the environmental (geologic / hydraulic / slope) challenges were appropriately mitigated through plan review. In addition, Staff has included the majority of goals, policies, and objectives from the plan that relate to gravel extraction for your review:

A) GOALS

- Garfield County recognizes that under Colorado law, the surface and mineral interests have certain legal rights and privileges, including the right to extract and develop these interests. Furthermore, private property owners also have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner and to have adverse land use impacts mitigated.
- Garfield County will encourage the development of a diversified industrial base for the County which recognizes the human resources, natural resources and physical location-to-market capabilities of the community, and which further recognizes and addresses the social and environmental impacts of industrial uses.

B) POLICIES

- Garfield County, to the extent legally possible, will require adequate mitigation to address the impacts of mineral extraction on adjacent landowners. These measures may include the following:
 - A. Landscaping and screening;
 - B. Modification of phasing or area to be mined;
 - C. Roadway improvements and signage;
 - D. Safe and efficient access routes;
 - E. Drainage improvements to protect surface and groundwater.
- Dust, odors and fumes should be contained within the extraction site generating such emissions and should not negatively affect any surrounding land use.
- Landscaping and screening will be required to address specific visual impacts of industrial development.
- Zoning regulations and a review process will be developed and enforced that recognize the differences in size, scope, and type of industrial development. A hierarchical review process will be developed which respects the unique land use issues based on the size and scope of the project. The County will require impact mitigation for these projects, when appropriate.
 - The project review process will include the identification and mitigation of transportation impacts related to industrial development.
- Garfield County, in coordination with relevant special districts, authorities and municipalities, will

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require that developers of energy or mineral extraction projects finance the construction and operation of any public improvements which, now or in the future, will be required by their projects.

- Garfield County will require developers of mineral extraction projects to participate in and contribute to the funding of the County's monitoring of the demographic changes and socioeconomic impacts associated with such projects. The applicability of this policy will be assessed on a case-by-case basis by the Board of County Commissioners.

- County zoning regulations regarding industrial development will be compatible with land use policies of adjacent jurisdictions.
- C) OBJECTIVES

- The County will ensure that mineral extraction activities will not adversely affect the natural environment, including air quality, water quality, wildlife habitat or important visual resources.
- Encourage the location of industrial development in areas where visual, noise, air quality and infrastructure impacts are reduced.
- The County, through the implementation of the Comprehensive Plan, Zoning, and Special Use Permit, will address future compatibility issues with current mining operations.
- Ensure that Zoning Regulations addressing Commercial and Industrial uses reflect the changing land use patterns and demographics of the County and encourage the further diversification of the County's economy.
- Ensure that the type, size and scope of industrial and commercial development are consistent with the long-term land use objectives of the County.

The Application proposes bringing potable water to the property as well as portable toilets. In the past, due to the longevity of the proposed use (at least 11.1 years) the Board has recommended that these services be provided on site and not rely on vendors. It appears the converted Office structure may be able to supply both potable water and sanitation service as it presently exists. Mountain Cross Engineering (on behalf of Garfield County) echoes Staff comments with the following:

1. *Water hauling is proposed for potable use at the extraction site. Generally speaking, hauling water has not been considered a reliable source. Alternative sources may need to be investigated.*
2. *Portable toilets are proposed to be used and located out of the floodplain. Since a large amount of the site is expected to be inundated during a large magnitude flood it would be prudent to have acceptable toilet locations predetermined.*
3. *The existing residence is proposed to be used as an office for the life of the gravel pit. The type of the existing sewer connection is not mentioned. If the current residence is using an ISDS for waste water treatment, the sizing and performance of the system should be verified for the uses expected and also conflict with the floodplain.*

The proposed gravel operation proposes to generate the following traffic defined as average annual and daily trip generation:

<i>Trip Type</i>	<i>Annual</i>	<i>Average Daily (Vehicles Per Day)</i>
<i>Sand & Gravel Delivery Trucks</i>	<i>24,695</i>	<i>174</i>
<i>Service Vehicles</i>	<i>1,168</i>	<i>8</i>
<i>Employees (6 total)</i>	<i>2,336</i>	<i>16</i>
<i>Total</i>	<i>28,199</i>	<i>198</i>

The chart on the left shows the hourly distribution of those trips.

The property has direct frontage onto CR 346 (Airport Road), which is a two lane County Road that links Silt with Rifle along the south side of the Colorado River. A portion of this same road has been annexed into the Town of Silt, which falls inside of the Stillwater Development boundary including a portion of CR 346 and CR 311. (It is the position of Garfield County that the County has no obligations to ownership or maintenance of those segments of CR 311 and 346 that have been annexed.) The Application proposes that the project will utilize two entrances onto CR 346 for the life of the project. Typically, vehicles accessing a gravel pit are large and heavy.

The Application contains a revised Traffic Impact Study (TIS) prepared by Felsburg, Holt, and Ullevig, which analyzed the total trips and their respective turning movements at nearby intersections.

In summary, the report states that the *site will generate approximately 200 daily trips with 20 of these trips during the AM peak and 16 during the PM peak. Based on the results of the traffic analysis, the existing, Short Range Future and Long Range Future scenarios are projected to operate at acceptable Levels of Service (LOS) with existing lane geometry and traffic control. In order for trucks to safely enter the site, the following roadway improvements are recommended:*

- *Construct a 310-foot deceleration lane for the eastbound left turns into the site from CR 346; and*

Staff Agrees, but also raises the question of the potential need for an east-bound acceleration lane for slow-heavy trucks leaving the site competing with faster east-bound trips coming from the S-curve west of the property.

- *Construct a 310-foot deceleration lane for the westbound right turns into the site from CR 346. [Staff Agrees]*
- *Although not required to accommodate gravel pit traffic, it is recommended that the Grand River Gravel Pit pay a proportionate share of the cost (based on trips generated) to construct an exclusive left turn lane at the CR 346 / 311 intersection when it is constructed as part of the Stillwater Ranch development. [Staff Agrees]*

Note, the original TIS did not include the background traffic that is be generated from the proposed Stillwater Ranch and Ferguson Crossing developments. As a result, the Planning Commission required the Applicant to

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revise the TIS to accommodate the these two developments in their long term forecasting models due to the direct impact they will have at the major intersections within Stillwater including CR 311, 331 and 346.

[This is important because Staff just received a referral from the Town of Silt for the Stillwater Phase I development entitled “Meadow Wood Village” Preliminary Plan which contemplates 550 dwelling units, a golf course, two school sites, community center, water treatment site, parks, fire and police services, etc. The trips from the residential portion alone are approximately 5,263, which will primarily access the 346 / 311 intersection to get to Silt and I-70 a majority of time.]

Therefore, given this development, Staff would agree with the Applicant’s traffic consultant that the Grand River Gravel Pit, while not required, should pay a proportionate share of the cost (based on trips generated) to construct an exclusive left turn lane at the CR 346 / 311 intersection when it is constructed as part of the Stillwater Ranch development. This idea is also supported by the County’s Comprehensive Plan:

- *Garfield County, in coordination with relevant special districts, authorities and municipalities, will require that developers of energy or mineral extraction projects finance the construction and operation of any public improvements which, now or in the future, will be required by their projects.*

Road Impact Royalty Agreement: The Planning Commission required the Applicant to meet with the Town of Silt and possibly the representative of Stillwater Development to discuss any opportunities that might address road impacts the gravel operation might have on the Town’s roads within Stillwater. To that end, a meeting did take place which resulted in a Road Impact Royalty Agreement between the Applicant and the Town of Silt which is attached to this memorandum. The main points in the agreement include the following:

- The Operator (Applicant) is willing to pay a \$0.10 / ton royalty (collected monthly) to the Town of Silt for road impacts associated with sand and gravel extraction from the subject property;
- The royalties collected are to be spent by the Town on maintenance and/or improvements to the portions of CR 311 and CR 346 that fall within Stillwater as well as other roads in the Town used by the operator as haul routes;
- While not currently in place, the Town is contemplating the creation of a “Traffic Impact Fee”. The agreement states that if a new fee is established, the operator is responsible for paying the fee, but that the operator shall receive a credit against a new fee of the royalties already paid. If the new fee demonstrates that a new fee would be less than \$0.10 / ton, the Town shall not be required to provide a refund back to the operator; and
- If the Town de-annexes all of the roads listed above, the Town shall remit the remaining funds to the operator, not including the value of any expenditure made or committed for expenditure prior to the date of annexation and this agreement shall terminate.

Staff suggests should the Board approve the SUP request, that a condition of approval require the Operator / Owner of the gravel operation provide the County with the royalties in the contract if said roads are de-annexed from the Town of Silt.

The County Road and Bridge Department reviewed the proposal and stated they have no objection to this application with the following comments:

- 1) Any access/s to the proposed gravel pit will need driveway access permit/s issued by Garfield County Road & Bridge Department. The access permit/s will have conditions specific to the driveway/s. This will include stop sign/s at entrance to R. 346 (Rifle-Silt Road). The stop sign/s and installation shall be as required in the MUTCD (Manual on Uniform Traffic Control Devices). Paved or concrete apron/s shall also be required as specified by the issued permit/s.
- 2) All truck traffic shall enter and leave the gravel pit site from the east and not go west on CR 346 to the Mamm Creek interchange. This portion of CR 346 has 90 degree corners and narrow road sections and has not been added to the preferred haul routes as designated by Garfield County Road & Bridge Department for industry travel. By having all truck traffic entering and leaving to the east it will also help eliminate the noise and congestion going past the Wildlife Sanctuary that borders the proposed gravel pit operation. This may help address some of the concerns of the owners of the Wildlife Sanctuary if they knew this was a requirement of the gravel pit operation.
- 3) Garfield County Road & Bridge Department at this time is seeking funding to completely rebuild CR 336 (Jenkins Cutoff) the main cross road between CR 315 (Mamm Creek) and CR 331 (Dry Hollow Road). If the funding becomes available for 2007 CR 336 (Jenkins Cutoff) will be shut down for construction and CR 331 (Dry Hollow Road) will become the preferred haul route to access the drilling operations south of Silt. Trucks leaving the gravel pit would only have to go the east for approximately 1-mile on CR 346 (Rifle Silt Road) to access CR 331 (Dry Hollow Road).
- 4) If road damage on CR 346 becomes evident due to the traffic generated from the gravel pit operation, the Road and Bridge Department shall require that repair or replacement of the road surface as determined by Garfield County Road & Bridge Department become the responsibility of the owners or operators of the gravel pit operation.
- 5) If the gravel pit operation is approved, Garfield County Road & Bridge Department would request an onsite visit with the owners or operators to determine the safest location for the driveway access/s.

Staff referred the Application to the Colorado Department of Transportation (CDOT) due to the site’s proximity to and proposed use of I-70. CDOT reviewed the proposal and stated

This site will not access the state system directly; it will access by Garfield County Roads. The submittal did have a traffic impact study (Grand River Park Gravel Pit dated September 2006, by Felsburg Holt & Ullevig). This report indicated no need for an access permit. I agree based upon the applicant numbers (198 trips). However, the study did not take in account passenger car equivalent for the Section 2.3(e) of the Access Code. This will effect percentage change at I-70 Frontage/GCR 311; however, it will still be less than 20%.

Mountain Cross Engineering reviewed the TIS and stated *the Traffic Report for the future condition uses a growth rate that may be too low, when compared with the actual growth rate of the area. Also the report does not include traffic anticipated from adjacent proposed developments. These factors may change the results of the calculated future condition. The future condition ought to be reevaluated in light of the above.*

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In summary, it appears the project will generate a maximum of 200 daily trips which will not reduce the nearby intersections to a LOS below B in 2030 which is acceptable. The revised TIS continues to recommend the Applicant make specific improvements to CR 346 to provide for safe turning movements into the site. Staff questions the ability for large / heavy truck acceleration out of the site into traffic flow on 346. This is not addressed in the study. The Road and Bridge Department has also made several recommendations that need to be addressed specifically related to preferred haul routes and damage to CR 346. In any event, should the proposal be approved, Staff recommends the TIS recommended improvements to CR 346 be completed prior to any mining activity and that the recommendations by the Road and Bridge Department become conditions of approval.

3. *Design of the proposed use is organized to minimize impact on adjacent uses of land through installation of screen fences or landscape materials on the periphery of the lot and by location of intensively utilized areas, access points, lighting and signs in such a manner as to protect established neighborhood character.*

Response

The Application states that they intend to minimize the visual impact of the gravel pit primarily by “sequencing” and “overall layout” of the pit’s design. Additionally, the intent is to mine from east to west so that the initial impacts are short lived in the overall scheme of the pits phasing plan so that the impact moves away from the residential areas in Stillwater Ranch (and the Town of Silt) as the operation progresses. Also, the processing operations (batch plants & sifting / sorting) occur in the bottom of the already excavated areas according to the Application. The proposed mining plan shows the installation of several 10-foot landscaped berms in specific locations to minimize certain visual and noise impacts to a very select few residential units. The challenge with most gravel extraction operations along the Colorado River is the fact that they all lay significantly below I-70 making them extremely visible to public view traveling the corridor which is almost impossible to screen. In this case, there are also a number of residential properties in the immediate vicinity of the site. The aerial photo below shows the location of these properties. [The Mining Plan (Exhibit C-2) in the Application shows the location and extent of the berms proposed by the project.] The main impacts to several of the nearby residents will be noise, heavy slow moving haul trucks on CR 346, dust, and visual impacts. The impacts to the general area will be increased heavy haul vehicles, dust clouds, and the visual impacts for at least 11 years until reclamation begins maturity.

The obvious land use challenge with any gravel extraction operation is that it is one of the most visually unappealing and surface damaging uses in the County that can occur on very large tracts of land. However, if reclaimed appropriately, the same property can be subsequently developed into beneficial uses that are visually appealing, provide recreation opportunities, establish certain beneficial wildlife habitat, and even increase water quality control by the additions of wetlands. The question remains as to how to deal with (mitigate) the intermediate and temporary obnoxious land use impacts until appropriate reclamation has matured. To this end, the Application proposes to limit maximum land disturbance to no more than 60 acres (55% of the total property) at any one time. Back filling and reseeded previously mined areas will occur concurrently with mining as much as possible.

It appears that the proposed gravel pit cannot be effectively screened even partially from view from I-70. Additional berming could be placed around the southern, western, and eastern property lines to screen views from future residents in Stillwater Ranch, existing residents in the Giomi Minor Subdivision and adjacent residential properties to the south and east, and from general public view along CR 346, but that has not been proposed. Staff finds that landscaped berms along the east, south, and a portion of the west boundary could go a long way to mitigate visual impacts to some residents as well as the traveling public on CR 346. Perhaps the overburden and topsoil removed from the pits in the beginning of the mining operation could be used for the berms.

Staff finds the Application, as presently proposed, could propose additional mitigation to further minimize the visual and environmental (noise & dust) impacts such as the following:

- 1) *In any mining phase, the mined slope length of 2H:1V will be backfilled as necessary prior to topsoiling and seeding. Generally, this is a milder slope of at least 3H:1V from 5.0 feet below the water line and higher. The amount of mined slope allowed to be present that is not backfilled at any given time is 1000 feet;*
- 2) *The amount of backfilled slope that is not top soiled is limited to 400 feet. Topsoiling is required on all surface areas down to 5.0' below expected water level.*
- 3) *Seeding and mulching according to the approved plan will occur on all top soiled areas each spring (March 15-April 15) or fall (September 15 to November 15) no matter how small the area is.*
- 4) *Within 6 months of finishing mining in any designated mining area (5 total), the area must be fully reclaimed including topsoiling, seeding, mulching, sapling planting, and water filling of the lake.*
- 6) *The operator will submit an annual report to the County with GPS measurements shown on a map showing the current disturbance, what areas have been backfilled, where topsoil stockpiles are located, all site structures, what areas have been seeded, mulched and what is planned for the ensuing 12 months.*
- 7) *All of the above are binding conditions of the County permit and the State Division of Reclamation, Mining and Safety. The Division of Reclamation, Mining and Safety can withhold the reclamation bond if the final reclamation is not executed according to the plans.*

Enforcement Options:

- a) *The County commits to notifying the Operator of any compliance concern and allows an inspection with site personnel and the designated County inspector prior to contacting any agency.*
- b) *The County can request a site inspection with one day’s notice to the Operator. Full access to any part of the site will be granted. On request, all paperwork must be shown. The County cannot request a large number of inspections that would interfere with normal operation without cause.*

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c) A full list of all other permits will be provided to the County. Any person at any time can call the following agencies directly and request an inspection if they believe a condition of that agencies permit is being violated.

- CDPHE Air Quality Control 303-692-3150
- CDPHE Water Quality Control 303-692-3500
- US Army Corps of Engineers 970-243-1199
- Division of Reclamation, Mining and Safety 303-866-3567
- CDOT Grand Junction office 970-248-7000

Agencies will issue violations with fines depending upon the gravity of the violation and the past history.

d) The County will be invited to any bond release inspection of the State Division of Reclamation, Mining and Safety. The County inspector will have the opportunity to demonstrate that any item of the permit has not been complied with and that bond should not be released.

e) The County will have the opportunity to evaluate the performance of the Operator with regard to the County bond and withhold portions of the bond if it is demonstrated to the Operator that certain conditions of the permit have not been met. The Operator acknowledges that the County has performance standards in place that could lead to revocation of the Special Use Permit if continued violations of the permit occur over a period of time.

Section 5.03.07 [Industrial Operations]

Pursuant to Section 5.03.07 of the Zoning Resolution, a permit for Industrial Operations requires the submittal of an impact statement on the proposed use describing its location, scope, design and construction schedule, including an explanation of its operational characteristics. The impact statement is required to address the following:

(A) *Existing lawful use of water through depletion or pollution of surface run-off, stream flow or ground water.*

Response

The Application is required to 1) demonstrate how the use will not adversely affect ground / surface water from a pollution perspective as well as 2) demonstrate that the use of water (legal water rights) have been obtained for the intended uses so that they do not adversely affect (injure) other water rights.

Regarding water quality, the DRMS governs and controls water quality issues within the permit boundary while the Department of Public Health and Environment (CDPHE) Water Quality Control Division maintains jurisdiction over water as it leaves the permit boundary. In this case, the mining program intends to dewater the separate pits during mining and discharge that water into the Colorado River which requires a Discharge Permit from CDPHE that regulates the method and expected quality of that water as it is discharged. The Application states that dry mining water pumping requirements may require up to 15,000 gallons per minute. No information (engineering design) was provided on how that water is to be discharged. Other Applications have provided details on the mining plans as to how this water is to be discharged. Additionally, the application does not demonstrate how stormwater is to be managed on and off site. While CDPHE and DRMS require this information for their permitting, the County also requires this information at the time of application pursuant to this standard which is not in the Application materials.

Regarding the legal use of water required for this project, the mine is required to obtain well permits as well as an augmentation plan to operate. Water usage demand includes dewatering the pits (augmentation water) and surface loss of filled pits, dust control, process water, and potable and sanitary demands. The total proposed annual water demand is 47.2 acre-feet. The Application states that they will be able to use water from both the Rising Sun and Last Chance Ditch for these uses.

In order to obtain the necessary water rights, Gypsum Ranch, LLC has submitted an application for water rights and a plan for augmentation to the Division 5 Water Court. An application for a gravel pit well permit and approval of a substitute water supply plan has also been submitted to the State Division of Water Resources. Neither has been approved as of the drafting of this memorandum. Further, as a courtesy, the Division of Water Resources, reviewed the proposal and stated that *prior to initiation of these uses of ground water, the Applicant will need to obtain a well permit and an approved water supply plan or decreed plan for augmentation before a permit can be issued.* Staff suggests that no Special Use Permit be issued until the Applicant has obtained approved well permits and a plan for augmentation (decree or Temporary Substitute Supply Plan) from the DRW.

Regarding physical water, Staff notes on page 19 of the permit request sent to the Colorado Division of Reclamation, Mining and Safety (DRMS), that there are several wells within a 600 foot vicinity of the proposed gravel pit. The Application states that *“preliminary analysis shows that the physical groundwater surface may be depressed at some of the inventoried wells; this effect is in the range of 2 to 15 feet and should not affect the viability of the wells as a water source. The operator continues to study groundwater effects and will pursue appropriate mitigation strategies if significant effects are identified through the course of the study.”* The Application shows that there are eleven (11) well owners within the 600 linear feet of the permit boundary.

The Application has not demonstrated that adequate water supply can serve the proposed gravel extraction use because 1) a gravel pit well permit and approval of a substitute water supply plan have not been approved by the State Division of Water Resources and 2) it remains uncertain how the gravel pit will affect the physical production of eleven nearby drinking wells which is a direct impact on the health, welfare and safety of the surrounding community. In addition, Staff finds that the Application has not demonstrated how the use will not adversely affect ground / surface water from a pollution perspective as required by this standard. This standard has not been met.

(B) *Impacts on adjacent land from the generation of vapor, dust, smoke, noise, glare or vibration, or other emanations.*

Response

The proposed use will generate dust, smoke, noise, and odors from the processing and batch plant and use of heavy machinery digging out the resource from the ground. The Application states that dust, odor, and smoke

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are regulated by the Colorado Air Quality Control Division of CDPHE. As the Board is aware, dust generation remains a significant issue with gravel pits where they are required to constantly remain below 20% opacity at all times as required by CDPHE. The Application states that blowing of dust off-site will be controlled by water spraying of disturbed areas and materials stockpiles and revegetation of screening berms to minimize erosion.

Because of the pit location between I-70 and CR 346, unmitigated or ineffectively mitigated dust control could cause a serious threat to public safety for those traveling those roads. Should the proposed use be approved, Staff suggests the Applicant furnish all State required approvals (APEN, Construction Permit, etc.) prior to issuance of a Special Use Permit.

Regarding noise, state statute states “Sound levels of noise radiating from a property line at a distance of 25 feet or more there from in excess of the dB(A) established for the following time periods and zones shall constitute (prema facia) evidence that such noise is a public nuisance.” The table below shows the zones and dB(A) acceptable for each zone and particular time.

Zone	7 am to 7 pm	7 pm to 7 am
Residential	55 dB(A)	50 dB(A)
Commercial	60 dB(A)	55 dB(A)
Light Industrial	65 dB(A)	70 dB(A)
Industrial	80 dB(A)	75 dB(A)

Since the standard requires that the “volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes at the time any new application is made, the Applicant commissioned an “Environmental Noise Impact Review” prepared by EDI. Their report provided the following conclusions:

The noise levels (dB(A)) was measured at the 6 nearest residences rather than at the 25 foot from property line as required by state statute as shown in the illustration to the left. The analysis shows that (at the residences) the maximum daily dB(A) is exceeded at houses 1 and 2 when the berm is being created. Other than that noise (which would be relatively temporary) none of the other proposed activities generate noise levels that exceed 55 dB(A) at the residences. Unfortunately, this study was not conducted in accordance with state law as the measurements were not taken at 25 feet from the emitting property. This makes other represented noise levels suspect. For reference, review the graph Staff used to analyze noise location:

The consultant states in their conclusion that “noise from on-going extraction and processing operations and all other stationary noise sources will be less than the required day time limit of 55 dB(A) and will also remain lower than the existing ambient noise. However, based on the location of where the noise level measurements were taken, Staff cannot confirm that the analysis is accurate and this standard has not been met.

Regarding hours of operation, the Application proposes hours of operation from 6:00 AM to 8:00 PM effectively six days a week. Staff suggests, should the Board approve the SUP request, the hours of operation be similar to what the Board required for the recently approved “Glen Pit” which are as follows:

The gravel pit hours of operation will be 6:00 a.m. to 8:00 p.m., Monday through Saturday and 8:00 a.m. to 1:00 p.m. on Sundays from March through November. The operating hours during the December through February period will be 6:00 a.m. to 6:00 p.m. Monday through Saturday.

Regarding lighting, the Application states they intend to use “down cast lighting or lighting affixed to rolling stock will be used to limit the visibility of lights that are incorporated in the operation.” As typically required of any use, all lighting shall be the minimum necessary, directed inward and downward towards the property. It appears vibrations produced from the operation will be minimal as no blasting is proposed and would most likely not be felt at the property boundary.

(C) *Impacts on wildlife and domestic animals through the creation of hazardous attractions, alteration of existing native vegetation, blockade of migration routes, use patterns or other disruptions.*

Response

The Application contains a “Wildlife and Habitat Assessment” prepared by Environmental Solutions which conducted an analysis of the wildlife and habitat value of the existing property as well as the post development impacts of the proposed gravel extraction use. While note mentioned in other parts of the Application, this report states (page 3) that the “project sponsor has proposed that the property be donated to the Colorado Division of Wildlife (CDOW) for use as a public State Wildlife Area once all mining and mitigation activities are completed.” [Interestingly, page 12 of the DRMS application states that the “permit area will be reclaimed using concurrent reclamation techniques, with the potential to release and/or dedicate future recreational land to the Town of Silt in stages.”]

The analysis described the existing state of the property, even with the existing wetlands, as having somewhat limited wildlife value due to the “generally degraded condition of most of the upland areas.” However, a wide variety of species do frequent the area. The analysis focused mainly on impacts to Mule Deer and Elk, the Bald Eagle, the Great Blue Heron, and the Sandhill Crane. These species were selected due to their regulatory status, sensitivity to human activities, known use of the study area, limited habitat resources in the region, and their ability to serve as indicators of probable effects to a variety of other wildlife species. The report provides the following:

Mule Deer and Elk: The property is not considered a high quality deer habitat and certainly does not receive use by this species. The DOW does map the area as Severe Winter Range for deer; but, because the lack of native shrub species and the bulk of the site being crop land or grassy

Wetland, there is little forage for deer. This is additionally compounded by the disturbance of I-70 and nearby residential development. Elk are not known to use the site with any regularity and appear to be challenged by the same development threats to deer.

Bald Eagle: There are no known nesting sites on the property with one known active site approximately 2 miles west of the property (LaFarge site). This may be due to the sparse mature cottonwood galleries used by raptors on this portion of the Colorado River riparian river front which limits its raptor value.

Staff met with the DOW in the area of the site to determine if there were nests located near the property. The only potential nest appears to be located within the existing heron rookery located on an island upstream from the subject property southeast of the Herons Nest RV Park in Silt. [An eagle was perched in the rookery during the site visit.]

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As you are aware, the US Fish & Wildlife regulates federally protected species such as the American Bald Eagle by the Endangered Species Act. The US Fish & Wildlife as well as DOW typically requires a ¼ mile non disturbance zone around a nest which extends to ½ mile during nesting and breeding season (January 1st to July 31st). To this end, Staff mapped the apparent nesting location and determined that the nesting area is over ½ mile upstream of the property.

Great Blue Heron: There is a known rookery located approximately 0.7 miles upriver from the property. No herons were observed on the property as the lack of mature cottonwood stands precludes such use. The existing foraging habitat and reasonable proximity to an existing rookery would indicate that it likely receives some use by this species at present.

Sandhill Crane: This species may use the property as a “stop over” spot during migration but there are no documented reports of cranes using the property.

Based on the above, the wildlife report (Section 6.0 Potential Effects of the Proposed Project) discusses the reclamation plan and its potential wildlife and habitat value. Notably, the plan states that the main four lakes and existing wetlands will provide for valuable upland and aquatic habitat producing additional food sources and protective cover for all the species mentioned above. Staff finds that, based on the report, the operation will not significantly adversely affect wildlife and provide for a better wildlife habitat once reclaimed than exists today.

Staff conducted a site visit with Will Spence of the Division of Wildlife on January 2, 2007. We walked the property with the Applicant and discussed changes to the reclamation plan since the Applicant has stated they intend to deed the property to the DOW after mining has completed. Additionally, the Applicant has met with the DOW several times prior to the Application to gain input on what DOW would like to see occur in the reclamation plan to best suit wildlife habitat.

Wetlands

Regarding wetlands, the US Army Corps of Engineers has issued a jurisdictional delineation for the property which generally regulates 7.31 acres of jurisdictional wetlands that are shown on the mining plan. There are other wetlands that the Corps agreed were artificial from irrigation practices and if irrigation ceased, so would the wetlands. Most importantly, the letter from the Corps includes a map of “potential wetlands” in the SW corner of the property that have not been delineated. However, no mining can occur in this area until a wetland delineation has occurred. This will need to be reflected on the official site plan.

Irrigation Ditches

As mentioned above, the property is crossed by the last Chance Ditch and the Rising Sun Ditch. To this end, the mining plan does not intend to relocate or impact the ditches. Additionally, the Leosch and Crann Ditch Company owns the Last Chance Ditch and had provided a letter with stipulations basically intended to place Gypsum Ranch, LLC on notice so as not to interfere with the operation and flow of the ditch system. Staff suggests these stipulations be considered conditions of approval.

Noxious Weed Management

The County Vegetation Manager reviewed the proposal and provided the following comments:

The applicant has inventoried the site for weeds and vegetation. However the specific location of the weed infestations are not identified on a site map. Staff requests that the applicant provide locations of county listed noxious weeds on a map.

Once the inventory is provided the applicant shall develop a weed management plan that addresses all county listed noxious weeds found on site. Of particular concern are the Russian-olives located on the site and along the two ditches. As the ditches act as facilitators of weed spread, as does the transport of gravel, we request that the applicant address the management of Russian olive on site within the first year of operation. This would also apply to tamarisk if found on-site, although the applicant's submitted inventory doesn't indicate tamarisk, staff believes that there may be some tamarisk on the property.

(D) *Affirmatively show the impacts of truck and automobile traffic to and from such uses and their impacts to areas in the County.*

Response

As mentioned above, the property has direct frontage onto CR 346 (Airport Road). The Application proposes that the project will utilize two entrances onto CR 346 for the life of the project. Typically, vehicles accessing a gravel pit are large and very heavy. The Applicant proposes that the gravel pit will requires that the following haul routes are to be used:

As can be seen from the chart above, the most directly affected roads are CR 346, 311, 315, I-70 Frontage Road. The Application contains a Traffic Impact Study (TIS) prepared by Felsburg, Holt, and Ullevig which analyzed the total trips and their respective turning movements at nearby intersections. In summary, the report states that the *site will generate approximately 200 daily trips with 20 of these trips during the AM peak and 16 during the PM peak. Based on the results of the traffic analysis, the existing, Short Range Future and Long Range Future scenarios are projected to operate at acceptable Levels of Service (LOS) with existing lane geometry and traffic control. In order for trucks to safely enter the site, the following roadway improvements are recommended:*

- *Construct a 310-foot deceleration lane for the eastbound left turns into the site from CR 346; and*

Staff Agrees, but also raises the question of the potential need for an east-bound acceleration lane for slow-heavy trucks leaving the site competing with faster east-bound trips coming from the S-curve west of the property.

- *Construct a 310-foot deceleration lane for the westbound right turns into the site from CR 346. [Staff Agrees]*
- *Although not required to accommodate gravel pit traffic, it is recommended that the Grand River Gravel Pit pay a proportionate share of the cost (based on trips generated) to construct an exclusive left turn lane at the CR 346 / 311 intersection when it is constructed as part of the Stillwater Ranch development. [Staff Agrees]*

Staff notes, the TIS did not include the background traffic that would be generated from the proposed Stillwater Ranch and Ferguson Crossing developments. Staff finds this to be an inadequate and inaccurate

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characterization of the significant growth in background traffic with Stillwater alone and the affect large heavy haul trucks will have at the intersection with CR 311 and CR 346.

This is important because Staff just received a referral from the Town of Silt for the Stillwater Phase I development entitled Meadow Wood Village Preliminary Plan which contemplates 550 dwelling units, a golf course, two school sites, community center, water treatment site, parks, fire and police services, etc. The trips from the residential portion alone are approximately 5,263 which will primarily access the 346 / 311 intersection to get to Silt and I-70 a majority of time.

Therefore, given this development, Staff would agree with the Applicant's traffic consultant that the Grand River Gravel Pit, while not required, should pay a proportionate share of the cost (based on trips generated) to construct an exclusive left turn lane at the CR 346 / 311 intersection when it is constructed as part of the Stillwater Ranch development. This idea is also supported by the County's Comprehensive Plan:

- *Garfield County, in coordination with relevant special districts, authorities and municipalities, will require that developers of energy or mineral extraction projects finance the construction and operation of any public improvements which, now or in the future, will be required by their projects.*

Based on this, the Applicant commissioned a revised Traffic Impact Study which has been

submitted to the BOCC that incorporates Stillwater Ranch and Ferguson Crossing developments even through the improvements would all occur on Town of Silt's roads. The net summary and recommendations didn't change in the revised report presented here as follows:

The County Road and Bridge Department reviewed the proposal and stated they have no objection to this application with the following comments:

- 1) Any access/s to the proposed gravel pit will need driveway access permit/s issued by Garfield County Road & Bridge Department. The access permit/s will have conditions specific to the driveway/s. This will include stop sign/s at entrance to R. 346 (Rifle-Silt Road). The stop sign/s and installation shall be as required in the MUTCD (Manual on Uniform Traffic Control Devices). Paved or concrete apron/s shall also be required as specified by the issued permit/s.
- 2) All truck traffic shall enter and leave the gravel pit site from the east and not go west on CR 346 to the Mamm Creek interchange. This portion of CR 346 has 90 degree corners and narrow road sections and has not been added to the preferred haul routes as designated by Garfield County Road & Bridge Department for industry travel. By having all truck traffic entering and leaving to the east it will also help eliminate the noise and congestion going past the Wildlife Sanctuary that borders the proposed gravel pit operation. This may help address some of the concerns of the owners of the Wildlife Sanctuary if they knew this was a requirement of the gravel pit operation.
- 3) Garfield County Road & Bridge Department at this time is seeking funding to completely rebuild CR 336 (Jenkins Cutoff) the main cross road between CR 315 (Mamm Creek) and CR 331 (Dry Hollow Road). If the funding becomes available for 2007 CR 336 (Jenkins Cutoff) will be shut down for construction and CR 331 (Dry Hollow Road) will become the preferred haul route to access the drilling operations south of Silt. Trucks leaving the gravel pit would only have to go the east for approximately 1-mile on CR 346 (Rifle Silt Road) to access CR 331 (Dry Hollow Road).
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- 5) If the gravel pit operation is approved, Garfield County Road & Bridge Department would request an onsite visit with the owners or operators to determine the safest location for the driveway access/s.

Staff referred the Application to the Colorado Department of Transportation (CDOT) due to the site's proximity to and proposed use of I-70. CDOT reviewed the proposal and stated

This site will not access the state system directly; it will access by Garfield County Roads. The submittal did have a traffic impact study (Grand River Park Gravel Pit dated September 2006, by Felsburg Holt & Ullevig). This report indicated no need for an access permit. I agree based upon the applicant numbers (198 trips). However, the study did not take in account passenger car equivalent for the Section 2.3(e) of the Access Code. This will effect percentage change at I-70 Frontage/GCR 311; however, it will still be less than 20%.

Mountain Cross Engineering reviewed the TIS and stated, *the Traffic Report for the future condition uses a growth rate that may be too low, when compared with the actual growth rate of the area. Also the report does not include traffic anticipated from adjacent proposed developments. These factors may change the results of the calculated future condition. The future condition ought to be reevaluated in light of the above.*

In summary, it appears the project will generate a maximum of 200 daily trips which will not reduce the nearby intersections to a LOS below B in 2030 which is acceptable. The TIS recommends the Applicant make specific improvements to CR 346 to provide for safe turning movements into the site. Staff questions the ability for large / heavy truck acceleration out of the site into traffic flow on 346. This is not addressed in the study. The Road and Bridge Department has also made several recommendations that need to be addressed specifically related to preferred haul routes and damage to CR 346. In any event, should the proposal be approved, Staff recommends the TIS recommended improvements to CR 346 be completed prior to any mining activity and that the recommendations by the Road and Bridge Department become conditions of approval.

(E) *That sufficient distances shall separate such use from abutting property which might otherwise be damaged by operations of the proposed use(s).*

Response

Generally, the proposed pits are a minimum of 50 feet from the property line for the entire property. To the northeast, there appears to be sufficient distance separating the gravel pit from the Colorado River with the 200-foot setback; to the north and northwest, there appears to be sufficient distance from I-70 with an approximate 190-foot distance. Any potential damage that could occur on abutting properties would come from either ambient dust or noise from the large trucks mining and sifting / sorting the resource as well as the possible odors from the proposed concrete and asphalt batch plant.

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The proposed sorting, crushing, processing and asphalt and concrete batch plant is primarily located in either the center of the 110 acres or in the northwest corner. This should reduce the noise and dust on adjacent properties. Further, the Applicant has committed to a dust suppression program to keep dust managed at the site. This dust management program should also apply to the portions of CR 346 for ½ mile in either direction. As you are aware, if dust generation exceeds 20% opacity, it is in violation of State Air Quality Control Commission regulations.

If noise exceeds the required dB(A), it is in violation of the State's noise regulations found in the state statutes. Regarding noise, state statute states *"Sound levels of noise radiating from a property line at a distance of 25 feet or more there from in excess of the dB(A) established for the following time periods and zones shall constitute (prema facia) evidence that such noise is a public nuisance."*

Again, abutting properties include I-70 and Colorado River to the north, vacant agricultural property to the west, 8 residential properties to the south, and a residential PUD in the Town of Silt to the east.

(F) *Mitigation measures proposed for all of the foregoing impacts identified and for the standards identified in Section 5.03.08 of this Resolution*

Generally speaking, the most significant / concerning component of this activity relates to how well the pits are reclaimed. The Application proposes a reclamation plan which includes details for final slope recountouring, shoreline undulation, wetland / upland revegetation planting type and amount which are all intended to occur as mining has completed in certain areas and as operations move into new areas. Additionally, the Applicant is required by state law to provide bonding (security) to the DRMS.

Even with all of the benefits that gravel provides the community from a development perspective, Staff finds there will be impacts that cannot be totally mitigated primarily including 1) visual impacts during mining and during reclamation for eleven+ years on the community and visitors to the County and 2) occasional dust clouds that may exceed 20% opacity that may have a detrimental affect on traffic on I-70 and CR 346 at times. Certainly a benefit and impetus to strong reclamation is the dedication of this property to the Division of Wildlife once mining as occurred.

Again, Staff recommends visual screening by landscaped berms where possible and effective such as on the east, south, and west property lines which is within the authority of the County. Clearly, the visual impact on I-70 cannot be avoided altogether.

(2) *Special Use Permits may be granted for those uses with provisions that provide adequate mitigation for the following:*

(A) *A plan for site rehabilitation must be approved by the County Commissioners before a permit for conditional or special use will be issued;*

Response

The Applicant proposes to reclaim the mining phases within the mining areas as the operation proceeds by doing much of the earthwork which involves laying back and recountouring slopes as mining continues in other phases. Due to the highly visible location of the property and its low elevation, the mining activity will be highly visually impacting and almost impossible to screen. The Application contains a reclamation plan which involves earthwork (recountouring of pit walls to acceptable slopes) occurring at the completion of each phase with the majority of reclamation which includes final grading, recountouring of slopes, filling with water, and replanting occurring only until after a mining area has been mined.

While Staff agrees with this effort, more could be done to reduce the overall / overtime visual impact of the operations such as 1) limiting the percentage of high-wall exposure at any one time, 2) limiting the amount of total site disturbance at any one time, 3) allowing the pits to partially refill per area during mining so that water would cover pit floors to resemble lakes rather than a dewatered pit floor, and 4) either removing the batch plants from the plan altogether or require them to be relocated in the pit floor rather than at grade. These are all methods currently in practice by other operators in Routt County.

Staff suggests as a condition of approval that approved reclamation plan in the Special Use Permit be resubmitted to the DRMS to become the only reclamation plan (tasks / timetables) used by both the County and DRMS. Additionally, a new bond shall need to be calculated to cover this plan and secured with DRMS to cover its implementation.

Staff finds the reclamation plan will improve the site from its post mining condition; however, should the Board approve the SUP, Staff suggests, to minimize the significant visual impact to the area, the mining areas should be fully reclaimed once they have been mined. To accommodate the mining progress, Staff also suggests that mining in a new pit could commence while the previous pit was being reclaimed / revegetated with a six month reclamation deadline provision.

More specifically, Staff suggests that mining operations could continue so long as the previous pit was reclaimed within 6 months after the commencement of the new pit mining operation. If the reclamation has not fully occurred in six months, all mining operations on the property shall stop until the reclamation / revegetation has occurred to the satisfaction of the County.

Staff finds the ultimate benefits to be gained from "reclaiming as you go" include 1) significant reduction in visual impact of the site on the community and traveling public throughout the life of the mining operation, 2) continual reclamation monitoring of the reclaimed lakes by the operator (on site responsible party) who would still be on site as they mined the other portions to ensure success, 3) not put off the establishment of the vegetation and habitat creation for ten years so that a good portion of the site would be "reclaimed" at the eventual end of the mining operation as a concession to already displaced wildlife from the site, and 4) the potential for a reduction in required security (bonding requirements) or earlier release of those funds at the end of the project.

The County Vegetation Manager reviewed the reclamation plan stating that "the applicant does commit to reclamation of an area as mining is completed in a cell; however this commitment is in general terms. Below is the language that we have either agreed to or requested on some of the other, recent gravel pit permits applications:"

- *Within 6 months of finishing mining in any designated mining area the area must be fully reclaimed including topsoiling, seeding, mulching, sapling planting, wetland preparation and water filling of the lake.*
- *Seeding and mulching according to the approved plan will occur on all top soiled areas*

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each spring (March 15-April 15) or fall (September 15 to November 15) no matter how small the area is.

The submitted plant material list is acceptable.

(B) *The County Commissioners may require security before a permit for special or conditional use is issued, if required. The applicant shall furnish evidence of a bank commitment of credit, bond, certified check or other security deemed acceptable by the County Commissioners in the amount calculated by the County Commissioners to secure the execution of the site rehabilitation plan in workmanlike manner and in accordance with the specifications and construction schedule established or approved by the County Commissioners. Such commitments, bonds or check shall be payable to and held by the County Commissioners;*

Response

In the past, the County has required operators submit security to the County to ensure reclamation occurs. As you are aware, the DRMS (via state statute) has attempted to preempt local regulations specifically regarding reclamation and security for reclamation. (See CRS 34-32.5-109(3) below).

"No governmental office of the state, other than the [Mined Land Reclamation Board], nor any political subdivision of the state shall have the authority to issue a reclamation permit pursuant to this article, to require reclamation standards different than those established by this article, or to require any performance or financial warranty of any kind for mining operations. The operator shall be responsible for assuring that the mining operation and the post mining land use comply with city, town, county, or city and county land use regulations and any master plan for extraction adopted pursuant to section 34-1-304 unless a prior declaration of intent to change or waive the prohibition is obtained by the applicant from the affected political subdivisions. Any mining operator subject to this article shall also be subject to zoning and land use authority and regulation by political subdivisions as provided by law."

This statute basically says the County has no authority to require any different reclamation standards than the DRMS or to require any additional reclamation security. [Note, the County has required this of a recently approved gravel pit operation and the applicant did provide such an additional security for "revegetation" as opposed to reclamation.]

Staff suggests not requiring an additional security for the County and instead rely on the DRMS bond calculation and management to ensure reclamation. Please note however, Staff has suggested requiring the Applicant to submit the proposed reclamation plan in this Special Use Permit application to DRMS so that 1) it will be the only reclamation plan used by both DRMS and the County to ensure reclamation has occurred to the County's specifications and 2) a new bond calculation shall occur and be submitted and held by DRMS to secure that proper reclamation can occur. This is a practice that is in place in Routt County which appears to work well. Staff also adds that the calculation of the bond and ability to manage its partial releases is something that DRMS does very well. Note the County would be invited to participate in any "release" hearings to ensure that reclamation has occurred to the satisfaction of the County.

The County Vegetation Manager does make the following comments regarding the proposed security: "Revegetation costs have gone up considerably in the past year. For recent gravel permit applications we have suggested a per acre figure of \$2000 per acre for the drier sites and \$2500 per acre for areas in either a riparian or wetland setting. The applicant has supplied a figure of \$800 per acre. Staff suggests that there be discussion on the Planning and Zoning Commission level about the costs per acre for reseeding as estimated by the applicant." He recommends the following monitoring program:

- *The operator will submit an annual report to the County with GPS measurements shown on a map showing the current disturbance, what areas have been backfilled, where topsoil stockpiles are located, all site structures, what areas have been seeded, mulched and what is planned for the ensuing 12 months.*
- *The County will be invited to any bond release inspection of the State Division of Reclamation, Mining and Safety. The County inspector will have the opportunity to demonstrate that any item of the permit has not been complied with and that bond should not be released. This includes weed management.*
- *The County will have the opportunity to evaluate the performance of the applicant with regard to the County bond and withhold portions of the bond if it is demonstrated to the applicant that certain conditions of the permit have not been met. The applicant acknowledges that the County has performance standards in place that could lead to revocation of the Special Use Permit if continued violations of the permit occur over a period of time.*

Section 5.03.08 [Industrial Performance Standards]

Pursuant to section 5.03.08 of the Zoning Resolution, all Industrial Operations in the County shall comply with applicable County, State, and Federal regulations regulating water, air and noise pollution and shall not be conducted in a manner constituting a public nuisance or hazard. Operations shall be conducted in such a manner as to minimize heat, dust, smoke, vibration, glare and odor and all other undesirable environmental effects beyond the boundaries of the property in which such uses are located, in accord with the following standards set below.

As required by any gravel extraction operation, all of the following Industrial Performance Standards shall be considered conditions of approval for any Special Use Permit.

(1) *Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes at the time any new application is made.*

(2) *Vibration generated: every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.*

(3) *Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.*

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(4) Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required **by law as safety or air pollution control** measures shall be exempted from this provision.

(5) *Storage area, salvage yard, sanitary landfill and mineral waste disposal areas:*

(A) *Storage of flammable or explosive solids or gases shall be in accordance with accepted standards and laws and shall comply with the national, state and local fire codes and written recommendations / comments from the appropriate local protection district regarding compliance with the appropriate codes;*

(B) *At the discretion of the County Commissioners, all outdoor storage facilities may be required to be enclosed by fence, landscaping or wall adequate to conceal such facilities from adjacent property;*

(C) *No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by any reasonably foreseeable natural causes or forces;*

(D) *Storage of Heavy Equipment will only be allowed subject to (A) and (C) above and the following standards:*

1. *The minimum lot size is five (5) acres and is not a platted subdivision.*
2. *The equipment storage area is not placed any closer than 300 ft. from any existing residential dwelling.*
3. *All equipment storage will be enclosed in an area with screening at least eight (8) feet in height and obscured from view at the same elevation or lower. Screening may include berming, landscaping, sight obscuring fencing or a combination of any of these methods.*
4. *Any repair and maintenance activity requiring the use of equipment that will generate noise, odors or glare beyond the property boundaries will be conducted within a building or outdoors during the hours of 8 a.m. to 6 p.m., Mon.-Fri.*
5. *Loading and unloading of vehicles shall be conducted on private property and may not be conducted on any public right-of-way.*

(E) *Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size.*

(F) *Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.*

(6) *Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.*

Section 9.03.05 [Periodic Review of SUP]

Pursuant to section 9.03.05 of the Zoning Resolution:

Any Special Use Permits may be made subject to a periodic review not less than every six (6) months if required by the County Commissioners. The purpose of such review shall be to determine compliance or noncompliance with any performance requirements associated with the granting of the Special Use Permit. The County Commissioners shall indicate that such a review is required and shall establish the time periods at the time of issuance of a Special Use Permit. Such review shall be conducted in such manner and by such persons as the County Commissioners deem appropriate to make the review effective and meaningful. Upon the completion of each review, the Commissioners may determine that the permit operations are in compliance and continue the permit, or determine the operations are not in compliance and either suspend the permit or require the permittee to bring the operation into compliance by a certain specified date. Such periodic review shall be limited to those performance requirements and conditions imposed at the time of the original issuance of the Special Use Permit.

Section 6.0 Floodplain Regulations

The Application contains a floodplain analysis prepared by Consulting Civil and Water Resources Engineering, LLC. The analysis shows that the Property is located primarily within the flood-fringe portion of the 100-year floodplain with a small portion of the property falling within the Floodway on the northeast portion of the property at the Colorado River. The illustration to the right shows the extent and boundaries of the flood-fringe (Zone A) across the property and the floodway according to panel map 1091C of the 1987 FEMA Flood Rate Insurance Maps (FIRM), revised in August, 2006. The conclusions from the analysis are presented here:

- A) *There is an existing earthen levee approximately 2,100 feet long and three to 20 feet high protection the property from the Colorado River flows. The north end of the levee begins at the I-70 fill and continues to the east and south. South of the south levee terminus, there is a swale in the natural ground at a slightly lower elevation, which therefore provides an overflow route for high flows. Colorado River flows are directed to the I-70 bridge opening by the levee, and only during very high flow conditions with the water surface be high enough to cause flow through the overflow section.*
- B) *Under the existing conditions, during a 100-year flood in the Colorado River, approximately 2,500 csf could enter the property through the swale south of the existing levee terminus and flow to the west across part of the property.*
- C) *Under Phase 1B, a 22.4-acre, 25 foot deep pit will be created near the east property line under phase 1B of the proposed mining plan. During a 100-year flood event, approximately 2,500 cfs could enter the piton the east side through the overflow area. The pit will be full or partially full from groundwater inflow and the flood flows will quickly return water surface elevations to pre-mining conditions. Water surface elevations will be the same or less that before the pit was excavated. Subsequent phases will also have little impact.*
- D) *The main channel of the Colorado River, including the floodway, is separated from the property by*

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the levee. The only possible hydraulic impact on the Colorado River water surface elevations would be from large above grade structures on the property causing sufficient backwater conditions to raise the water surface in the main channel upstream of the levee. The pits are below grade and will cause no change in the existing floodplain water surface elevations. The processing plant comprising a concrete batch plant, an asphalt batch plant, and stick piles will be above grade. At the location of these facilities approximately 1,500 (over ¼ mile) down stream of the overflow section, the floodplain is about 1,700 feet wide. There will be no discernable effect on the floodway.

- E) *The property is hydraulically isolated from the floodway by the levee. Mining activities on the property will have no affect on the floodway.*
- F) *Pit capture is highly unlikely because of the distance of the pit from the main Colorado River channel and the self-armoring nature of the alluvial materials.*

Staff finds that the Application has provided the required analysis prepared and stamped by the engineering firm Consulting Civil and Water Resources Engineering, LLC which meets the standards and criteria for mining in the flood-fringe of the 100-year floodplain and ultimately determines that the proposal will not occur in or impact the floodway portion of the floodplain. Mountain Cross Engineering agrees with Staff's findings that *the Floodplain Study was complete and determined no impacts to the elevation of the floodway. However it raised one question concerning the south end of the levee: Is the levee and anticipated 2,500 cfs overflow by design? Is there benefit or detriment to this site, the floodway, and downstream properties by extending/raising the levee to contain the floodwaters within the main channel?*

SUMMARY

This gravel pit will be highly visible from I-70 and virtually impossible to screen. It will also be highly visible from the 8 – 10 residential properties along CR 346; however, landscaped berms could go a long way to mitigate those visual and noise impacts. Additionally, there are sequencing / “reclaim as you go” methods proposed that will reduce the overall visual impact. The traffic analysis was revised to more accurately characterize the projected traffic in 2030 including Stillwater Ranch which is moving forward with a Preliminary Plan for 550 residential units and more.

It would appear the Town of Silt adamantly wants the operation to occur in this location (although annexed into the Town) and the County's Comprehensive Plan supports gravel extraction in this location so long as the impacts are adequately mitigated. Additionally, the owner has indicated that the property will be deeded to DOW at the end of the mining life which will have a direct public and wildlife management benefit. Lastly, Stillwater Ranch development will develop requiring significant amounts of aggregate for roads, foundations, etc. This proposed location will mean gravel is “at hand” rather than drawing from destinations further away adding that much more slow heavy haul traffic to the County's (and the Town of Silt's) road systems.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission (by a unanimous vote of 6 to 0) recommends the Board of County Commissioners Approve a Special Use Permit for Extraction, Processing, Storage, and Material Handling of Natural Resources and Development in the flood-fringe of the 100-year floodplain for the Grand River Park Project on a property owned by Gypsum Ranch, LLC with the following conditions:

(Note, the Planning Commission made changes to the original conditions of approval which are shown by adding additional language that is underlined and striking language by ~~strike through~~.)

1. That proper posting and public notice was provided as required for the public hearing before the Planning Commission and the Board of County Commissioners.
2. That the public hearings before the Planning Commission and the Board of County Commissioners were extensive or complete, that all pertinent facts, matters and issues were submitted and that all interested parties were heard at those public hearings.
3. That the above stated and other reasons, the proposed Special Use Permit has been determined to be in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of Garfield County.
4. That the application has adequately met Sections 5.03, 5.03.07, 5.03.08 of the Garfield County Zoning Resolution of 1978, as amended.
5. That all representations of the Applicant, either in testimony or the submitted application materials, shall be considered conditions of approval unless specifically altered by the Board of County Commissioners.
6. The County shall not issue a Special Use Permit until all required local, state, and federal permits have been obtained and submitted to Garfield County including but not limited to the City of Rifle Watershed Permit, CDPHE, USACE, NDPES, Division of Water Resources (approved well permits and plan for augmentation), etc.
7. ~~That the Applicant shall improve CR 346 by constructing a 310-foot deceleration lane for the eastbound left turns into the site from CR 346 and~~ constructing a 310-foot deceleration lane for the westbound right turns into the site from CR 346. No mining activity can occur until these improvements have been installed and approved by the County Road and Bridge Department.
8. The Applicant shall obtain driveway access permit/s issued by Garfield County Road & Bridge Department at specific locations to be approved by the Road and ridge Department. These permits shall have conditions specific to the driveway/s. This will include stop sign/s at entrance to CR 346 (Rifle-Silt Road). The stop signs and installation shall be as required in the MUTCD (Manual on Uniform Traffic Control Devices). Paved or concrete apron/s shall also be required as specified by the issued permit/s.
9. All truck traffic shall enter and leave the gravel pit site from the east and not go west on CR 346 to the Mamm Creek interchange. This portion of CR 346 has 90 degree corners and narrow road sections and has not been added to the preferred haul routes as designated by Garfield County Road & Bridge Department for heavy truck travel.
10. Garfield County Road & Bridge Department at this time is seeking funding to completely rebuild CR 336 (Jenkins Cutoff) the main cross road between CR 315 (Mamm Creek) and CR 331 (Dry Hollow Road). If the funding becomes available for 2007 CR 336 (Jenkins Cutoff) will be shut down for construction and CR 331 (Dry Hollow Road) will become the preferred haul route to access the drilling operations south of Silt. Trucks leaving the gravel pit would only have to go the east for approximately 1-mile on CR 346 (Rifle Silt Road) to access CR 331 (Dry Hollow Road).

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11. If road damage on CR 346 becomes evident due to the traffic generated from the gravel pit operation, the Road and Bridge Department shall require that repair or replacement of the road surface as determined by Garfield County Road & Bridge Department become the responsibility of the owners or operators of the gravel pit operation.
12. In any mining phase, the mined slope length of 2H:1V will be backfilled as necessary prior to topsoiling and seeding. Generally, this is a milder slope of at least 3H:1V from 5.0 feet below the water line and higher. The amount of mined slope allowed to be present that is not backfilled at any given time is 1000 feet.
13. The amount of backfilled slope that is not top soiled is limited to 400 feet. Topsoiling is required on all surface areas down to 5.0' below expected water level.
14. Seeding and mulching according to the approved plan will occur on all top soiled areas each spring (March 15-April 15) or fall (September 15 to November 15) no matter how small the area is.
15. Within 6 months of finishing mining in any designated mining area (5 total), the area must be fully reclaimed including topsoiling, seeding, mulching, sapling planting, and water filling of the lake.
16. The operator will submit an annual report to the County with GPS measurements shown on a map showing the current disturbance, what areas have been backfilled, where topsoil stockpiles are located, all site structures, what areas have been seeded, mulched and what is planned for the ensuing 12 months.
17. All of the above are binding conditions of the County permit and the State Division of Reclamation, Mining and Safety. The Division of Reclamation, Mining and Safety can withhold the reclamation bond if the final reclamation is not executed according to the plans.
18. The County commits to notifying the Operator of any compliance concern and allows an inspection with site personnel and the designated County inspector prior to contacting any agency.
19. The County can request a site inspection with one day's notice to the Operator. Full access to any part of the site will be granted. On request, all paperwork must be shown. The County cannot request a large number of inspections that would interfere with normal operation without cause.
20. A full list of all other permits shall be provided to the County. Any person at any time can call the following agencies directly and request an inspection if they believe a condition of that agencies permit is being violated.
 - a. CDPHE Air Quality Control 303-692-3150
 - b. CDPHE Water Quality Control 303-692-3500
 - c. US Army Corps of Engineers 970-243-1199
 - d. Division of Reclamation, Mining and Safety 303-866-3567
 - e. CDOT Grand Junction office 970-248-7000
21. The County will be invited to any bond release inspection of the State Division of Reclamation, Mining and Safety. The County inspector will have the opportunity to demonstrate that any item of the permit has not been complied with and that bond should not be released.
22. The County will have the opportunity to evaluate the performance of the Operator with regard to the County bond and withhold portions of the bond if it is demonstrated to the Operator that certain conditions of the permit have not been met. The Operator acknowledges that the County has performance standards in place that could lead to revocation of the Special Use Permit if continued violations of the permit occur over a period of time.
23. The existing residence (proposed to be used as an office for the life of the gravel pit) shall provide potable water and wastewater service to employees of the gravel pit operation. The sizing and performance of the ISDS system shall be verified by an engineer to the County for the uses expected prior to the issuance of a SUP.

24. The Applicant shall install 10-foot landscaped berms along the east, south, west boundary to aid in visual screening from residences and CR 346. The Applicant shall design and submit a landscape / berm plan to the County prior to the hearing before the BOCC.

[This has been addressed by the Applicant.]

25. The gravel pit hours of operation will be 6:00 a.m. to 8:00 p.m., Monday through Saturday and 8:00 a.m. to 1:00 p.m. on Sundays from March through November. The operating hours during the December through February period will be 6:00 a.m. to 6:00 p.m. Monday through Saturday.
- ~~26. Overnight operation of an asphalt batch plant for public agency projects requiring such activity, may be allowed subject to approval of the Board of County Commissioners in a public meeting at least two weeks in advance of any proposed night time activity. The Applicant shall notify all adjacent property owners of such meeting by return receipt mail at least 10 days prior to the meeting and present the receipts at the meeting.~~
27. All lighting shall be the minimum necessary, directed inward and downward towards the property.
28. The reclamation plan approved by Garfield County in the Special Use Permit shall be resubmitted to the DRMS to become the only reclamation plan (tasks / timetables) used by both the County and DRMS. Additionally, a new bond shall need to be calculated to cover this plan and secured with DRMS to cover its implementation.
29. Mining operations shall be allowed to progress so long as the previous pit has been reclaimed within 6 months after the commencement of the new pit mining operation. If the reclamation has not fully occurred in six months, all mining operations on the property shall stop until the reclamation / revegetation has occurred to the satisfaction of the County.
30. The Applicant shall be required to present a yearly review and update of the gravel operations to the Board of County Commissioners until full mining operations have been completed and full reclamation has been established.
31. The applicant shall provide locations of county listed noxious weeds on a map. Once the inventory is provided the applicant shall develop a weed management plan that addresses all county listed noxious weeds found on site. The applicant shall address the management of Russian olive on site within the first

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year of operation. This also applies to tamarisk if found on-site, although the applicant's submitted inventory doesn't indicate tamarisk, staff believes that there may be some tamarisk on the property. This weed management plan shall be submitted to the County Vegetation Manager for approval prior to the issuance of a SUP.

32. All mining activities shall be required to comply with the following performance standards:

(1) *Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes at the time any new application is made.*

(2) *Vibration generated: every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.*

(3) *Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.*

(4) *Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.*

(5) *Storage area, salvage yard, sanitary landfill and mineral waste disposal areas:*

(A) *Storage of flammable or explosive solids or gases shall be in accordance with accepted standards and laws and shall comply with the national, state and local fire codes and written recommendations / comments from the appropriate local protection district regarding compliance with the appropriate codes;*

(B) *At the discretion of the County Commissioners, all outdoor storage facilities may be required to be enclosed by fence, landscaping or wall adequate to conceal such facilities from adjacent property;*

(C) *No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by any reasonably foreseeable natural causes or forces;*

(D) *Storage of Heavy Equipment will only be allowed subject to (A) and (C) above and the following standards:*

1. *The minimum lot size is five (5) acres and is not a platted subdivision.*
2. *The equipment storage area is not placed any closer than 300 ft. from any existing residential dwelling.*
3. *All equipment storage will be enclosed in an area with screening at least eight (8) feet in height and obscured from view at the same elevation or lower. Screening may include berming, landscaping, sight obscuring fencing or a combination of any of these methods.*
4. *Any repair and maintenance activity requiring the use of equipment that will generate noise, odors or glare beyond the property boundaries will be conducted within a building or outdoors during the hours of 8 a.m. to 6 p.m., Mon.-Fri.*
5. *Loading and unloading of vehicles shall be conducted on private property and may not be conducted on any public right-of-way.*

(E) *Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size.*

(F) *Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.*

(6) *Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.*

33. That the Applicant commissions a new Traffic Impact Study that includes the projected traffic in the Stillwater Ranch development prior to setting the hearing before the Board of County Commissioners.

34. The four concerns in the letter from the Loesch and Crann Ditch Company, dated 12/28/06 and attached to this memorandum as Exhibit M, are made conditions of approval by reference.

35. That the Applicant demonstrates what elements of the Division of Wildlife (DOW) review were included in the proposed reclamation plan prior to the hearing before the BOCC.

[This has not been addressed by the Applicant.]

36. Concrete and Asphalt Batch Plants are prohibited on the subject property as part of the Special Use Permit.

37. The Applicant, as represented, shall donate the property once fully mined to the Division of Wildlife.

38. That the Applicant explore the possibility of an internal road between the gravel operation and the adjacent Stillwater Ranch Development in order to alleviate unnecessary trips onto CR 346 as well as portions of that road system that have been annexed into the Town of Silt.

[This has been addressed by the Applicant.]

Suggested additional conditions:

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39. That in the event the Town of Silt de-annexes the roads subject to the “Road Impact Royalty Agreement”, the Operator / Owner of the gravel operation shall agree to enter into a contract that provides the County with the royalties included in the Silt contract if said roads are de-annexed from the Town of Silt. Additionally, any royalties paid to the Town of Silt that have not been spent shall be delivered to Garfield County.

Chairman Martin had a sign up sheet passed around for those who wished to give testimony.

The Commissioners didn't have any questions of Fred after he gave his power point.

Applicant:

Tim Thulson, attorney for the lessee Gypsum Ranch LLC., Bill Roberts, Silt Sand and Gravel LLC.; Scott Balcomb of Gypsum Ranch LLC, Shan Mellow of Silt Sand and Gravel LLC. and a number of consultants, Alex Shots with Banks and Gresso putting together the mining and reclamation plans; Ramsey McDermott, Banks and Gresso - Civil Engineer and Howard McGregor with Engineering Dynamics, Inc. who conducted the noise study and will be discussing the measurement issue and Jenny Young for the traffic consulting.

Tim complimented Fred on the presentation and stated they did not have a lot to address. Tim's comments will be limited to the issues that Fred addressed but started out with Bill Roberts who discussed his plans for the property, his history, etc.

Bill Roberts – 202 Cabin Drive, Carbondale. Owns Earthworks Construction a 30-year excavation company up valley and Western Slope Aggregates (WSA) operating outside of Carbondale for the past 18 years. He will be the operator of the newly formed Silt Sand and Gravel, LLC. He said he understands the sensitivity of the project to the neighbors adjacent to the project and also the general public and most important to the reclamation of that affect to them and how it will look when it is finished. He complimented Fred in working closely with the other entities that had to happen in the permitting process and to come to a positive solution on the big gravel needs in the County. The property holds approximately 5 to 5.5 million tons of sand and gravel and an annual production rate of 400,000 ton per year which is about what we can do and the life of pit should last for about 12 years. We've shown through the County informational source meetings that he attended that there is a great need for the gravel and as you know the permitted areas are depleting quickly now. WSA in Carbondale is moving to down valley projects and already we move gravel, a lot of material through Glenwood to meet that need to the valley especially on spec gravel. We have inquiries of up to 1 million tons supply right now in the down valley area, mostly oil companies and one problem with this would be able to aesthetically mine this and deal with the reclamation and try to keep up with the demand that is actually down valley. This is a huge problem to make sure this doesn't go as fast as you can reclaim and make this thing appropriately look nice when it's done.

Bill said he has personally worked with neighbors, Kim Barta on this one section to the east, and have worked with each one of the property owners: Kim Barta, the Kancilia, and Stillwater Development and included the Town of Silt as a neighbor and have tried to take care of things for them with the Stillwater application and also their roads they have annexed. We came up with berming and screening plans but we can't hide the total project but we'll do the best to mitigate what you can see. All this property lies below the county road and the state highway so it's really hard without putting a roof on it to totally close it up. We do the best to try and screen the project. In terms of Stillwater, Bill has met with them to put in their screening areas to make it work and also in lieu of water flowing from the east to the west to keep wetlands taking care of and he will continue to work with them. We've worked out an inter agreement where the road through the project that would go to their development to keep a lot of that gravel that they would be using off of the road and just go straight into the development. Bill said he would be happy to do that. In that working out of this, he added that before the P & Z to look at asphalt and concrete application in terms of the visual and the fumes, in regard to my neighbors in Silt or to Stillwater homes, this wasn't going to work and frankly the property is not big enough to hold those kinds of plants anyway so that's why he pulled them at the P & Z hearing. The Traffic report has been studied in depth and he has worked out an agreement with the Town of Silt regarding their \$.10 per a ton royalty for the roads and will continue to work with their concerns. We also agree with Road and Bridge not go west on CR 346 due to the way the road lies and it is not conducive for heavy trucks although at time to time they are used but in our use we are happy not to go west on CR 346. We're also happy to install decel lanes coming into the project going west from CR 346.

On the noise study, Bill said there is a conflict here; we have the noise analysis to explain that procedure. He added the plant that would go to Silt to do this, I've had in my passion for 5 years and know it very well and know it's been tested dBa checked many times and he feels comfortable about what they are doing. He's been around that specific plant for all these years. One of Bill's experiences in the past has been the generators or the screeners, you can do a lot of things, and you can put berms or But due to availability and costs he has worked with Holy Cross to get power to the plant from off the county road to power them and he was not saying never, never but it will be nice to be able to use their electricity and not have a generator.

Bill said he would continue to stick to compliance with the dBa. Dust will be controlled on site; a full time water truck and all of the equipment, crushing equipment is presently equipped with spray bars and we have loads of water to pull from and so we can try to do the best we can. Also there are always those times when those huge dust storms come through with those huge wind bursts, come through the valley and hit things and we just do their best to take care of those problems.

The site after completion is intended to be turned over to DOW as Fred told you and he has worked with Will Spence, walked and looked at and understands their concerns with slopes and what it will look like with meandering lines and to take care of wildlife and all other species that would live there and I'll be constantly working with them, I know that to make this work this has to happen in a consecutive way as we develop it, we need to take care of it and make it work and will work with them extensively to make that happen. Bill is looking forward to building it and what will make it work. If you do that easily, and the DOW is happy to help Bill to help him understand. It goes back to the reclaim as you go process and if you look at the project, it can be done easily and we can make that happen. Bill said he is happy to accept the responsibilities of that

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part too and to see that one day and know that you had your name on a piece of property that looked nice, made some money and fill the need for a natural resource to the public.

Commissioner Houpt inquired on the acceleration lane traveling east as in the report because all the traffic will be coming west. Was this discussed in the P & Z.?

Fred – we raised it with the P & Z but they did not forward it to the BOCC as part of their information. The idea was you have trucks pulling out of the site to the east at a relatively slow speed and that stretch of ground is posted 35 mph – if you have fast traffic pulling out of the site there is acceleration lane but if you have the S curve it will serve as a speed block so we left this alone.

Bill Roberts – no the property boundary is very close and there's no way without property acquirement to do that and also we're not going to have trucks coming that way either and getting in the mix of that right there by not using CR 346 to the west.

Commisisoner Houpt - Giomi Minor Subdivision – the houses – not sure of the configuration and there is an area that will be mined right across from that subdivision.

Bill Roberts – that falls down and there is an elevation difference of 20 to 25 feet from the County road that drops down into that floor and really it's so close to that there's no way they can see down in there. Kim Barta, looks right out over it and in our agreement with her, besides the berming, she would rather look at the lake rather than to look at a big open field. We were happy to dig that lake also. It is very small.

Chairman Martin asked about the storm water retention and how will they deal with that and noticed there wasn't a lot of information in the application. How will you handle on and off the site, the water running into others property, so how will they secure that no damaging someone else's property or receiving more mud flow or whatever causing a damage to you. Retaining the water that you have on site, when it melts, when it rains, when the ditch breaks, whatever... talk to me about that issue.

Bill Roberts asked Alex Shots to address this and also referred to other maps that will help.

Alex Shots – if a certain level of detail is needed beyond what he will tell, the manager of the permitting process, our consulting engineer for that is here as well. Alex said in the gravel industry you manage a lot of water at once, most of the runoff will be going into the pit, there is a water management plan related to the dewatering cycle and most storm water will be managed that way. All water will be managed at the low point on the site which there is actually multiple low points just based on the grade here but we have a discharge point which water is a management point for water quality and all of the permitting. If the Board needs specifics he can submit those.

Chairman Martin – what scares me is in the report it says you are going to do up to 15,000 gallons per minute, where is the water going?

Alex Shots – we have this in detail.

Chairman Martin – this is what scares me and I think we need to talk about where does that water really go, is it directly into the river or is onto the neighbors, is it retained – that's a lot of water everyday.

Alex – that water is all collected and handed this over to

Ramsey McDermott, the consulting engineer and helped put together the water management plan for this project and we are talking about two things: 1) storm water management and the general contours run from east to west or from southeast to northwest and the water generated on site by storms will be collected in pits as they are excavated. As conditions exist now very little of any storm runoff due to the permeable nature of the sands underlying the site and the very small drainage areas. The 15,000 gal per minute is the dewatering water and that is indeed a lot of water. This water will be pumped from the pits, the pits will be dewatered inside the pit and that water will be directed to the regulating pond; it will be dewatered and sediment will be kept inside the pit itself so the water will be relatively clear coming out of the pits. And from the dewatering apparatus it will go to a regulating pond on the northern most point of the site here nearest the river. And from the regulating pond the water can be directed back to assist in wetland watering or other onsite uses for dust suppression as needed and water not needed for that is directed into the river so that water can be pumped over the levy into the Colorado Water.

Chairman Martin – now that we got rid of it, one more twist and that is the impact to the neighbors. Everyone down there has a well. How does that show no injury to all of the wells and the groundwater since it's only about 25 feet down on that particular side of the river.

Alex Shots – talking about groundwater, and that was studied but do not have that engineer, hydrogeologist with us today, but that was studied in detail and emphasized detail during the state permitting process the state regulations are very explicit about that, there are pages and pages and hated to belabor that but we did study that in detail. There is not no impact – that's not at all the representation but the question is, is there injury to wells and the study concluded that there was not and in addition to that there is a monitoring and mitigation plan, again required of this project through the state process and specific rules that address both quantity and quality.

Chairman Martin – you have a letter from the State Water Engineer showing there is no material injury to another well what have you with you, etc.

Alex Shots – well the burden is – we all wish the State would certify these results, the burden is on the applicant in the state permitting process – we studied it, we received referrals in the state permitting process again with the Division of Minerals and Geology formerly, now the Reclamation Mining and Safety – the State engineer has reviewed the permit and indeed there is no question we are impacting groundwater but the level of impact is such that it can be dealt with through again regulations and monitoring mitigation that goes on.

Chairman Martin – and the reason I ask that is because Bill's a good neighbor, he doesn't take everybody's water and doesn't dry up their wells. That's one of those issues that we do have to look at and then historically on the south side there is less water than on the north side of the I-70 corridor.

Alex – offered to hand it back to Bill – on a technical level we did look at that issue.

Scott Balcomb – landowner and water rights attorney for the applicant. Those irrigation ditches are both a plus and minus to this project. They leak like crazy at the current time, they make dewatering in the pits more expensive and difficult but they also make sure there will be an adequate groundwater supply for those wells. For that reason the consultant determined there was no real need for the well owners to be concerned. None of

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them appeared in the water case and none of them have indicated any real concern, and I think, because it's ditch water.

Chairman Martin – and as emergency purpose, if there is an issue with a larger amount of water, how have you talked to the ditch companies to be able to handle any excess water if you had to breach one of those wells, or to actually use the ditch for relief. Is that a possibility in emergency situations? Putting the water in the ditch.

Scott – don't perceive the need, if the ditch company wanted them to it could. The landowner owns about 70 acres south of I-70 and one of the ditches that goes under the highway is right next to the sedimentation pond for the dewatering and it's my plan to work with Bill as this things begins and instead of him pumping to the river, pump water into the irrigation ditch and we'll irrigate.....

Chairman Martin – and that would be a beneficial use, a right that would be allowed? And there's an agreement with those ditch companies to allow that to happen?

Scott Balcomb – yes, and we are the landowner and we own part of the ditch.

Bill Roberts – we have some mapping showing the detail of that sedimentation. This map was submitted showing the detail.

Ramsey – two maps were shown. These show a conceptual dewatering system and have drawn up a typical pit and shown how the water can be collected around the perimeter of the pit and directed into a sump and within this sump we have sedimentation mechanisms if which there's various ways of doing this, one could be a weir perhaps that cause the sediment to drop out before the water overflowed to the pump, we could have various pump casings and there are several different ways to pump the most sediment water we can up out of the pit. From the pit it goes into either a ditch or a pipeline depending on the best situation for the operator at the time and from the ditch or pipeline it's directed up toward the regulating pond you see on the northern most side of the property near I-70 and the river levy. Map 2 – shows a typical conceptual way to get over the levy back into the river and as mentioned before part of it can also and will be directed into wetlands and other water needs on the project site. The pumps can pump from the pond over the levy and into the river. The purpose of this is to show that the river bank is rather heavily armored and this discharge of sediment free water will not impact the river bank or the levy.

Chairman Martin entered Exhibit KK – (2) maps.

Fred asked the applicant to address the sediment levels in the discharge and what the limits are when pumping into the river.

Ramsey - Concern of sediment is well taken and that is indeed the major constituent that will be looked at and the applicant will do all sedimentation possible inside the pit to make sure it's simpler and to make it easier to pick up the sediment for other uses. Fred asked about limitations and he can't answer; this will be a function of any discharge permits that the applicant will have to get and we're looking at something very clear – can't give any numbers on that. The

Colorado River is clear at times but during spring runoff its not very clear and the permit hopefully will adjust for these different times of the year. But the applicant's intent is to do everything within the pit and keep sediment within the pit.

Chairman Martin – is it a maintenance nightmare?

Ramsey – it isn't a nightmare, but it is something you have to do. It can well be, depends on how the dewatering goes and different parts of the pit are going to see clear water coming out or sediment laden water. The applicant then has to deal with it as it comes out.

Bill Roberts – through our engineering on the ground modular plan was that the discharge coming out of the settling pond would be pumped also there would come off the top of that and actually use that. But everyone I've talked to, it's like we're going to put cleaner water in there than what's in there. We just can't go at this so hard and fast that we jeopardize any of those issues.

Chairman Martin – another factor is the wildlife rescue area which is on the far west and south – have you met with them and talked about any of the impacts or what will happen to their refuge.

Bill - talked with them and they were worried about the truck traffic most of all. And through P & Z when Road and Bridge asked them not to go on west on 346 that went away. In terms of the ditching, that ditch that runs along the top is one that we don't have any control over anyway, that's not our right and it runs on down by them. I'm always happy to help them clean it or whatever. When we couldn't go west that problem went away.

Noise Study - Alex Shots – as an initial comment, Fred did a good job of summarizing and explaining the issue. We were scrambling here to understand what the question was today and whatever we can do, please give us questions to address. What we did, the county regulations state that one must provide a study or characterize the impacts on neighboring properties. The initial submittal did so in a way that is more experimental based – we retained EDI and Mr. McGregor will provide a more quantitative assessment. The study submitted for the record meets the county standard. It characterized the impact on adjacent properties. There are some questions about where the background noise was collected and how it was characterized. Pointed out what was excellent in the presentation, the main noise generator in the construction of berms around the outside of the property and that is the primary potential nuisance. And where state law addresses that, is actually to say that the construction impacts receive some relief and asked the Board to consider that. The regulations that we thought we were addressing and for the record that we did were to characterize the noise and make sure that the nuisance is kept to a minimum and we did so within the purview of state law.

Howard McGregor, Engineering Dynamics – the report that was submitted and turn to page 6 of 10 – a graph and asked the aerial photo be put up on the screen. Looking on page 6 – you have sites 1, 2, and 6; actually they should be sites 1, 2, and 3. Site 1 is down in the lower left corner just north of the gate on the road going up on the west side of the property. There is a little access road going up right on next to the property and there is a gate and we went on the north side of the gate and set up measurement site No. 1. Then when I was out there at the site we wanted to go to the east but there was a frac operation and trucks were fracing that one site and it didn't make any sense to set up a monitor next to all that diesel equipment and rattling and banging around so we continued eastward along 346 and site 1 was east of the house that would be number one right there and we then we continued on east where there is a road that runs north and south but only goes south of the Silt road there. It doesn't show on this map. We were about 50 feet of the road and that's the data that's

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presented on figure 4.1 Those peaks that occur in the data are summation of some of the noise from I-70 which puts in a constant level to that whole area. The higher values are reflected by traffic volume by the road. In general you could say that the existing noise level on the property is about 50 db except when we have local motor vehicle traffic on 346 and jet aircraft spooling up to take from the airport; this is quite audible at this site.

Commissioner Houpt – so you did not measure from the residences, you measured from the edge of the properties is what you’re saying.

Howard – yes.

Alex – the way to answer your question is to look at this as a model and the results that are tabulated in there are two the point at other residences again as a reflection of what we saw in code which is to characterize the noise at adjacent properties.

Commissioner Houpt – and what we saw was 25 feet from the property? So not from the residences necessarily unless its 25 feet from the property.

Alex – that is correct, that is a difference between the methodology of this report and what the county was looking for on some technical level. Common sense allows us to compare the two – we have some expertise in engineering practice but there was certainly no intent to avoid state law and state law drives a lot of this. The statute needs to be fixed; it has a number of interpretative problems which always create these issues when noise studies are created.

Commissioner Houpt – all I want to know is the way this was read was that the noise levels projected or predicted were from the residences and not from the 25 foot area which is an impact to neighboring lands.

Howard – page 7 of the report – this is calculated noise levels at the receptors. The receptors are far enough away that we could do 25 feet off their property line and the numbers wouldn’t change. The other way to look at it is to set the noise criteria 25 feet off the boundary of the property upon which the noise sources are located and that’s were we run into a problem with the state noise law because we could interpret that to say that the property is industrial and the allowable noise levels of 25 feet off the property could be much higher. On the other hand if the adjacent property to the site is zoned residential then we would use the 50 – 55 db criteria 25 feet off the noise source property line. We do that quite often in the design of pit type operations that apply to residential property.

Commissioner Houpt – which this does, so that’s how you did this?

Howard – correct.

Fred – simple question, as I look at the state statute and this board has always interpreted it, the statue is gray, and we’ve gotten beyond that, we recognize that its who’s impacted is the measurement, the receiver or the sender. I was just looking at what is it at the 25 foot mark. What is it exactly at the dotted line and your report doesn’t tell me that.

Howard – That’s correct, what we would do is when we get into the development of the mine we have first mine development which is excluded from the 50/55 criteria. Then once mine development has gotten started, scrapers, dozers to take the overburden off, look at site 1A for example. We have residential zoned property to the east of site 1A. During mine development the scrapers and dozers would be at the surface and there’s no way to control them except by what the manufacturers do with the equipment and it’s gradually getting quieter. We take the overburden and construct a berm on the east side and then as the vehicles, scrapers and dozers start going underground, we have a natural berm just from being lower than grade. And then the calculations determine that we can meet the 50/55 25 feet off the property line after mine development.

Bill – to clarify some, when you built the screening and the berms to do this, we’re going to be coming up to those lines, that’s all there is to it and when we do that you do that one time only and then hopefully you’re going to go away and hopefully Howard’s meters are going to sound better. The yellow line of the asphalt and concrete trucks are gone. But there is a point where it is fair to say that we’re going to go over that dBA by building the berms and screens.

Alex – this is a good discussion of methodology, it’s a question in many jurisdictions you could get the other way and we do, we rely on standard engineering practices. Many jurisdictions are interested in well what will it be at my window when I come out my front door. You get these questions both ways and there was certainly no intent to miss something in what the local regulations require. And there is also a question of what is the standard and we look at the table and everything but when the overburden construction is the issue there are provisions in the state law other than that simple table.

Tim – the statute does allow construction activities like we said for the construction of the berming to exceed the noise standards as of long as it related to construction and we’ll construct it in the permit for a reasonable time when the start of construction and completion and that would cover it by the statutes.

Chairman Martin anticipated a lot more public comment but only three signed up for comments.

Discussion and Public Input:

Lea Leavenworth – with the firm of Leavenworth & Karp, here on behalf of Valley Farms, the owner of the Stillwater property and SWD LLC. who is under contract to purchase the property. Unfortunately the attorney who had been primarily working with the applicant, Mike Sawyer is unavailable through no fault of the applicant and he had been working on an agreement that would address certain issues some of which are addressed in the county’s conditions but we felt it was important that we have our own agreement and would not ask that the Board continue this but would ask to give us a week as a condition of approval to continue our good faith conditions negotiations with the applicant to finalize that agreement. Mr. Sawyer is on an emergency unavailability basis and we were therefore unable to finalize that before this hearing. The applicant has worked with us in good faith, has addressed many of our issues and it is my understanding we have reached a conceptual agreement and we just need a little time to wrap that up.

Chairman Martin – so I can take it there are no insurmountable object in your way that you feel that it can be successful.

Lee Leavenworth – I’m very confident we can be successful. A week will be enough time to take care of this.

Dave Moore – Mayor of Silt – you’ve heard my comments. Fred did an excellent job in the presentation and complimented his power point. You’ve heard comments and arguments on this power point presentation, we did welcome the gravel pit into the town of Silt and felt we had made resolution with them and thought we were ready to move along and then something changed and now there are here in Garfield County. Speechless

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about this and arguable I think if there was more time given to the argument of the Bald Eagle and the Blue Heron than there was about the concern for the citizenry of Silt which is contiguous with your gravel pit. The last thought and had a question. Commissioner John, this is your district and we of the Town of Silt are going to look to you for the complete enforcement of all state and local codes if you should approve it today within this gravel pit. It's unfortunate that we can't be there to control the social, environmental, and the physical impacts relative to our roads and things like that like we would have had to and thusly being able to receive reasonable royalties –and also sales taxes, etc. However we are not there and we're going to be looking to Commissioner John for the complete enforcement of this.

Chairman Martin – agreed this is only fair.

Dave – one question about the asphalt and concrete pit - not at this time. Will it ever come in?

Commissioner McCown – it would require a new Special Use Permit and a new public hearing a whole new process to allow it.

Dave – originally they wanted to bring in the asphalt and concrete with us and we had no problem with that.

Chairman Martin – under the testimony, the applicant decided it was too much of a burden for him and the neighbors to get along having that so he has withdrawn that particular issue; therefore we're only having the gravel operations.

Dave asked if the Board sees that coming in the future.

Chairman Martin – we don't know. If it does it would require a public hearing and process that Dave would be involved in.

Dave - He was hoping to have this sent back to the Town of Silt so we could have more control, we do have a lot of questions such as the sheriff being able to get out there and to deal with the social problems such as crime, the environmental aspects and some were addressed and some were not but we'll have to deal with them when they come.

Chairman Martin – invited Dave to identify his concerns, if there is an environmental concern that we have not covered in reference to our process and our review, I need to know because we can go ahead and take action if we need to.

Dave – we've talked about the dust, noise and visual and there's no need to go back on that again. You have said, you made the presentation – we are concerned even after we've heard the presentation about the control of that and how you can implement it when it's violated, how soon will you be able to get to it – one simple one like dust – there are gusts of wind and it does set up a dust screen to the whole town of Silt and the past few years we have been able to eliminate that through various methods.

Chairman Martin –we have a lot of eyes and ears out there and hopefully they will be calling and saying that there is an issue there, etc as foreign dust migrates into the town of Silt and if it's pinpointed at that then we have an action that we need to take for them to mitigate it.

Dave – for the record, how would the County mitigate or timely address some of these issues? Chairman Martin – first they would inspect the site and then they would look at the requirements under the foreign dust or the mitigating dust issues and have them address it or otherwise we could take action by codes enforcement and violation.

Commissioner Houpt asked Dave – this diagram shows the different phases that will be.

Dave – is familiar with this yes.

Commissioner Houpt - and part of the conditions if this is approved would include the allowance of only one phase being mined at a time and have 6 when they move to another phase they get 6 months to completely reclaim that or they have to stop work. Any further suggestions to better maintain this. The point was not only for the visual and noise issue but other control issues to phase this in so it would not be as disruptive as if the whole thing were being mined at one time.

Dave – this one phase at a time was birthed at the town of Silt council meeting.

Commissioner Houpt – so you're comfortable with this plan.

Dave - As long as the mitigation and reclamation is taken care of the way the state has laid down.

Doug Grant – concerning with the dewatering of the pit, 15,000 gallons a minute or any dewatering that's pumped from the pit, we'd like to see it go directly to the Colorado River and what is diverted or put into the wetlands is not any more than historically went into the wetlands, possibly a sprinkler system type of thing rather than to flood them and what I just heard today quite frankly make my hair stand on end, where Scott says he's going to put some of the water down his irrigation ditches to irrigate with, I think that's okay as long as its in the irrigation season and not no more than historically put down those ditches and that it doesn't continue at an excess flow and end up at our place. As I told the Planning and Zoning Commission, Antero dug a small pit for their boring machine to go under I-70 and they were there for almost a month and we saw an increase in both the surface water and the ground water to the extent we had to put another pump in our pit to dewater, that's injury to us and we're staunchly opposed to any excess water going through irrigation ditches, drain ditches or anything to migrate to our direction west, I gave you a picture in evidence there and it shows that it all flows down towards us, hits the drain ditch by our gravel pit and goes on to the River. Those are the main things for us, the water is really a stickler for us and my brother and I spoke to the engineers earlier but didn't get back to them now to see what it was and I'm going on what I heard today as to what they are proposing to do and if it goes to the Colorado River we don't have a problem with that – that's the place to put it, not over land. The other thing is, in the P & Z meeting, the planner mentioned that the storm water permits would take care of the water putting over land, they don't. Any land application ie. Irrigation, does not get covered in a storm water plan, the storm water plan is site specific so that the water stays on site, not migrates or irrigated or flooded or run down ditches off the site, so there's not a permit system that I know of that addresses land application whether it's sprinklered or flood especially in excess of what historically is there, like one thing, this will be 24 hours, 7 days a week, 365 days a year – it will be dewatered and that doesn't follow the historical irrigations system season when you begin to irrigate. The town of Silt, being in the gravel business myself, has a good point. Enforcement. As far as I'm concerned there's been little or none of any of the gravel pits around here, I'm in the business, I own a gravel pit and I have seen no one from the cities or the county come out and check our gravel pit. I think it behooves the people of Garfield County or someone from the County to at least come out once a year to come out and look at what we're doing and one thing, and I've tried and talked to John Martin many times, and got no action at

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all when I saw violations. The other thing is you don't have to write a citation when you come out, just note that something isn't correct and make sure the gravel pit operator knows about it and go on your merry way. It's like a liquor license application, you do it every year and if the operator doesn't comply he comes in for another permit like we are here today and you've got a whole itinerary of things that were not corrected when you asked him to correct without ever going to the violation extent and pretty much its self regulating then you know that if you're going to keep in operation and get another permit, you better not compile a whole list of problems if the County guy came out and looked at.

Dan Grant – a number of things to address. There's 15,000 gallons of water per minute being discharged to the river and as my brother said we have no problem with that, and the last P & Z it was not very clear of what's going on so we talked to the water people at Balcomb's to see what they are going to do with that water, where is it going to go and one of the scenarios they gave us was that 10,000 a minute might be pumped to the river and another 5,000 down into the wetlands or down ditches or somewhere else. That is where we have a problem with this proposal at this time; it's not specific as to what they would do. Today, the first time we heard that Mr. Balcomb suggests that they put some water on his property. Now Mr. Jarman's presentation said it is 168 acres in this particular application with 110 in the gravel pit area so maybe that's just close math but my math says there's 58 acres then on the other side of the river. Mr. Balcomb said there was 70 acres. Well, whether there's 58 or 70 doesn't matter but there's approximately maybe two (2) cfs of water needed to irrigate those 58 to 78 acres over there under an irrigation flood plan if all of the land is used for agriculture as we know part of it is wetlands on that side of the river too so maybe there wouldn't be that much needed – 2 cfs. Yes, 5,000 gallons a minute is approximately 10 cfs. What I'm suggesting we need to do here or what I'd like to see you guys do, is put in a measuring device that will measure the amount of water they plan to put over there for this irrigation purposes and that it does not exceed the amount of water that you need to irrigate that property. And I would also like see it where the people in the public have access to see the numbers that they're running over there cause obviously one thing they said they were going to do is pump the water so one way you can do it is of course is to have a pump and your pump may be able to pump from 1,000 to 25,000 gallons a minute anywhere in-between, how do we know how much is pumping. So one way to protect the neighbors down below would be to have a measuring device that shows how much water is actually being pumped there into these wetlands or into the ditches going to this property and have public access to the numbers; otherwise it is up to us to prove he has injuring us and I'm not sure how you do that. One way we've already done it, we've already taken measurements since we've been there long enough we've got measurements of how much water is coming down the drain ditch in some of these areas here but when you go to Court, things always get screwed around. It's somebody else's problem, the ditch is leaking; somebody else is doing this to us. Now on top of all this nothing I heard today, not one word about the wash plant – where will this water be going to go after its been used by this wash plant to wash the materials, it usually goes to a settling pond and the settling pond may be pumped up into this discharge system to keep it from running into the wetlands or – is it just going to eventually run down through the wetlands system here. Now is this something that needs to be accounted for. Like my brother said, there's going to be some water that's needed to keep the wetlands going and whatever amount that's needed is needed but as the applicant said there's enough leaks in the ditch and everything else that you probably don't need to do very much watering. He reiterated to have a measuring device that show how much water, we prefer that all the water goes into the river even though the river goes by our place we have no problem with that, but this extra water being diverted here/there/everywhere who knows what's going to happen to it and like I said it's going to be our responsibility to basically prove the water is coming from these guys and not the leaky ditch, not from whoever else, so hopefully we can get you to at least add that little bit there or maybe some assurances that's not going to be a problem in the future..

Tim – summation and it will be

Commissioner Houpt – one thing that hasn't been heard and I know we received a letter or two from neighbors about the concern about the character of the neighborhood and the fact that there are existing residences and made me a little concerned about that as well and we haven't heard anyone talk about hours of operations and I'm concerned that because we see that there are residences in place we need to be concerned about hours of operation and maintain some measure of quality of life for the people living around this site, which we are seeing you come forward with a lot of mitigation but it's not going to a quiet activity either. What I'd really like to see and some thoughts from the applicant is I could either go with the state noise regulation of 7 – 7 instead of 6 – 8 but would like to go to 7 – 6 and would like to see that Monday through Friday and Saturday to 1 and let people have a quiet day and ½ for their weekends. Need to hear what rationale there is for having 7 days a week operation given the consideration of being in and abutting a rural residential area or if you would be amendable to those types of hours which I'm really going to support pretty strongly in this discussion.

Applicant:

Bill Roberts – actually this has all derived from some of your past applications – he tried to find something in the middle to work with. Bill agreed no work on Sundays however he may need to go out there and monitor pumps and stuff like that but is happy to relinquish Sunday right off the bat. Saturdays are tough for us in prime season; it's just a big day for a lot of people especially for small operations. Presently we work 7 – 5 in Carbondale and that road is monitored and we can open the gate at 7 through our road use from years ago. So I'm happy to relinquish the Sunday it would be imprudent for me to say that I don't want to work those other days because I need to most of the time.

Commissioner Houpt – do you need the full day on Saturday?

Bill – yes – I would also, in the Carbondale pit we shut off at Thanksgiving due to just business and we're not open Saturdays now. So I can only weigh what I do there in terms of down here I would guess that it would be the same unless oil and gas is just 24/7.

Commissioner Houpt – we know that it is and I would like to claim some sanity for people too.

Bill asked what she suggested.

Commissioner Houpt - like to see 7 – 6 time period Monday through Friday and maybe not 8 – 1 but a little shorter hours Saturday.

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Bill – a lot of our issues with 6 – 8 came from and does a lot of operators, I’m fine not to roll trucks at 6 in the morning but we have to get started. So to just say nothing....

Commissioner Houpt – but you turn the equipment on and that’s noisy.

Bill – not like when we start going on the day with crushers and loading trucks.

Chairman Martin – asked for a point of reference. Dan and Doug – when do you guys start and end?

Commissioner Houpt – but this is a different location.

Doug Grant – we’re not like the industry; our gravel pit was permitted in 1982 and we can run 24 hours 7 days; we don’t, we try to do maintenance, some Saturdays we work and try to do maintenance on Saturday and Sunday both. And if you would let the oil industry they run Saturday and Sunday both all the time.

Scott – land owners – comment, it’s all relative the more you constrain in terms of hours the longer this operation is going to go on. As the landowner we want him to get in, mine it and get out and reclaim it and have a state wildlife area as soon as possible.

Commissioner Houpt – yeah but we’re talking about 11 years and we’re talking about people living next door to this activity for 11 years so what I wanted to find a better balance for people who come home from work after a hectic day and want their home to be a sanctuary so I think that your statement is fair but if we can shave off a couple of hours in the evening and the morning everybody is up and running and I can negotiate with that, but in the evening when people come home or at least one day on the weekend shouldn’t we allow them to let their home be their sanctuary.

Scott – but if they were here they might wish to see this thing go 24 hours a day and be out of there in 6 or 7 years.

Lee Estes in Rifle, has to support Tres’s comments, the pit that was approved last summer on the Chambers property is a mile from my house and I can hear that crusher start up at 6 am just plain as day and I can hear it as long as it runs in the evening and on Saturday and then to add insult to injury they put a drilling rig within 400 feet of my house last summer and that’s 24/7 and it destroyed our quality of life completely. So, hours are very important to your quality of life.

Bill Roberts – I’m between a rock and a hard place here. I don’t have a problem with before 7 crushing; we could keep crushing not to start until 7 o’clock.

Commissioner Houpt – what would you start?

Bill – just to get things warmed up, loaders, people coming to work,

Commissioner Houpt – where are the loaders going to be.

Chairman Martin – it depends on the phasing and where you start.

Bill – in that slide – (showed on the screen) in the center where the operational plant is.

Commissioner Houpt – in the center and you just want to warm up equipment.

Bill – then we would start our equipment there and try to keep a fuel tank close there to fuel, the noise we are talking about would be crusher – that’s the noise that we’re

Commissioner Houpt – would you have to start moving the equipment before 7 or just get it ready for the day?

Bill – just get it ready for the day and we’d start staging it like sending trucks over to the bays and get ready to start there.

Commissioner Houpt – and then can you wind down at 6 pm?

Bill – and close that gate at 6?

Commissioner Houpt – what would that do? Would that be okay? 6 to 6 with no high impact before 7 in the morning?

Bill – there again it’s an issue of what you want to

Chairman Martin – the honest question is there, give us an honest answer. How it affects your business yea or nay because it’s a difference from the recommendation made by staff and the Planning Commission.

Bill Roberts – nay as long as I can still go in and out of my gate.

Commissioner McCown – this will change the peak traffic hours, it will definitely do that. Cause you’re going to compress – you’re not going to have fewer trucks, but you’re going to compress them closer together if you can, now depending on where they hauling, but that 5 pm they’re going to try and get back to that pit and get that last load if they can before whatever time we’re going to say you’ve got to be shut down.

Bill – so you’re asking me not to crush before 7 and basically be shut out of the gates at 6 o’clock at night.

Commissioner Houpt – well have everyone in; have the machinery shut down by 6 pm. You’re going to have stuff.

Bill – I would agree to that.

Commissioner Houpt – if you would do no impact

Chairman Martin – that’s acceptable business hours for you is what you’re saying from 6 am to start crushing at 7 am and to be shut down by 6 pm.

Commissioner McCown – do you expect a winter variance on that as well?

Commissioner Houpt – I was going to do that year round.

Commissioner McCown – 6 o’clock is in the middle of the afternoon in summer. It’s way after dark in the winter.

Commissioner Houpt – but the winter hours we have our 6 pm. That’s what proposed anyway.

Commissioner McCown – that’s fine.

Commissioner Houpt – and then Saturdays 8 to 5?

Bill – 8 to 5, 7 to 5.

Chairman Martin – 7 to 6.

Commissioner Houpt – and then you can do low impact at 7 and start at 8?

Bill will – the only reason I would disagree, there are so many hours to keep track of with

Chairman Martin and it also affects deliveries.

Commissioner Houpt – well, I’m not doing anything that’s different from this application because they had two different sets of hours in here. Now what they had was 8 – 1 on Sundays, if it would

Bill will be happy to take away the Sundays.

Chairman Martin – there’s some negotiating going on instead of questions and that’s how we make our decision.

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Bill – Saturday, if we could run 7 – 6.

Commissioner Houpt – that’s what you’re running Monday through Friday with no impact before 7.

Bill – right.

Commissioner Houpt – 7 – 6 and everything has to be off by 6 pm no heavy impact before 7. Okay.

Chairman Martin – all enforceable.

Tim Thulson – summation – back to the hours of operation. We are willing to give up Sundays all together and we’re willing to commit to no start up of crushing operations till 7 a.m. but then on the back end, Monday through Saturday with regard to the 6 o’clock cut off, according to the operators we need the need 2 hours till 8 o’clock as far as doing non-related mining activities, but we can cut off loading trucks and crushing at 6 pm but for us to be out of the site by 6 o’clock will put us in a bind. We willing to stipulate to this and the hours were taken from the last permit that was permitted in the County.

One housekeeping thing – there were a number of things the P & Z wanted us to address at the BOCC hearing, all of the others have been addressed except for one, they wanted a breakdown of how we comply with the DOW recommendations. We prepared a report on that and it’s largely related to Mr. Spence and we have a letter saying we have satisfied all they’re issues and would like to enter this as an Exhibit.

Exhibit LL was entered into the record.

Tim – we would like to note and asked Fred to put on the screen the mining plan – as some have observed Bill did participate in these workshops with regard to the Gravel Pits and this is a great example of true multiple use of a piece of property where developing the resources in the property and it has been noted in the workshops that some of that thought been given with the development of the Roaring Fork valley and the development of some of the gravel reserves prior to the placement of housing subdivisions on the property we might be sitting in a better situation with regard to resource availability. But we’re talking about mining gravel, mining the sand, the hydro recovery pads are being put into place at this time and note with regard to the Stillwater internal access road that we’re proposing it would allow them to access the DR site to the well pad that’s going to be drilled on the Stillwater property by Antero Resources also. So what we’re talking about is some real local uses and in the end the use is going to be a public park and it’s a very novel application than what has been seen in the past in Garfield County. With regard to the conditions of approval, Fred has given us a very thorough review and we are in agreement with all the conditions of approval, we would like to address just a couple and some small modifications that have been addressed with Fred already, but invite Fred to comment on what I’m proposing. With regard to condition of approval No. 7 – this is addressing the 310 foot deceleration lane; there’s a provision in there that states no mining activity can occur until these improvements have been installed and approved by the County Road and Bridge Department and the problem we have with that is that would require us to haul the sand and gravel from Carbondale to build the acceleration lane for Silt Gravel Pit and what would like to do is have the flexibility to the extent that the permit be issued because we’re still waiting for our water augmentation decree that we could nevertheless pull a grading permit with the County and to the extent we don’t expose any ground water get the material for the deceleration lane from on site and that way we would not have to truck it down from Carbondale. And that’s what I would suggest. With regard to the Stillwater project, we have been negotiating in good faith with Mr. Caruth with– SWD LLC and Lloyd Pierson with Valley Farms and given Mike’s turmoil today we couldn’t come up with anything in writing but what we would stipulate to is an additional condition of approval that we would continue to negotiate in good faith with the Stillwater developers and the Valley Farms property owners for an impact agreement to mitigate our impact and would note already that the berming plan already incorporates Stillwater’s comments and we have the internal access road which will use the same road that’s being constructed by Antero Resources for the hydro recovery pads and we did come up with the Town of Silt impact agreement. With regard to Paragraph 25 – we are willing to cut back the hours as just previously represented. We would have no operation on Sunday; on Monday through Saturday we would be willing to stipulate to no crushing operations until 7 o’clock beginning at 6 o’clock in the morning we would be limited to equipment maintenance and preparation; with regard to the pm cutoff on those days we would cut crushing operations and loading operations at 6 o’clock but we would like the two hours till 8 pm to finish the maintenance during the day and the other non- mining related activities that are necessary for the operation. With regard to Paragraph 36, and this is brought up by the property owner and let Scott address his concerns but we have a problem here with the way it’s worded with the prohibition of the asphalt and concrete plants on the site; we would much rather have that worded that the concrete and asphalt batch plans have been withdrawn by the applicant and if they are to be allowed on the property we would have to go through an entirely new SUP permitting process.

Scott – the way it is currently worded it would imply that we could never permit those things and I don’t think that’s what is contemplated.

Tim – and we’re fully willing to go through the entire procedure again.

Scott – it’s not included in this permit application but if we chose to permit them in the future and the County chose to permit them it’s not prohibited.

Tim – with that said, a lot of time and effort has gone into this and I believe submitted it’s a good plan and we would urge your approval of it subject to those modifications.

Commissioner McCown – page 41 bold print at the top of the page, assuming that does apply with the previous recommendations so that would be changed.

Tim – it is specifically addressed in Condition of Approval No. 25 on page 39.

Commissioner McCown – which one is going to trump which one – when you’ve got two like that they’ve got to say the same thing Tim. Seven, (7).

Chairman Martin – okay.

Commissioner Houpt – what are we changing.

Chairman Martin – its just the hours of operation, there’s a conflict in the recommendation in the bold permit.

Commissioner McCown it says any repair or maintenance activity requiring the use of equipment that would generate noise, odor, flare must be done within a building or outdoors during the hours of 8 to 6 Monday through Friday.

Fred – and that’s your current regulations.

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Commissioner McCown – and some issues on verbiage and the lack of verbiage. No. 22 – No. (14) and No. (28) - they all tie together because they all mention bonds and the County having the ability to revoke bonds and I'm a little unclear what everybody agreed to at Planning and Zoning. Was that a vegetation bond?

Tim – talked about this to Fred, there's been policy required about imposing a County bond, it's staff's position that the Division of Reclamation Mining and Safety that their bonding requirements are comprehensive enough and that the County should pool with that, this is what the DRMS does and that's what they're good at and leave it at that, but I believe coming out of Planning and Zoning Commission they recognize that this is a decision the BOCC can make.

Commissioner McCown – yes, but we can't make it. So No. 22 is not even going to be able stay in the analysis and I'm not sure that No. 28 may need to be rewritten.

Tim –we would be willing to resubmit No. 28 to DRMS and take out the language used by both County and DRMS.

Fred – No. 22 was suggested in a discussion with us with another operator and was driven by compliance. The one that is more pointed is No. 28 where in the event through your review you end up with a different reclamation plan, that's the plan that you approve by way of your SUP which you can do and that is what we're suggesting with this – that would be sent to DRMS and whatever plan they did have would be supplanted or replaced by this one and this is the one calculated for bond and not the older one. If they have a bond in place on a formerly presented reclamation plan that the BOCC hasn't opined on, then what we're trying to do, and the intent was the only reclamation plan that's out there that adopted, everybody's got to live by, is the one that the BOCC has had opportunity to look at and approve – that is the one that DMRS bonds for.

Commissioner McCown – during the course of Steve Anthony's recommendations he recommended a vegetation bond.

Fred – he did and that was prior to the conversation, Steve was not privy to the conversation on the policy direction we were going.

Commissioner McCown – so there will be no county vegetation bond.

Fred – this is clearly before the Board but it is where we were headed. There is some language in here that deals with on-going weed management that's there now and much less with what is going to happen when they start mining.

Commissioner McCown – asked Fred if he agreed that 22 is erroneous where it talks about the County's bond on performance.

Fred – in a general sense – if the operator is not reclaiming pursuant to their plan, the Board has the authority to say you're going to have to stop until you come into compliance.

Commissioner McCown – it clearly isn't a County bond and says in here with regard to the County bond.

Tim – we could address that just deleting the first sentence because I think the second sentence just states the law that if

Fred – agreed with Larry.

Commissioner McCown – strike the entire first sentence.

Fred – that would get you there. We are notified of hearings that are led to bond release so if they've met pond 1, 2, and 3 and they getting ready to ask for their money back, we are advised of that hearing and we can object or satisfy at that point.

Don – question on that same issue on paragraph 28 – is it a given the state will approve any change to the reclamation plan that we're requiring.

Fred – according to Carl Mount this is something he could contemplate. Can't answer that yes or no. It's my understanding that the DRMS has said they can't do that.

Don – is par 28 presumes that they will approve it.

Fred – as long as it's compliant with the DMRS guidelines, what we are suggesting is that the messaging of what occur more onerous or more restrictive than what DMRS would require in reclamation permit, not less restrictive. They have to meet the DMRS minimal anyway and gave an example of a slope issue you have to have a 3 – 1 slopes. DRMS said you have to in their reclamation plan. Some operators are doing by way of, as a benefit to habitat etc. is going with 5 – 1, 4 to 1 what have you. So the DRMS is not going to say, on no you have to do our minimum – that is what this is getting too. In discussions with Carl Mount of DRMS they would like it – the applicant has to go back to them with their new change Reclamation plan and it's more restrictive than what you required.

Don – if they submit that is it given that the state will approve the more restrictive plan?

Fred – couldn't answer that.

Don – because this paragraph is dependant upon them doing that.

Chairman Martin – that's the way its presented to them because it is a condition of approval in reference to the agreement of the applicant, etc. and they are coming across with that and that's what Carl was looking for – the involvement of the local authority to establish more than just the minimum standards and he opened the door at the meeting when he was here and agree with Fred that it needs to be suggested, it's agreed upon in reference to this application. They have come forward with more than just the minimum standards. We forward that on with our recommendations. It is up to them to decide, they have the ultimate choice.

Commissioner McCown – #29 – if reclamation has not fully occurred – does this mean that one crop has to go grow and go to seed to say that its fully established or if its been seeded, mulched are we going to require a percent of stand – this is fully occurred and will we be the inspected entity or will DRMS?

Fred – the way this is written, we would be the enforcer of that. There's a section in here where we're calling about the measure of being fully reclaimed on a general sense if the slopes are laid back you can't establish a certain level of vegetation until your levels are up and all the planting has occurred and presume you have a season for take, if not two seasons for take.

Commissioner McCown – some of the recommendations were planting in April and given the conditions at that time it may be better to plant in the fall so you may be looking at a window where you could force them to waste seed and then not get a crop until they plant in the fall.

Fred – some kind of mechanism that keeps them in the reclaim as you go with the program so whether it's 6-month, a year, or 8 months that gets you though one growing season – that's the intent.

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Commissioner McCown – it has that 6-month window in here and it says all mining shall stop if that hasn't been fully reclaimed. That's quite an interpretation to shut down an operation on what "fully reclaimed is." Some folks could say the trees haven't budded.

Fred – that's why this is written for you – what do you think you would be comfortable with.

Commissioner Houpt – we need the definition of fully reclaimed. I agree it is important to keep the process moving forward and the intent is to have that happen today. I am comfortable with this if we understand and if the applicant understands what level of reclamation needs to occur at that point.

Chairman Martin – the real facts are who will interpret this in five or six years or ten years on what exactly is going on and we need to be clear now.

Commissioner McCown – wants to change the verbiage to "if no reclamation activity has occurred within 6 months – you would shut down the pit".

Commissioner Houpt – that changes the whole meaning that Fred's trying to do.

Commissioner McCown – absolutely it does. I'm not going out there and squeeze the tree to see if it is still alive and go well, this isn't complete. If they have moved to the next pit and that's still sitting there, you've got grounds. If they go out and sprinkle some straw around, they're going to say, we're reclaiming it – nothing came up – we'll seed again in the fall. That's 6 months again.

Commissioner Houpt – but the way you had it worded just now, you wouldn't have to even start reclaiming for 6 months and they have to get the ground ready, the sloping ready, there's a lot of preparation work that goes with it.

Bill – that's two different things – the sloping, the shaping, also I have to keep accessing pumps that where at the end the DOW may not want that little road going back there and some issues like that – so you're looking at sloping, meandering shore lines and things like that and then you're looking at actually vegetation that could not happen until the next year flourishing. I can show you some sprouts but ...

Commissioner Houpt – all you have to show is that you have started that process.

Commissioner McCown – then let's just take out "fully occurred".

Fred – how long do you let it go?

Commissioner McCown – normally two growing seasons – if you're going to use fall and spring there's your two growing planting seasons.

Fred - as a measure to try and take the gray out of it – they have a rec plan that shows we're going to plant 50 trees around pond A, that's one measure and easy to do; you can go out and count the trees. In my mine that would be the easy part, getting it to take is another issue so at the very least you could say, if it's reclaimed and then you're in jeopardy in 6 – months coming, then you've got 50 trees in, its mulched, water's up and then you go. There's a bonding issue – the bond is held by DRMS.

Commissioner McCown – the first part of the sentence says, it shall be allowed to progress as long as the previous pit has been reclaimed within 6 months. But then it says if it has not fully occurred in 6 months then everything will shut down. I'm not sure that's in the best interest.

Tim – I think on the back end, Fred's right, fully occurred with the bond with DRMS.

Commissioner McCown – it's ours to enforce then, we don't know what that bond is.

Tim – right, you're taking out the whole sentence.

Commissioner McCown - yes

Commissioner Houpt – when you wrote fully, what were you anticipating Fred?

Fred –what I was envisioning in a similar discussion that Bill and I had about what does that mean in reclaiming and ultimately some of the provisions in here as you've read As you are mining it out and at the time you're letting the water come back in, you stop dewatering, then your slopes are there for the most part there may be some undulations you still have to work out with DOW's prespective so that has happened, the water is coming in, you're getting your top soil in there for the last 5 feet, you're getting your water in beyond that and in the meantime you're going to be planting and irrigating the vegetation around that lake and then having them, I guess the riparian vegetation will be one of the last things that you're going to put in because you don't have the water there yet. So that gets in, assumed, in talking with the industry, that's possible in 6 months. Now the seasonal issue is something that we really didn't go down that road. Let's say you finish and it's October,

Scott – you've finished the planting but not necessarily the reclamation, the plant isn't establishing and isn't self sustaining.

Commissioner Houpt – but it has been planted.

Commissioner McCown – so you're off the hook if he just put a stick in the ground and go I'm done, that's not the way to solve it.

Chairman Martin – that's a waste of time, money and effort.

Commissioner McCown – we've got to

Chairman Martin – Doug, you had a comment.

Doug Grant – there's a transition between like when the state wants to release your bond or you want the state to release your bond, you basically have your pit reclaimed and it may be seeded but they won't release the bond until there's growth so there's a transition there from you might say it's completely reclaimed, you've got the slopes all done, it's all graded, top soil basically and then you're waiting for the plant growth to take and stay. So you might say and I'm just throwing this out, it's fully reclaimed when once it's all sloped and top soiled and then once it's seeded that's when it's really done.

Chairman Martin – but the problem is if it doesn't take you're shut down – there's no mining operation going until that comes out of the ground and then you're certified reclaimed.

Commissioner McCown – that's the point I'm trying to get at. You've got a hard ...and you go out there and go, well you've only gone one plant every eight foot, that's not fully reclaimed, you're shut down until you get this to grow, well we just missed the planting windows so now you'll have to stay shut down through the summer and we're going to plant in September and October again and then nothing's going to come up until next year; you've missed a year of operation. I don't think any of us can afford to be without gravel that long.

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Bill – no, I guess I thought there would just be some common sense involved, but the time you get the seed bed put in and the seed and the trees and if something happens, an act of God or anything, somebody’s not going to do that to me but maybe....

Commissioner McCown – the “fully” is what tripped my trigger.

Bill – makes me worry when I hear you Larry.

Commissioner McCown – a year’s vacation is not what you had in mind.

Bill – the intent would be to have that seed bed and seeded and those trees in and whatever happened after that, I would think and the amount of water we have there

Commissioner Houpt – we need to look at this because if you want to, well actually the 6 months would allow you a growing season, you don’t want to see yourself starting a new area.

Bill – well as in the hours we could put that for a year.

Commissioner Houpt – we’re not done with the hours yet.

Commissioner McCown – Tim, any addressing the concerns of your neighbors down flow on utilizing the water to irrigate adjacent or other property and I certainly don’t want to get into the water law but I can also see a concern on historical irrigation and the historical amount of water that was conveyed from one property to another.

Tim – that’s above my head.

Commissioner McCown – I don’t know what’s historical as far as water.

Scott – about a foot and foot and a half that goes north of the highway and that’s all the ditches will handle, that’s all we can irrigate with. Beyond that we’re stuck with putting it in the Colorado River, because that’s the only safe place you can put it in.

Commissioner McCown – so you’d be willing to stipulate to that acre and one half and it would be during irrigation season?

Scott Balcomb – yes.

Commissioner McCown – okay.

Commissioner Houpt – I don’t know if you want me to respond to the hours.

Chairman Martin – if that’s a discussion with the applicant, that’s fine, if it’s going to be within the motion or whatever that’s a different issue.

Tim – back to No. 29 – could I suggest some language on that?

Chairman Martin – Tresi, your question.

Commissioner Houpt – I’ll wait.

Tim – what I talking to Bill if “mining operation shall be allowed to progress so long as the previous pit final grade has been established and planted; if that hasn’t happened in 6 months then the mining operation cease and complete site reclamation revegetation shall be governed under the DMRS permit.”

Commissioner McCown – that’s taking the County’s evaluation of it out of there “to the satisfaction of the county” goes away?

Tim – well when the final planting yeah. That’s what is bonded anyway.

Chairman Martin – and where we have

Fred – who’s going to enforce that issue to see if it’s contoured and planted according to what the reclamation plan? Who has the hammer?

Chairman Martin – there’s another issue that Bill alluded to and that is the final plan is with the DOW and they want certain things to be gone as well and I think you’ll have a partner there. The DOW, the County and the applicant will have to go to and have the permit either satisfied or not or the bond sent back to them and if it’s not and there’s objections I think they’re going to be held up so I think it’s in their best interest to go ahead and satisfy the contouring, the seeding, etc before they request.

Commissioner Houpt – sure it is but then if we go in and try to enforce that and ...

Commissioner McCown – we can’t enforce the DRMS bond anyway.

Tim – you’d be able to enforce the establishment of the final grade and the planting if it’s a condition of this permit.

Chairman Martin – which you’re agreed to.

Tim – and in the long term the bond is the same is the reestablishment of the vegetation under DRMS.

Fred – the other issue here that we didn’t touch upon in the presentation to you all at least to the decision policy holders is the whole issue of not having a County bond at all. We have done that in the past.

Commissioner McCown – revegetation only, and that was before we couldn’t.

Fred – we’re suggesting that you don’t, leave it to the DRMS who does this well and have a long term

Commissioner Houpt – we’re talking about the final picture, that’s when they will come in. This is phasing so they would come in for the phasing portion every time things started and when they reclaimed, they would come up....

Commissioner McCown – they would have to or they wouldn’t know what the slopes were under the water.

Chairman Martin – exactly they have to inspect it as they progressed.

Commissioner McCown – is the Bond released in phases? Or is a final reclamation?

Fred – you can get releases in phasing.

Bill – I can draw down.

Fred – it would be in their interest to do so in order to not have that much cash out there.

Chairman Martin – you can request phasing; it may be that they hold you up until the final inspection. That would be up to their final determination. Again, we’re working outside the norm for them.

Dan Grant – the bond is based on the amount of area open so if it has phase one open and gone he’s going to pay so much, x amount then he reclaims that and opens another area, he’s got approximately the same amount, the bond’s not going to change as you go and release in stages it’s going to be one bond and it maybe increased.

Chairman Martin – he either has to come up with more money or he has to request a new review and a new bond.

Dan – no it will be one time based on what he has open right then and then when he has that done and goes to the second one, they reevaluate and say on, now instead of 15 acres you’ve got 30 acres so we’re going to increase the bond, not based on how good he has done, it’s based on the amount of acreage he has opened and

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how much work it takes to fix that and once they see how good a job he's does on 1A they might cut it down to the same amount on the 30 acres because he's done as it as he's gone, so if the state has to go in and fix the thing, he doesn't have to fix it, because he's already done it as he goes. He's fulfilled his obligation as he goes and the bond could be pretty small or pretty big at first until they see what kind of operator he is and what's he's doing.

Commissioner McCown – to me that's the whole purpose of the bond is, is to ensure compliance and if it didn't have to be but \$5.00 and he did it on his own that'd be the best bond we could have.

Bill Roberts – to add to that this bond is put together by the State that it will take the total money to bond this total project cause I might do it in a year but that's how they look at it. So that bond is totally for the whole project; if I go back and ask them to review on a technical review to release me this area they might do that but...

Commissioner Houpt – so what you're asking for is the 6 to 8 Monday through Saturday with heavy work being done from 7 to 6 is that true?

Bill – yes. We need to clarify – it's non-crushing basically or loading of trucks. But I need to move in there that hour in the morning; we just can't run in and have trucks coming at 7 o'clock there in that gate and we haven't had anything started or anything going yet. We can't do it that way.

Commissioner Houpt – okay, then I could see that Monday through Friday but on Saturday you're going to have start later – cause this is – I would go 6 – 8 with no crushing no loading.

Bill – it's so hard to change sequences there.

Commissioner Houpt – but you did in the spring.

Commissioner McCown – let's just do 7 – 6 Monday through Saturday, crushing and loading, maintenance and putting a new ribbon in the typewriter can happen after 6 o'clock.

Bill – okay.

Chairman Martin – and you still get to close on Sunday and have a good time.

Bill – okay.

Commissioner McCown – that's easy to remember, that's year round.

Commissioner Houpt – so just office work is what you said, did you hear him say that. Just office work.

Chairman Martin – office work and maintenance work.

Commissioner McCown – it doesn't make a lot of noise to drop an oil plug.

Commissioner Houpt – be careful about starting at 7 a.m on Saturdays. I don't agree with this at all. I mean I think you've done a really good job of working with the folks. But if there weren't all these homes around this proposed site, I would be approaching this differently but there are homes and we know that and there's just – I have a real problem of putting people through that type of activity but maybe

Chairman Martin – I wish farmers would get one day off.

Commissioner McCown – you see how the contractors do when they start building houses in Stillwater. I bet they won't work on Saturdays either.

Commissioner Houpt – we'll talk about that too.

Commissioner McCown – we won't get too since that's going to be in the Town of Silt.

A motion was made by Commissioner McCown close the public hearing.

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown made a motion we approve the special use permit for extraction, processing and storage of material handling of natural resources and development in the flood fringe and the 100 year floodplain for the Grand River Park Project on a property owned by Gypsum Ranch, LLC., with the phone book full of conditions, the No. 7 – with the strike outs that were done previously, No. 22 is the next one that came up on the radar screen

Commissioner Houpt – on No. 7 do you want them to be allowed to take gravel from the site as they're building that acceleration lane?

Commissioner McCown – yes, that's fine.

Chairman Martin – I think that was the request. To be able to do it in-house and use their own materials so therefore the second part of that “no mining activity can occur until these have happened” is that going to be stricken?

Commissioner McCown – that will be stricken, given the provision that the accel or decel lane will come from the material from their pit. No. 22 – strike the first sentence;

Chairman Martin – did you go beyond 14 – was everything satisfied on No. 14.

Commissioner McCown – nothing until I got to 22 striking the first sentence starting with the “operator acknowledges....”; No. 25 – the hours shall be from 7 am to 6 pm Monday through Saturday year round for crushing and loading of trucks, maintenance, bookkeeping, items that do not require crushing or extensive equipment operating can take place until 8 p.m.; closed on Sunday; No. 29 – a lot of discussion, I still want to strike in the second sentence fully – I think it's the intent but I'm having a real problem describing it fully, so; No. 36 – concrete and asphalt plants are withdrawn from this particular special use permit application. Fred – go back to No. 32 in bold.

Commissioner McCown – yes, and those hours will be modified per the No. 25.

Chairman Martin – they will correspond with No. 32.

Commissioner No. 40 – I have added that two weeks following the hearing, Stillwater and the applicant will work out an agreement and that agreement will be presented to the County prior to the issuance of the this permit. The mystical one week that we said we had, I gave you an extra week.

Commissioner McCown - No. 41 is one and a half acre feet of water can be taken from

Chairman Martin – cfs

Commissioner McCown – cfs of water can be taken from the mining area and utilized on the north side of the interstate during irrigation season all other water will be discharged into the Colorado River.

Commissioner Houpt seconded.

Commissioner Houpt – just wanted to thank the applicant for going through this process with us by coming to our meetings as we were discussing gravel pits, I think a lot of eyes will be on you because we want to make sure we're finding a compatible way to work.

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In favor: Martin – aye McCown – aye Houpt – aye.
ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

APRIL 9, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, April 9, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

COUNTY MANAGER UPDATE – ED GREEN

LANDFILL - 2007 LANDFILL POSTER CONTEST – MARVIN STEPHENS

Marvin Stephens and Mike VanderPol were present. Also present to receive the awards were:

1st Place Winner: Miss Baley Barnum – 1st grade, Home Schooled, Rifle – Baley received a \$25.00 gift certificate and a \$75.00 gift certificate for the teacher to purchase art supplies.

2nd Place Winner: Miss Sophia Nelson – 2nd grade, Riverside Elementary, New Castle - a \$50.00 gift certificate was given for the teacher to purchase art supplies. 3rd Place Winner: Stephen Pizzeli – 1st grade, Roy Moore Elementary, Silt - a \$25.00 gift certificate was given for the teacher to purchase art supplies.

PUBLIC HEALTH - HEALTH RISK ASSESSMENT – DR. TERESA COONS

Dr. Teresa Coons and Jim Rada were present.

Dr. Coons presented to the BOCC the Community Health Risk Assessment. The Contractors are: Dr. Teresa Coons, St. Mary’s Saccomanno Research Institute and Dr. Russell Walker, Mesa State College. She presented an Overview of the Scope of Work and their progress to date. Dr. Coons explained Exposure potential (risk assessment) which identifies (all) potential hazards to human health along with the Health assessment (current health status, which determines the type and magnitude of potential human exposures to toxins.

Risk Assessment: Characterize the “sources” of natural gas operation by developing a model showing potential pathways for movement of contaminants from source to human exposure and other sources of potentially toxic material (e.g. mines, mill tailings, landfills, agricultural spraying)? Characterize the “contaminants” by collect and interpret data on contaminants and their concentrations and summarize toxicological information on contaminants.

Risk Characterization: Develop “probability statements” about risk to individuals within the community (current or future risk) by exposure potential (proximity to source, dose, etc.) and probability of suffering harm from exposure (incorporates factors related to age, health status, etc.)

Health Assessment: Perception of health, this will be done through focus groups, interviews, public meetings consisting of concerned citizens, elected officials, human resources council, school staff, healthcare providers, elderly citizens based on common themes, frequency of health concerns; matching perception with reality such as health status data that includes; statistical data with comparative data, and self-reported health information.

Dr. Koons stated that at a point in time they can show a picture of the health status of residents of Garfield County and provide information about the determinants of this health picture. They will be able to say the relationships between exposure and health status and provide a set of probability statements and recommendations for data gaps that should be filled, possible future monitoring needs and options for management risk.

Community Health Assessment Limitations: This study may uncover issues or areas that need more in-depth research than can be performed with existing funding; lack of baseline health data with which to determine trends or changes; relatively new presence of the industry in the region: health outcomes may not yet be apparent; and both risk and causation involve probability statement that may never be able to say with certainty that a particular health condition is caused by an exposure to a potentially toxic material.

Discussion:

This was not set up as an occupational health study necessarily but they are working with the hospitals and they will be able to provide statistical data for those being attended to at the hospital. They are working with the industry to discover what contents are in the fracing process and those individuals directly working on the rigs.

Dr. Coons will be glad to come back and give updates as the process is underway.

Earth Day – This year it will be the same as before.

However, next year they are proposing:

LANDFILL - FREE DUMP DAY FOR COUNTY CITIZENS TO BE IMPLEMENTED IN 2008 – MARVIN STEPHENS

Marvin presented a request to present to the BOCC the Free Dump Day for County Citizens to be implemented in 2008.

This work would be to promote Earth Day all year long and by eliminating a one day event we would decrease expenses such as; Employee overtime, Advertising, Promotional items, Refreshments and there would be less chance for accidents to occur. Cut down on traffic and remove congestion in pit and recycling area. We believe there would be software changes. A code would be added to identify and track “Free Dump Day” activity. Driver’s licenses would be checked to verify in county residence.

MAINTENANCE - INSTALLING CARD READERS IN THE COURTHOUSE – RICHARD ALARY

Tim Arnett and Richard Alary were present.

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Richard had a walk through with the contractors and this request is to procure and install card readers into existing DSX Access Control System at the Courthouse. There are 13 doors, Courts, Clerk's, This is for access for employees – it reads who was there and also on weekends. Doors are getting left unlocked and replaces some
Commissioner McCown – sounds like we are creating a compound for our own Courthouse offices.
Richard explained that in the County Administration Building security is already installed.
Commissioner McCown – sounds like we're double dipping.
Richard said this is a way of tracking personnel.
Ed said there are very diverse activities in the offices and you do not want interaction.
Richard said getting keys back from employees who no longer work in the office has prompted additional security precautions.
Chairman Martin – this is for internal control.
Our recommendation is to award the bid to Current Solutions and not to exceed the price of \$22,992.00.
A motion was made by Commissioner McCown to approve the installing of card readers in the Courthouse for security to DSX Access Control System for a not to exceed price of \$22,992.00.
Commissioner Houpt seconded
In favor: Houpt – aye McCown – aye Martin - aye

COUNTY ATTORNEY UPDATE – DON DEFORD

AFFORDABLE HOUSING - CONSIDERATION/APPROVAL OF IGA FOR ADMINISTRATIVE SERVICES IN CONNECTION WITH THE GARFIELD COUNTY AFFORDABLE HOUSING PROGRAM – GARFIELD COUNTY HOUSING AUTHORITY

Don presented the IGA for Provision of Administrative Services in connection with the Garfield County Affordable Housing Program for \$60,000.
Ed stated there will be a need to amend this contract as it is actually \$87,000.
A motion was made by Commissioner McCown to approve the IGA for Administrative Services in connection with the Garfield County affordable housing program in an amount of \$60,000.
Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye
Executive Session: Litigation Update – Don stated he needed to give legal advice direction on property Battlement Mesa Parkway and an agreement with Chevron on CR 311.
Ed identified the topics he needed legal advice on: BLM PIES, Legal guidance, City of Glenwood regarding potential facility for DDA; Anti donation in BOCC contract for employees. Carolyn and Jesse and Fred Jarman will be needed.
A motion was made by Commissioner McCown to go into an Executive Session.
Commissioner Houpt seconded; motion carried
A motion was made by Commissioner McCown to come out of Executive Session
Commissioner Houpt seconded; motion carried.
Action Taken:
None

COMMISSIONER REPORT

Commissioner Houpt – Last week – the governor's Blue Ribbon panel on housing came together to regroup and see what is going on in the state and funding sources. The recommendation of stake holder's realtors, bankers, and public officials was made and they came back with a list of funding opportunities but no consensus until it is linked with issues and solutions. They would like to recommend to Gov. Ritter that they want this to continue. Transportation Summit by the Governor's office and Russ George did a tremendous job hosting. The message on transportation was given and the big challenge is to try and figure out how to create a revenue base to keep up with the growth of the state. We're putting all these sources against each other and it will be difficult time to have anyone successful in moving forward. George and Udall met on the I-70 corridor and Russ is committed to sitting at the table and discussion the models set forth. This week – Tuesday – meeting with local Catholic Charities, Thursday the I-70 and Intermountain TPR and Friday CCI in Denver.
Commissioner McCown – last Wed. we had the 1st meeting on the Glenwood springs/Kremmling with RMP with BLM – Tuesday evening. Roll out process on the RMP rewrite at Rifle at the Fire House from 4 – 7 pm on Wednesday - it is noticed in the paper. Carbondale same time on Thursday evening; Thursday Associated Government in Palisade; Tues in Carbondale, 4-7 pm for the public scoping plan.
He will contract Donna Gray for the sessions.
Chairman Martin – Chamber Annual Recognition Awards Luncheon on Wednesday and Mildred was recognized. Went down to the Palisade and met with Mr. Steel and went through the headwaters task force and put the scope of work and then making it happen. Tamarisk in Rifle was an example – this will be going on throughout the summer; Intermountain TPR on Thursday.

CONSENT AGENDA

- a. Approve Bills
- b. Changes to Prior Warrant Lists

A motion was made by Commissioner McCown to approve the Consent Agenda Items a - b;
Commissioner Houpt seconded; motion carried.

PUBLIC MEETINGS:

GARFIELD COUNTY - HISTORIC PRESERVATION IN GARFIELD COUNTY – GLENN VAWTER

Judy Hayward of Grand Valley Historical Society and Glenn Vawter of the Historic Preservation in Garfield County. Glenn made the presentation to the County Commissioners. He thanked each member for allowing him to present information on enhancing historic preserve action in Garfield County and to update them on the activities of the Garco Historic Preservation Action Team.

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It has been some time since you asked us to form a group of those interested in historic preservation and get back to you with our recommendation on what the Commission should do to enhance historic preservation in our county. Better late than never we hope.

Glenn said we in this County have made great strides in preserving our historic past. A lot of it has been through the actions of volunteers acting through the municipal historic societies and commissions. Our focus therefore has been on what would enhance historic preservation in areas of the county outside the jurisdiction of these very active groups.

The group of volunteers that have been meeting is now called the Garco Historic Preservation Action Team. The members number about 20 and represent the public, federal agencies and representatives from each of the municipal historical societies and commissions in the County, including Silt, Glenwood Springs, Carbondale, Parachute New Castle, Rifle and the Frontier Historical Society.

Since the first of the year we have been meeting monthly. Dan Corson of the Colorado Historical Society provided very valuable input at one of our meetings, and we have been in touch with organizations outside the county who have experience in this area.

At our March meeting Dee Bolton of the Routt County Historic Preservation Board presented how they have achieved great success with historic preservation without restrictive regulations. After reviewing their historic preservation resolution and what other counties have done, we decided upon a course of action. Over the next few months we will present to you a draft Historic Preservation Resolution for your consideration and enactment.

If a resolution was patterned after the Routt county Resolution 93-006 it would not be a resolution that provided for historic building codes or other restrictive covenants but would focus upon: Protecting and preserving the historic heritage of Garfield County by providing for the designation of historic sites; enhancing property values and stabilizing historic places such as ranches and sites of historic events; and increasing economic and financial benefits of historic preservation as a result of attraction of tourists and visitors.

The resolution would establish a Historic Preservation Board in the county supported by a modes staff from the Commissioners office. In Routt county there is one part time person that fulfills that role. Planning staff is not integral to the activities of their board. The Board's first actions could be to finalize the criteria for designating County Historic Sites and recommend to the Commissioners the action it should take to assure developers notify the county of impending demolition of historic sites. The Board would provide public education and advise owners of historic properties on the financial benefits available for preservation, and we would seek nominations of historic sites and review applications for County Historic Site designation.

The Board would determine the benefits to the County of becoming a Certified Local Government (CLG) through the Colorado Historical Society. CLG's are eligible for an earmarked pool of Federal grants for historic preservation.

Glenn said, we urge your support of this approach on the basis that it is a sensible step toward insuring we preserve our deserving historical sites and heritage for future generations while at the same time benefiting the financial and economic well-being of our businesses and citizens.

Are they on the right track? Would the Board entertain Glenn coming back with a Resolution?

Discussion:

Carolyn said there are several statutes involved and could have this or set up 1041 regulations to regulate historical preservation. Staff time would be incurred. It is regulatory and sets out the criteria. A Historical Presentation Board would be selected and if a building was to be destroyed, it would involve a public hearing. Chairman Martin – Cardiff School House is one of the examples given.

Commissioner Houpt – interested in seeing us move forward and would like to see our legal staff involved in assisting in a Resolution process and what you believe should be in there. We need to look at this in a more formal manner, would hate to see us lose all of our historical buildings because we haven't been paying attention as formally as we should be.

Chairman Martin – under the State there is a historical building code and funds we could apply to the state. He would like a review board of citizens with a willing owner of property to come forward and say how do I preserve this property, etc. and it goes to a review criteria and this is what you can do, this is what it is, etc. and if you wish to go forward this is the way to approach the Commissioners and make a recommendation or a request to be designated. It all needs to be voluntary and we need to make sure that people understand it is not mandatory that they have to do this, we can give strong suggestions through that board if we see something we need to preserve but we can't make it mandatory.

Judy – we have a number of active societies throughout the County and our society in Battlement Mesa it is School District 16. Rifle's created the same way.

Commissioner McCown – asked what the source of funding was for the Routt County group.

Glenn – the Commissioners initially funded it out of the County budget but again all the review staff they talk about was the one lady, Dee Bolton and it was 10 hours per quarter that she spent to review the applications, set up the meetings and took minutes. Another group was formed in Routt County and they actually have a levy that was voted on in Routt County for historic preservation and that board actually is the one who takes that money and distributes it to the individual local societies.

Commissioner Houpt could see us designating some funds for historical preservation for open space and recreation. We're seeing a lot of needs in a lot of those areas. It would mean going to the voters but as we continue to grow those are some critical areas that we need

Glenn - In Routt County they levy \$60,000 to \$80,000 a year in revenue from that tax levy but that's only been in effect for a couple of years. They thought about actually going out and doing an inventory which we've been contemplating and they said no they actually relied on the public to come in with nominations.

Carolyn – two questions: one is does it make sense to be creating a separate resolution or should this be part of the land use code; and two, is there any downside to having this group designated as an certified local government unit of the state society.

John –suggested that each step separately. We need to go forward and form a group to make sure there is an interest there that we can go ahead and make recommendations, make the next step putting it together with staff on review, putting it on recommendations, next do the final Resolution and a funding source or

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designation and then put it into our land use code. We need to baby steps because we haven't heard from the public.

Commissioner McCown – mentioned earlier was the difference in the building code applications that would have to be something we incorporate in our building codes to allow it to happen otherwise they wouldn't meet the IBC.

Fred – worked with Glenn at the front end and the only issue from B& P is administration and we need to be careful who carries the burden of administration because it can be very burdensome and he is protective of the resources limited in his department. Suggested the group administer itself. The second piece is a way to also work with this group is through referrals so that we have applications and we could refer them to the group.

One thing extremely important is the question of demolition. What demolition says is there's a regulatory mechanism put in place that says to the BOCC through us that x y structures coming in for demolition and what is your position as the BOCC on whether that can happen or not. Fred suggested a workshop.

Commissioner Houpt – if we do decide to adopt a resolution and make it more formal it's not whether it will be in one of our county departments, it's whether we can commit to whatever resource it is. It wouldn't be appropriate to have an outside entity administering our Resolution or land use.

Fred – Housing Authority does operation outside the county staff.

Commissioner McCown – underlying concern – on demolition or deterioration – where does the responsibility lie with the landowner or for the sake of safety should we tear it down. He doesn't want to put a burden on the landowner. Larry would never support something like this.

Chairman Martin – Four Mile Farm building – they allowed us to apply for funds to restore it. It allowed us to keep the facility safe. To get there we as a county have to be a participant in one way of the other.

Commissioner McCown – had the landowner not been willing on the Four Mile Barn, that's would have been another discussion.

Commissioner Houpt – favored a work session to obtain a sense of what others are doing.

Chairman Martin – we need to determine what the process will be and keep working and have these folks come back.

Commissioner McCown thanked the group for their work.

Judy – Grand Valley School House grand opening is scheduled for May 5th on a Saturday afternoon and they will be coming before the BOCC for a SUP. Williams wants to have this on their property – totally restore a log cabin and thanked the Board for their past support for the school house – it is awesome.

Jesse – Williams announced they would move this cabin next to the school house and are aware they will have to bring it up to code if they do.

Fred – there are some exceptions.

Phil Vaughan is moving the building. Cost \$125,000 to bring it up to code.

Judy – we want it to be open to the public and be safe.

HUMAN RESOURCES - CEBT UPDATE – FRANK URMAN

COLORADO EMPLOYER BENEFIT TRUST (CEBT) is a multiple employer trust for public institutions providing employee benefits. Since 1980 CEBT has grown to approximately 17,000 employees and 140 participating groups. The Trust is governed by a board of trustees made up of representatives from participating groups. The Trust fund is approaching \$107,000,000 in annual premium deposits with approximately \$35,000,000 in reserves.

The purpose of the Trust is to spread the risk of adverse claims over a larger base of members and reduce administrative costs. Since the pool is self-insured, the participating groups have been able to benefit from positive overall claims experience and low administrative costs.

Frank explained the paid loss ratio and how the renewal costs are based on this. Medical inflation is based on the cost of high technology, aging population, and prescriptions.

Frank – updates were given to staff and the follow-up was for him to come up and visit and put a presentation together – Employee Benefit Review. He has been doing this for 29 years. His father started the firm and said they cover 48,000 employees. He has been consulting with Ed and his staff; he's an independent brokerage; does administration for firms and bookkeeping. The Colorado Employer Benefit Trust (CBET) has \$30,000 in the plan.

This presentation is in direct relationship to the letter authorized by the Board to clarify the premium increase.

Commissioner Houpt inquired as to the relevance of having a holiday in December versus keeping the premiums lower.

Commissioner McCown noted that the July 1st doesn't work for us as we are on a fiscal year budget. The county carries the rate increase for 6 months.

BUILDING AND PLANNING - CONSIDER PLAT AMENDMENT LOT 53 CERISE RANCH - GUGGENHEIM – APPLICANT: Daniel Guggenheim Marv Ray, Michael Howard, Daniel Guggenheim and Gustavo Bruno with Concept Builder, Inc. were present.

Description of the Proposal:

The owners of Lot 53 of the Cerise Ranch Subdivision (a currently vacant lot) request approval to extend the previously approved building envelope that currently coincides with the irrigation ditch easement, approximately five and one half (5.5) ft. into the existing irrigation easement at the northwest corner of the proposed residential unit foundation and the northeast corner of the proposed garage foundation. The irrigation easement would be adjusted accordingly to coincide with the proposed building envelope realignment. The purpose of the proposed building envelope revision is to protect the integrity of an existing drainage channel embankment extending along the southeast side of the existing envelope during construction back fill operations. The building setback distances within the low would remain in compliance with the Garfield County regulations. The affected adjacent property owner concurs with the easement realignment. The Cerise Ranch HOA supported this proposed building envelope adjustment and irrigation easement realignment.

STAFF RECOMMENDATION

The applicant has provided all required documentation and has satisfied the applicable standards for a plat amendment. Therefore, the Planning Staff recommends that the Board of County Commissioners, pursuant to

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Section 6:10 of the Subdivision Regulations of 1984, as amended, approve this amended plat request with the following conditions:

1. This owner of lot 53 would incur all liability and cost associated with the adjustment to the irrigation ditch realignment.
2. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
3. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, than signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in Section 5:22 of the Garfield County Subdivision Regulations.

Discussion:

Applicant: DANIEL GUGGENHEIM clarified it is not a ditch, it is a pipe. Otherwise Marv described the proposal very well. Originally it was too close to the creek and that's the purpose of turning the building envelope. The easement is 15 feet wide.

A motion was made by Commissioner McCown to approve the amended plat with the 3 conditions of staff.

Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT APPLICATION ALLOWING "STORAGE, PROCESSING AND MATERIAL HANDLING OF NATURAL RESOURCES" TO THE PLANNING COMMISSION – APPLICANT; SCOTT BRYNILDSON – CRAIG RICHARDSON

Craig Richardson, Michael Howard and Cody Smith of Wagon Wheel Consulting for Scott Brynildson were present.

Craig presented the request for a Special Use Permit application to allow "Processing, Storage and Material Handling of Natural Resources". The subject property is owned by Scott Brynildson and located on County Road 315. The SUP would allow the construction of a Water Treatment Facility utilized by Antero Resources Corporation's oil and gas activity in the surrounding area. Antero intends to construct a single pond with a capacity of approximately 205,287 barrels, associated tanks including processing equipment and substation to house the electrical pump.

Project Information: The proposed Water Treatment Facility will have a footprint of 11.682 acres, situated in close proximity to Mamm Creek. Three earthen berms are represented on the layout and grading plan. Water will initially be treated to remove hydrocarbons in the proposed storage tanks and then transferred to pond.

Recycled water will be reused in Antero's well drilling and completion operation.

STAFF RECOMMENDATION:

The proposed facility will be visible from surrounding properties. Staff is concerned with the project's proximity to Garfield County Airport and the potential impacts of glare and waterfowl attraction (not addressed in the application) produced by this facility. Staff recommends that the Board refer this request to the Planning Commission for a recommendation due to the size and location of the proposed facility.

Cody Smith requested this not be referred to the Planning Commission as it is off a site previously approved and we talked to the airport and there were no concerns. This is the exact same design as Middle Fork.

Discussion:

Commissioner Houpt – staff has some pretty significant concerns and would have a hard time not following the staff recommendations.

Craig said if it was heard by the Planning Commission it would be delayed.

Commissioner McCown – this is an undue hardship on the applicant and he didn't have a problem with the Commissioners hearing it.

Commissioner Houpt – the staff has a concern

A motion was made by Commissioner Houpt to honor the staff's request and refer this to the Planning Commission.

Commissioner McCown – seconded.

Commissioner Houpt seconded

In favor: Houpt – aye Opposed: McCown – aye Martin – aye

Commissioner McCown made a motion to hear this before the Commissioners. Commissioner Houpt seconded.

In favor: Martin – aye McCown – aye Opposed: Houpt - aye

BUILDING AND PLANNING - CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT APPLICATION ALLOWING "STORAGE OF OIL AND GAS DRILLING EQUIPMENT" TO THE PLANNING COMMISSION – APPLICANT; DOUGLAS MCLEOD – CRAIG RICHARDSON

Craig Richardson, Cody Smith of Wagon Wheel Consulting and Michael Howard were present.

Craig presented the request for a Special Use Permit application to allow "Storage of Oil and Gas Drilling Equipment" on a property owned by Douglas McLeod. The subject property is located on County Road 320 near the City of Rifle, CO. Specifically, the Applicant intends to allow Petrogulf Corporation to construct and operate a "lay down yard" which will include storage of pipe, valves, fittings and other equipment.

STAFF RECOMMENDATION:

Due to the limited size of the proposed operation, staff recommends the Board of County Commissioners not refer this SUP request to the Planning Commission for recommendation.

A motion was made by Commissioner McCown to hear this by the County Commissioners.

Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin - aye

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BUILDING AND PLANNING - CONSIDER A CONDITIONAL USE PERMIT ALLOWING A “PRIVATE LANDING STRIP” ON A PROPERTY LOCATED AT 1689 COUNTY ROAD 300 – APPLICANT: DONALD THROM – CRAIG RICHARDSON

Craig Richardson, Michael Howard and Donald Throm were present.

Michael reviewed the notification papers and determined they were adequate. He advised the BOCC they were entitled to proceed.

Chairman Martin swore in the speakers.

Craig submitted the following exhibits: A. Mail Receipts, B. Proof of Publication, C. Garfield County Zoning Resolution of 1978, as amended; D. Application; E. Staff Memorandum; F. Email from Rob Ferguson, Grand Valley Fire Protection District date March 28, 2007; G. Email from Rob Ferguson, Grand Valley Fire Protection District date March 29, 2007.

Chairman Martin entered Exhibits A – G into the record.

Craig said the applicant requests approval from the Board of County Commissioners to allow an “Aircraft Landing Strip” on his property. An Aircraft Landing Strip is allowed in the Agricultural/Residential/Rural Density (ARRD) Zone District but requires the approval of a Conditional Use Permit (3.02.02). It is defined in 2.02.03 of the Garfield County Zoning Resolution of 1978, as amended (the Zoning Resolution) as follows. A private facility for accommodation and servicing of aircraft, the use of which shall be limited to the owner or owners of the lot upon which the facility is located.”

The proposed landing strip will consist of a turf and dirt strip that lies in an east to west configuration (60’ X 2100’). The proposed flight plan includes approaches from the east and departures from the west. Currently, the applicant’s aircraft is kept at Walker Field in Grand Junction, Colorado. The aircraft will not be permanently stored on-site. Fuel will not be stored on-site.

STAFF RECOMMENDATIONS:

The application and proposed use are in compliance with 2.02.03 and 5.03 of the Zoning Resolution.

Recommended condition of approval number six addresses the requirement identified in 5.03.04 of the Zoning Resolution. Staff recommends that the Board APPROVE the Conditional Use Permit for an Aircraft Landing Strip with the following conditions:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
2. All lighting associated with this use shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
3. The Applicant shall limit take-offs and landings to daylight hours, except in emergencies.
4. The Applicant shall install a wind indicator at the airstrip so that it is visible to pilots of aircraft approaching to land and aircrafts taxiing into position to take-off. This wind indicator shall conform to AC 250/5345-27D-FAA SPECIFICATION FOR WIND CONE ASSEMBLIES.
5. Prior to issuance of the Conditional Use Permit, an emergency response plan will be provided to the County, identifying methods and techniques to be utilized in dealing with an aircraft related accident.
6. The Applicant shall submit a Notice of Landing Area Proposal (Form 7480) to the Federal Aviation Administration and receive a determination prior to construction.
7. The Applicant shall comply with all applicable Federal Aviation Administration requirements.

Discussion:

Craig stated that Conditions No. 5 has already been met and proposed to strike this condition.

Donald stated that this is only day use and will continue to store his plane on a hard surface at an airport. But just to go in and out of his property legally on occasional basis when the conditions are right is all he wants to do.

A motion was made by Commissioner McCown to close the public hearing; Commissioner Houpt seconded In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown to approve the Conditional Use Permit for an aircraft landing strip with the 6 conditions of staff striking No. 5.

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING: - CONSIDER A SPECIAL USE PERMIT ALLOWING AN “ACCESSORY DWELLING UNIT” ON A PROPERTY LOCATED AT 5352 COUNTY ROAD 233 – APPLICANT: BRUCE AND BETTY COLLINS– CRAIG RICHARDSON

Craig Richardson, Michael Howard and Betty Collins were present.

Michael reviewed the notification papers and the one piece lacking was the proof of publication. Michael determined they were adequate with the promise of the applicant to supply the proof of publication. He advised the BOCC they were entitled to proceed.

Chairman Martin swore in the speakers.

Craig submitted the following exhibits: A. Mail Receipts, B. Proof of Publication, C. Garfield County Zoning Resolution of 1978, as amended; D. Application; E. Staff Memorandum

Chairman Martin entered Exhibits A – E into the record.

Craig gave a Description of the Proposal: The Applicant requests the Board of County Commissioners grant a Special Use Permit for an Accessory Dwelling Unit (ADU) located on a 5.32 acre parcel described as 5352 County Road 233. The proposed ADU is an existing 1,476.5 sq ft unit. The Applicant is seeking approval of this special Use Permit in order to begin construction of a new primary dwelling unit.

STAFF RECOMMENDATION:

Staff finds that the existing structure is in compliance with 3.02 and 5.03.21 of the Garfield County Zoning Resolution of 1978 and recommends that the Board approve this request to allow an ADU on a property owned by Bruce and Betty Collins located at 5352 County Road 233, with the following conditions:

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1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
 2. All lighting associated with the ADU shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
 3. The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended, and shall meet all building code requirements.
 4. The accessory dwelling unit shall not be conveyed as a separate interest buy may be leased.
 5. The Applicant shall provide a Garfield County Road and Bridge Driveway Access Permit prior to the issuance of the Special Use Permit.
 6. The Applicant shall provide a four-hour pump test demonstrating the ability of the existing well to provide an adequate water supply to the existing and proposed structures.
- Craig added condition No. 7 – requiring that the applicant provide proof of notification.

A motion was made by Commissioner McCown to close the public hearing;
Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown to approve the Special Use Permit for an Accessory Dwelling Unit with the 7 conditions, the 7th one being noted proof of notification that was absent at the opening of the public hearing. Commissioner Houpt seconded
In favor: Houpt – aye McCown – aye Martin - aye
BUILDING AND PLANNING - CONSIDER A REQUEST TO RE-EVALUATE THE ZONING STATUS OF THE SANDERS RANCH PLANNED UNIT DEVELOPMENT – APPLICANT: BOARD OF COUNTY COMMISSIONERS – FRED JARMAN
Fred Jarman and Carolyn Dahlgren were present.
Fred submitted proof of the notification.
Carolyn reviewed the Riverbend Corporation and now Westpac. She determined that the Board was entitled to proceed.
The Board of County Commissioners is the applicant. Fred stated that out of the 26 notifications sent, we received 23 back. The addresses were obtained from the Assessor’s office.
Fred submitted the following exhibits: Exhibit A – Proof of Publication; Exhibit B – Mail Receipts; Exhibit C – Garfield County Zoning Resolution as 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 1984 as amended and Exhibit E – Staff Report dated 4-9-2007.
Chairman Martin entered Exhibits A – E into the record.

Project Approval Background:
Sanders Ranch Planned Unit Development (PUD) was approved by the Board of County Commissioners (BOCC) in 2001, which is memorialized in Resolution 2001-27. This zoning approval (from ARRD to PUD) accommodated a site specific development plan that included a golf course, 62 single-family dwelling units and 168 multi-family dwelling units for a total average density of 1.22 acres / du or conversely, 0.81 du / acre. Subsequently, the owner of the property at the time (Sopris Development Group) sold the property to Linksvest / Bair Chase, LLC who submitted a Preliminary Plan Application in 2003 based on the PUD. Then, under the reconfigured ownership of Bair Chase Property Company, LLC, a Preliminary Plan Application was finally approved by the BOCC in 2004, which is memorialized in Resolution 2004-98.
Since then, the BOCC approved a request by the Applicant made on September, 2005 to extend the time frame to submit a Final Plat Application for one year. This extension expired on September 13, 2006 and as a result, the Preliminary Plan has become void.
The net result is that not only has the Preliminary Plan Application become invalid, certain obligations / timeframes contained within the Phasing Plan in the PUD have also become invalid which renders the entire PUD Plan invalid. The approved phasing plan is shown here:

Phase	Start Date	Completion Date
Phase I (Golf Course)	June 2003	October 2005
Phase II (22 Single family Lots)	June 2004	September 2005
Phase III (Sopris Multi-Family)	September 2004	June 2006
Phase IV (Affordable Housing Units)	July 2005	October 2006
Phase V (26 Single-Family Lots & Clubhouse)	March 2006	June 2007

Action Initiated by the BOCC

Because the Preliminary Plan has become invalid and the project timeframes in the phasing plan in the PUD have been exceeded, the Board of County Commissioners is required to take the following action pursuant to Section 4.09.02 of the Garfield County Zoning Resolution of 1978, as amended:

- 1) Revoke approval for the uncompleted portion of the PUD, or
- 2) Require that the PUD be amended, or
- 3) Extend the time for completion of the PUD one (1) time, for a period not to exceed one (1) year from the expiration of the original time limit.

Discussion
There are several perspectives one could take with the project as it currently exists that pertain to existing and former zoning, the value of the proposed project, and the existing Comprehensive Plan designation.
Vacating the PUD
Should the BOCC elect to vacate the PUD altogether, it would need to be rezoned to a new zoning district. Presumably, this new zoning would be what it was prior the Sanders Ranch PUD which was Agricultural / Residential / Rural Density (ARRD). In doing so, it would then be in conflict with the high density residential designation in the Comprehensive Plan which was in place prior to the Sanders Ranch PUD.

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The Board of County Commissioners (the Board) could also elect to rezone to a zoning district that better comports with the high-density residential designation in the Comprehensive Plan such as Residential / General / Urban Density (RGUD), which allows for a minimum lot size of 7,500 sq. ft. and is more consistent with the Comprehensive Plan. This is an important concept to contemplate since the Comprehensive Plan should drive development and not the other way around.

With the option of vacating the PUD in mind, the Board could take action on the following options:

- I. Rezone the property back to ARRD (former zoning), which is inconsistent with the high-density residential designation in the Comprehensive Plan; or
- II. Rezone the property to RGUD which is more consistent with the Comprehensive Plan, or
 - Amend the PUD

The Board has the option to require the Applicant to amend the existing PUD. In this case, Staff assumes a logical component to be amended is the phasing plan. This option would require the submittal of a Preliminary Plan Application within 1 year of any amended PUD. (Recall, this is where the first plan got off course.) This also assumes the same site specific development plan is the one being discussed.

Another perspective is that the Board could require additional amendments to the existing Sanders Ranch PUD other than the phasing plan since the original PUD was approved in 2001 but never acted upon for the last 6 years. As a result, changes have occurred in the County in the surrounding area that may be adversely affected by the PUD finally coming to fruition such as developments in the lower Cattle Creek drainage on CR 113, general increased traffic on SH 82, recently approved development in Elk Springs on lower CR 114, marketability of golf course development in the lower Roaring Fork River basin, extreme lack of affordable housing in the County, etc.

Perhaps the Board might contemplate that a new PUD plan be submitted to replace the existing plan to better address changes in Garfield County since 2001.

- E. Provide a 1-year extension of time for completion of the PUD

The Board’s action is limited in this last option because the language states that the Board can “extend the time for completion (1) time, for a period not to exceed one (1) year from the expiration of the original time limit.” The original completion date of the project from the phasing plan is Phase V to be completed in June 2007. Providing a 1-year extension would extend full PUD completion to June 2008, which would be meaningless since none of the other phases have been begun, much less completed.

- II. Action by the Planning Commission on March 14, 2007

Request:

Pursuant to Section 4.09.02 of the Garfield County Zoning Resolution of 1978, as amended and based on the forgoing, the Planning Commission unanimously recommended the Board 1) revoke approval for the uncompleted portion of the PUD and 2) rezone the property to Residential General Urban Density (RGUD) to be consistent with the high-density residential designation in the Comprehensive Plan and that if a new PUD is proposed, it can be reviewed on its own merits and not an exercise in making amendments to an old PUD.

Applicant: Related WestPac LLC. Kerry Shanks, Director of Development for Related WestPac and Rocky Shepherd Project Manager for Related WestPac were present.

Chairman Martin inquired about the mineral rights – they are so diverse that no one could be found, is that correct?

Kerry Shanks did not have any information on that.

Kerry said they have met with Fred Jarman and we support the recommendation by the Planning and Zoning Commission. We think that the Comprehensive Plan speaks to what this area wants to me and as far as we’re concerned there will be no golf and we are just getting started and getting our arms around how we would put a site plan together and still have a few neighbors we need to speak with. Generally speaking we want to be good stewards of that property, we know about the elk and the heron and the general nature of the property and along with that we want to be considerate community members. We are working on the site plans; we are currently working on a reclamation plan where you see us on the property today with Mark Gould’s company doing some stream restoration that was done earlier to protect the stream. We’re back in there redoing that work right now and have another week or so to get that stabilization and protection skirting back up and we’re also working towards the balance of cut and fill. You can see a lot of soil that’s built up there and a lot of regrading that’s been done; we just want to bring that before the Board as a reclamation plan. We support staff’s recommendation for rezoning. As a part of what we’ve done conceptually, we like the idea of the barn and understand where they were coming from when they took it down but we want we think is even a better idea moving forward is to built a facsimile of that barn and for those of us that are into green development and I see you’re drawings in the back of the room that support that here, we’ll do a LEED certified building and make that into a community stomping grounds, if you will, so we’ll see that barn up again and something close to what it was before.

Chairman Martin – the first time this was discussed was 16 hours of public testimony on this project. We’ve had numerous hearings on this before.

Commissioner McCown – the decision was made about 10:30 p.m. on a Monday evening.

A motion was made by Commissioner McCown to close the public hearing;

Commissioner Houpt seconded. Motion carried.

A motion was made by Commissioner McCown that we revoke the approval of the uncompleted portion of the PUD and rezone the property to residential general urban density to be consistent with our Comp Plan.

Commissioner Houpt seconded.

Chairman Martin this is the only option in front of us and believe it to be a wise choice at this present time. A few people are relieved that this may happen.

In favor: Houpt – aye McCown – aye Martin - aye

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

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APRIL 16, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, April 9, 2007 with Chairman John Martin and Commissioners Tres Hout and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Marian Clayton, Deputy Clerk to the Board.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

COUNTY MANAGER UPDATE – ED GREEN

FAIRGROUNDS - PROCUREMENT OF TWO (2) LED READER BOARDS – JESSE SMITH

The Contract Administrator received a request from David Ebeler, Fairgrounds Manager, to issue a competitive bid for procuring LED Reader Boards for the existing pole sign. Specifications were prepared; and a legal advertisement was placed in the Post Independent. We received three responsive bids with Bud's Signs submitting the lowest responsible bid of \$35,798.43.

Bud's Signs (Grand Junction, Co)	\$35,798.43
Robinson Corporation (Sarasota, FL)	\$38,768.00
ASI Modulex (Centennial, CO)	\$43,400.00

Jesse submitted the bid and recommended the bid be awarded to Bud's Signs for fabricating and installing two LED Reader Boards on the existing Garfield County Fairgrounds entrance pole sign at a cost of \$35,798.43.

Discussion:

Tim Arnett was present and presented information to the Board. Jesse informed we would need a permit just like they had for the one at the Rifle school.

A motion was made by Commissioner McCown to award the bid to Bud's Signs for fabricating and installing two LED Reader Boards on the existing Garfield County Fairgrounds entrance pole sign not to exceed \$35,798.43.

Commissioner Hout seconded

In favor: Hout – aye McCown – aye Martin – aye

- ***Ride the Rockies Through Garfield County – Marvin Stephens***

Marvin submitted the Special Event Road Permit Application, the Safety and Operations Plan and Maps showing Ride the Rockies' proposed route in Garfield County on June 21st and June 22nd, 2007.

Discussion:

Marvin - This is the second time I can remember we have had the riders here. They are a very well put together organization. They communicated well with Road and Bridge and the Sheriff's department. There will be about 2,000 riders going to South Grand Mesa in Rifle, hit CR 210 then CR 233 Road then up into Harvey Gap and then back into New Castle. All the insurance has been answered in papers. They have a big staff making sure everything goes well.

Commissioner Martin – Understand they will be spending the night here in Glenwood Springs, one night in Rifle and then heading toward Independence.

No action needed by the Board.

COUNTY ATTORNEY UPDATE – DON DEFORD

TREASURER – TAX DEEDS – HELD BY COUNTY CONSIDERATION/APPROVAL OF RESOLUTION DIRECTING SALES OF COUNTY HELD TAX DEEDS – OIL & GAS MINERAL INTERESTS, RIFLE VILLAGE SOUTH SUBDIVISION – DON DEFORD

Don DeFord presented and Georgia Chamberlain was present

Don – Concerns specific lots in the resolution, the County currently holds these properties in quasi trust deed capacity. They were transferred to you by Treasurer's Deeds and you have held for many years. The question now which is facing the Board is the request for transfer of the mineral interest and I have previously advised the Board there is existing case law (out of Weld County) that requires we would hold mineral interest through a Treasurer's Deed. You are required to dispose of those. You would sever the minerals, there is a specific statute that authorizes you to do that. Sell the mineral interest retaining the surface interest so you can protect that surface from future development. Request from HOA to turn over the funds to them. Commissioner Hout – Would it be better to lease those interests instead of selling them?

Don- In the private world you might be, but in you're not allowed to do that. Ultimately it's the Treasurer's Office to go forward.

Commissioner McCown – I make a motion we would approve the resolution directing the sales of County held tax deeds for oil and gas mineral interest, specifically in Rifle Village South with the lots listed in the body of the resolution

Commissioner Hout seconded.

In favor: Hout – aye McCown – aye Martin – aye

CLERK AND RECORDER - CONSIDERATION/APPROVAL OF RESOLUTION DISSOLVING GARFIELD COUNTY LOCAL IMPROVEMENT DISTRICT NO. 1997-1, CANYON CREEK ESTATES

Don- Many years ago, the County at the request of the homeowners in Canyon Creek Estates, formed a local improvement district to do some improvements to the roads in the subdivision which are public and county roads. That has been accomplished through indebtedness in the form of bonds and that have now been paid. Georgia Chamberlain has verified. There is a statute that both allows you to both dissolve the district and to dispose of any residual funds, if there are some. You are required under the statute only to dispose of those funds in the public interest. If there was an existing bond issue in County, you could apply those to retire other bonds for local improvements. We do not have this situation now. You have a request from HOA that you turn over the funds to them. This resolution would both dissolve the district and direct the Treasurer transfer those funds to the HOA.

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Kent Jolley – Thank you for helping us, it wasn’t easy at the time.

A motion was made by Commissioner McCown to approve the resolution dissolving Garfield County Local Improvement District #1997-1 Canyon Creek Estates and comply with the instruction in the resolution refunding the overpayment of \$19,429.09 back to the HOA.

Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin – aye

WATERSHED - CONSIDERATION/APPROVAL OF PURCHASE OF SERVICES AGREEMENT – LONG RANGE PLANNING – ROARING FORK CONSERVANCY – DON DEFORD

Don DeFord presented the Roaring Fork Watershed Plan and provided Exhibit A, Services Plan and Exhibit B, Certification and Affidavit regarding Illegal Aliens.

Project Costs:

Task 1: Collect, review and analyze existing studies to develop a comprehensive representation of the Roaring Fork Watershed’s water resources and threats to those resources. Cost - \$109,000.00.

Task 2: Data gathering, map planning and production. Cost - \$25,000.00.

Task 3: Public outreach and stakeholder involvement. Cost - \$30,000.00.

Grand Total: \$164,000.00

Discussion:

Don – The form of our contract is our standard services agreement there is nothing exceptional about it. We are looking for authorization for the chair to sign the agreement.

Commissioner Martin – I have been in favor of this, I’ve met with them and asked them to get in touch with our long range planner.

Commissioner McCown – Is this more of a grant? I’m a little unclear.

Commissioner Houpt – It’s almost like an IGA?

Don – Its’ really a service agreement and we have done this for a few years

Commissioner McCown – We are paying them \$20,000 if we use their services. There is nothing in there that I can find that shows it deliverable, if you will. To me it looked like a grant.

Commissioner Houpt – The deliverable is the Roaring Fork Watershed project and the scope of services was attached and it will be a working document. There is a product.

Ed – The deliverables are identified in Exhibit A. There are funds budgeted for this.

A motion was made by Commissioner Houpt to approve the purchase of service agreement for Long Range Planning with The Roaring Fork Conservancy for work on the Roaring Ford Watershed Project.

Commissioner McCown seconded

In favor: Houpt – aye McCown – aye Martin – aye

Executive Session: Litigation Update and Legal Advise, Direction Williams Energy – Correspondence from Adrienne Crouch – Subdivision issue concerning Excel property in vicinity of Airport, Insurance and Indemnification issues regarding Airport Contracts – Conflict in Scheduling

A motion was made by Commissioner McCown to go into an Executive Session.

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown to come out of Executive Session.

Commissioner Houpt seconded.

Action Taken: None

COUNTY ATTORNEYS - MEET – DISCUSS IMPACT FEES – OIL AND GAS

Don – On Friday I had a telephone conversation with a number of County attorneys from Oil and Gas producing counties, with one exception they were all on the Western slope. The one exception was Boulder County that is experiencing oil development in the eastern part of that county. The focus of the discussion was in three main areas, Rio Blanco County, through their new county attorney, had a number of concerns about the development occurring in Rio Blanco. He indicated to me that Rio Blanco county is experiencing some intensive industrial development, we are all aware of gas processes and the plant being constructed. He had some discussion about impacts on their roads from the heavy equipment being moved in for those facilities. He indicated and had some questions about the enactment and enforcement of an impact fee that Rio Blanco is undertaking. His position was they intended to impose an impact fee and had authorized one to be in place by May of \$15,000.00 per well designed to offset impacts to county roads and also capital infrastructure needs specifically the jail and county administration buildings. I asked Mr. Orchard if any of the impact fees was intended to offset residential impacts that would flow from the increase level of workers and so forth. His response to me was no strictly the county, their capital they anticipate, his words “sending all the residential growth to Garfield County”.

Jesse – I find that rather curious the BLM assumptions are that there will be no growth impact on Garfield County.

Don – I wanted to point out in your meetings and discussions with Rio Blanco county elected officials, who might explore this a little bit.

Commissioner Houpt – They are going to be putting in place a \$15,000.00 impact fee?

Don – Yes and the instructions he has from his County Commissioners are they want it in place by the end of May.

Commissioner McCown – To my knowledge they have no study in place that would establish a reasonable nexus for that amount money?

Don – They will need under Senate Bill 15. I think Mr. Orchard had a pretty good understanding of the limitations and the directions he gave, knows it will take more time than a few weeks between now and the end of May. I just want you to know they are moving in that direction and secondly it is important what their policy is going to be in terms of handling the workforce. We also talked about pending legislation and this was really the focus of the Boulder County Attorney’s office. They have been participating in their own legislation that they have been seeking for health related impacts on oil wells not gas wells. The assistant County Attorney Barbara Andrews was participating in the discussion and indicated they had had some success in obtaining the language they wanted and also getting the so called savings language placed in the legislation so that the county would still have some areas of control. She indicated she had pretty good

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cooperation from the investor on her proposal. In that vein we reached the third topic of discussion, Boulder is pretty active in the legislature and they participate fully in the lobbying process. There was discussion initiated by the Gunnison County and LaPlata County Attorney's about gas producing counties on the Western Slope maintaining jointly a lobbyist, not for this session, but to work for next session on issues unique to gas producing counties primarily on the Western Slope. They wanted all the participants in this telephone conference to at least introduce this subject to their elected boards so down the road perhaps by the Attorney's conference in June we all would have a feel for whether our Boards would be interested. It would require joint funding from all of the participating counties. I bring this up as simply something to think about and discuss so come the first week in June I will have feedback from you if you are interested.

Commissioner McCown – Given the diverse views that I'm familiar with, with the gas producing counties, I think it would really be a tough job for a lobbyist to go forward and lobby for each of those counties concerned when there may be direct conflicts.

Commissioner Hought – We do focus on the issues, severance tax issues.

Commissioner McCown – I don't know that this addressed severance tax, I think this is more for regulations and health safety welfare issues, those type of local control issues more than severance tax.

Don – Larry's perception is right, not to say that the issues on severance tax and mineral leasing would be excluded but I know that wasn't the subject of our discussion on Friday.

Commissioner Martin – It might be a good idea to sit and talk with them and see what the ideas are. Simply because we have so many different studies that we have put together with the conclusions that are coming up.

Commissioner Hought – If we sit down together it might be easier than you think to come to a meeting of the minds on local control issues.

Don – If you go this way, I would suggest at a CCI meeting the County Commissioners should discuss among the counties that are interested, not something that is driven by the legal department of the various counties.

This is clearly policy type stuff.

Commissioner Hought – We have our western district meetings and we can have that put on the agenda.

Commissioner McCown – We don't want to exclude Weld and Boulder County.

Don – Boulder clearly wants to participate, Weld was not part of our discussion on Friday. But you can't leave Weld out. The only other question I have, a scheduling issue for the County Commissioners, we had an issue came up that will need to come before the board in May and I am curious what meeting will we have a full board?

Commissioner Martin – 14th or 21st.

Ed – I had one other item, in my meeting with the city managers they asked the question, would it be possible for planning staffs to come together and analyze the 2,000 pages on the PEIS in May. We would like to campaign together. Obviously we wouldn't write the same letter but at least we would have an outline of the 2,000 pages that each entity could use.

Commissioner Martin – You're talking Parachute, Rifle, Silt, New Castle, and Garfield County? What about Glenwood?

Commissioner McCown – How did they envision that happening? Each one takes a portion?

Ed – They were envisioning a group of folks get together and campaign.

Commissioner Martin – It would then have to go before the different boards to approve?

Ed – I think the product would be an outline of the issues. May we could call Judith and ask her if she had that two week window, fly her in.

Jesse – We would have to look at the week of 15th so we could get it before the board.

Commissioner Hought – The other option is hiring a consultant?

Ed – Yes.

No Action need on the above discussion.

CONSENT AGENDA

- a. Approve Bills
- b. Changes to Prior Warrant Lists
- c. Authorize funding in the amount of \$1,500 to RFTA pursuant to the terms of Resolution 1999—068, paragraph VI
- d. Authorize the Chairman to sign the Resolution of Approval for a Preliminary Plan to subdivide a 32.36 acre property into a10 commercial lots. Applicant is Big R Enterprises, LLC – David Pesnichak

A motion was made by Commissioner McCown to approve the Consent Agenda Items a - d;

Commissioner Hought seconded; motion carried.

In favor: Hought – aye McCown – aye Martin – aye

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COMMISSIONER REPORT

Commissioner Hought – I participated in a wonderful speech program through the Basalt High School. Each speech group took a current political issue and researched and looked at what laws were being discussed at state or federal level and came up with their recommendations and it was very impressive. I had a meeting on local housing issues. It's an affordable housing initiative that is housed in with the Catholic Charities group. They are having a gathering on April 30th at St. Stephens at 7:00 pm. I-70 Corridor meeting on Thursday, we talked about the importance of the corridor governments being involved in the feasibility study. I was able to go to the first part of the Intermountain TPR and John was there the whole time. I conferenced in on some CCI meetings. We have a meeting with Rifle on Wednesday on the Justice Center and CCI meetings on Friday.

Commissioner McCown – I had the public scoping meeting at the BLM for the Glenwood Springs/Kremmling Resource management plan and it was not well attended in Rifle. I didn't go to the one in Carbondale the next night. There were more BLM people there to answer questions than there were people to ask questions. I expect that will change as time goes on. Thursday I had a meeting with Fred and Marvin to discuss some of the possible future impacts on our county roads. This week I will be leaving in the morning and will be out for the rest of the week. Harris Sherman and Susan Kirkpatrick did an informal tour of some of our county roads to look at some occurring impacts from the industry and toured a well site. 99% was spent on county roads.

Commissioner Martin – I meet with Post Independent editor which was a nice two hour conversation in reference to Garfield County and the coverage, what's good, what's bad. Came up with good ideas and also an exchange of information. I went up West Mamm with Mr. Green and Marvin and got hold of the forest service and spoke with them; they have some more exploration going on. As Tres mentioned Intermountain TPR in reference to our revised priorities, everything from Douglas all the way to Sweetwater and the Colorado River roads. We set new priorities and different issues, how to get to and from. We changed to a high priority which is the Parachute area, Rifle area, Highway 13, etc. We need funding and also speed up the process of taking care of that congestion, mobility and safety issues. We had a conference call to Washington, DC on Friday and this is dealing with the entire Colorado congregation all working in unison in reference to the Pine beetle and the infestation - the timber. Everything from renewable energy to fire, what to do with the bi-products, etc. From tax credits on through to actually sign it. This is a Bill that we wish to go ahead and take to the Western Interstate Region as well to get the entire western United States supporting as well as contact with Georgia, Louisiana, Wisconsin and West Virginia. We are trying to get them to understand what the issue is and it is coming their way. We also had a call in from Canada from one of the scientists at British Columbia giving us information. Hopefully we can put this framework together. All of the staffs and the elected officials are working together will have a draft by May 5th to take up to Alaska to discuss with some of their lawmakers. There will be public lands discussion in Denver on April 20th.

BOARD OF HEALTH –

PUBLIC HEALTH - WIC CONTRACT WITH CDPHE – Mary Meisner

An amendment was presented to the BOCC by Mary Meisner, between the Department of Public Health and Environment and the BOCC dated March 22, 2007 for the state to increase our funds by \$6,406.00 during the current term of the original contract in exchange for the promise of the Contractor (BOCC) to continue to perform the work identified in the original contract. The effective date of this Amendment is June 12, 2007. A motion was made by Commissioner McCown to approve the amendment to the WIC Contract in the amount of \$6,406.00. Commissioner Hought seconded

In favor: Hought – aye McCown – aye Martin – aye

PUBLIC HEALTH - EPSD

Carolyn – I finally found the appropriate Attorney General who works for the controller and that change had been made with the controller's office by mistake. The AG told us and I sent out a list to all the county attorney's that the controller didn't mean to take that phrase away from the counties, just an attempt to consolidate all of the special provisions and make them appropriate across state government. They forgot to add that phrase back in. They have sent us replacement signature pages for Mary's EPSD contract out of Health Care Policy and Financing. I would ask you be allowed to sign those.

Commissioner McCown – Having been given the authority to sign, we don't have to take official action?

Carolyn – No - three originals for the board and passed out papers to sign.

HUMAN SERVICES - Approval of EBT/EFT Disbursement for March 2007 – Lynn Renick

Lynn Renick presented report, for the month of March 2007, client and provider disbursements for allocated programs totaled \$254,819.12. Client benefits for Food Assistance and LEAP totaled \$130,402.11. Total EFT/EBT disbursements for March equaled \$385,221.23.

A motion was made by Commissioner Hought to approve EBT/EFT Disbursement for March 2007.

Commissioner McCown seconded

In favor: Hought – aye McCown – aye Martin – aye

- ***Consideration and Approval of Out-of-Home Placement Contract – Lynn Renick***

Lynn Renick presented, the department is requesting the Board's consideration and approval of the following out-of-home placement contract: 1) Client I.D. S381672 at Griffith Center for Children in the not-to-exceed amount of \$14,973.58.

A motion was made by Commissioner Hought to approve Client I.D. S381672 at Griffith Center for Children in the not-to-exceed amount of \$14,973.58. Commissioner McCown seconded

In favor: Hought – aye McCown – aye Martin – aye

BOARD OF HUMAN SERVICES: PROGRAM UPDATES – LYNN RENICK

The Colorado Department of Human Services Colorado Works Division provided a regional training at the Human Services Rifle office on March 28. Colorado Works staff is revising and updating all program policies to reflect current TANF reauthorization requirements. Garfield DHS staff is working with State staff to finalize the policies. Board approval and signature on the policies is required by State rule because there is no longer the requirement that a written Plan be submitted. The policies will be completed and presented to the Board for review in May.

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The Department has scheduled a HB 1451/Collaborative Management local stakeholder meeting and presentation by the Colorado Department of Human Services for Friday, May 18. Invitations have been extended to key representatives from all School Districts, Community Mental Health providers, Courts, Probation, Public Health, Division of Youth Corrections and Youthzone.

Steve Aurand, Project Manager, and Dr. Jerry Evans, Evaluator with Community Health Initiatives, have received responses from a Family Connections/Fatherhood Initiative Planning Survey that is attached for the Board's information. A steering committee is being established and the scope of the project is being defined from the information gathered. The Department plans to provide a presentation to the Board regarding the Fatherhood project in May or June.

The Annual Child Care Provider Appreciation Brunch is scheduled on Sunday, April 29th from Noon to 2:00 p.m. This event recognizes local day care home and center providers and staff for their commitment and dedication to early childhood education and the children they care for on a daily basis.

HUMAN SERVICES COMMISSION:

AFFORDABLE HOUSING PRESENTATION AND DISCUSSION

McCalia Johns from the Salvation Army was present along with Michael Wertz from the Grand River Hospital District. He is the Human Resource Director based in Rifle

McCalia – We are trying to change our format about how we are going to present to you. We are going to be focusing on more issue based than agency based information. We wanted to talk about the housing problem with regards to gaining and retaining employees.

Michael Wertz – We have 300 employees, some days 5, 10, 15% vacancy rate. Vacancy is not always an issue of resources available. It is an issue of the ability to recruit individuals to come to our community. There are three predominate issues related to the business of having employees join our organization. One is the overriding issue of quality of life. On the aspect of retention, that is key in terms of quality over time as developed through their experience. A young lady comes to me, has been with us for several months, starting her career, newly married one child gross annual income in the household of \$75,000 to \$85,000 depending on overtime. Living in Grand Junction, temporally living here while they seek a house and a home to rent and/or purchase living the American dream in Rifle, comes in and says I can't do it any more. I can't live with my cousins. I can't find a home to purchase. I can't find a place to rent. Thank you very much it was a good opportunity, I've found another job in Grand Junction. On the business of recruitment, recently we had a significant leadership managerial position available and were not able to obtain a good candidate due to the housing situation. The question then is, if I were sitting on your side of the table, alright there's the what now, so tell me the so what. What can be done about this? Part of our strategy is creating an alternative delivery system for the employee population. That will be a transportation system from Grand Junction for housing for them to be brought to us for the time of work period and returning them. There are already employers in Rifle who are doing the same thing. Buying vans, giving them the use of the van over the weekend as they would drive the employee back and forth. Does that do anything to our organization in terms of creating a relationship, minimal? Because we are a seven day a week twenty-four hour a day operation and the first time a tanker goes over the railroad tracks that person is going to be slow to respond. But we are going to have to respond to that disaster. I would encourage you to look at border line outrageous approaches for housing as we have an outrageous situation of a lack of housing. Move forward to begin that process quickly. I as an employer am going to be challenged to operate to deliver the clinical care if I can't find staff. We are doing it and we will continue to do it but the price we pay doubles the annual wage for some individuals because we have to hire people on a temporary basis. An employee who might make \$25.00 per hour in terms of direct payment from us, we have to pay travel companies \$70.00 per hour.

Commissioner Houpt – This is a real concern, discussion has gone on for years not only across Garfield County but across the state. My question to you is, as you see this problem with retention, have you as an employer looked at how you could partner in this in finding a solution as well? I think we have to look at outrageous solutions, for me I think we need to begin to commit to public private partnerships.

Michael – On the recruitment side one of the approaches that we are doing and have been doing for last two years, is we have rented in the community five apartments to use for transitional housing to assist in our recruitment activity or over night housing. In some cases our on call personnel, to have them here. Secondly, I have been involved in past cooperative relationships thru some private sector funding, down payment assistance with employees under contract. Other situations as an employer, we have had apartments that we have operated and managed and maintained, because we had the physical capability on our property site. Very challenging for the employer to be in the business of managing housing. That's one of the challenges we have a large collection of small employers for the most part. We don't have a large or even a medium size collection of large employers where that collaboration comes to play. That will be a challenge.

Commissioner Houpt - That partnership could look differently depending on how you can approach it. A lot of people are doing the down payment assistance and that seems to be something that is easier to work into your business plan than actually becoming a partner in a development project. I think we all have to be at the table and talking about the situation.

Commissioner McCown – I think if you took a survey you would find the largest employer in Garfield County, even though it may be a misconception, are those entities that are growing fixed base taxed incomes. Your school districts, governments and your hospital districts. All of those are the largest employers in Garfield County it's not one particular industry or business.

Commissioner Martin – Maybe we'll return to the past where the schools had to provide housing to their teachers. That's what we are talking about, providing housing for your own employees.

McCalia – Speaking of the school district, we have Jenny Lindsey, Roaring Fork School District and her Human Resources person, Nicki.

Nicki – We have roughly 750 benefited employees that include our teachers and what we call our classified staff. My story is not different from what you heard and it's one of the things, when I talked with our superintendent today I said I'm going to be here delivering some stories. She said this is one of the things we have talked about for the last ten years. I'm not going to tell you anything you don't know or that you haven't heard. I think what we need to move to is that we are all doing something about it. I don't know

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what the solution is, I can tell you I live in Grand Junction and I commute everyday. I have for the last year. We have a number of teachers just as you hear, are leaving the district that are great teachers. We have a pair at the Glenwood Springs Elementary School right now that are leaving and moving to Salida because they live in Rifle and they want to work and teach in the community in which they live and they can't afford to live in Glenwood Springs. In terms of recruitment, we had a number of people last year, including our family resource center director who basically camped out for the first few weeks. It was difficult for him to find housing. We had a number of principals that had recruited teachers that needed to stay with them for the first few weeks, until they could find something affordable. Roaring Fork school district has one of the highest based salaries in Colorado for new teachers and we still have difficulty. Again once they get here and shop around for properties it is very difficult.

Commissioner Houpt – Again I bring the discussion back to partnerships. I've been involved in this discussion at the State level. The question of school district owned lands always comes up as a part of this discussion. As we bring all of the stakeholders together I think one of the real assets that the school district could bring would be some of the property and the inventory that you have. When I was on the school board, we did an inventory of land that we had and some of it simply isn't appropriate for housing.

Nicki – I think partnerships are going to be the key to moving this forward. Not just continue to talk about it but do something about it. The school district this year is starting to do something about it. We are making steps to move towards gaining some low income housing for our new teachers both in Carbondale and Basalt. It's in the works but it is going to be a while before it comes to fruition.

Commissioner Houpt – We may make greater strides if we work together. I don't know if the school district has all the resources available to them to make that dent that needs to happen and I know we don't.

Nicki – And even if the school system does something, the initiative will be small and will probably only help between five and fifteen families.

Commissioner Martin – We tried to invest 1 1/2 million in reference to HUD housing and the Meadows project. We are taking some chances; we are stepping out of the box and making some decisions. I've heard the same stories since the "60's in reference to no housing." I lived with five or six people as well as families. Hasn't changed that much, there is more housing. We hear about a lot of land use and sales, developing every place under the sun. How can we do that and how could we convert open space to housing? You're asking us to do more. It takes cooperation and land use cooperation is what we need to do and there is a sacrifice there. More people, smaller areas, high density.

Ed – I met with some developers outside, what they are telling me is in order to make a development affordable they need acreage in the neighborhood of 1,000 acres.

Commissioner Houpt- That's more urban. That would be a really difficult sell.

Commissioner Martin – If we believe the demographer those are the type of developments we are going to see and also the demand on resources as well as the infrastructure that needs to be in place. We have to work closely with our cities that is where it really needs to be within the cities and not the areas sprawling out.

Commissioner Houpt – I think we need to look at less traditional approaches to finding a solution. What's the difference between what type of growth you see along the Front Range and what would be acceptable to people in our county? I think we are at a point where we have hit that crisis level.

Commissioner McCown – Realistically we are in a bubble in this area with the housing market retaining its value and increasing in value. In other areas and even Denver, it's over built.

Commissioner Houpt- I don't think that is what people are looking for in this county either

Commissioner McCown – You have to have one in order to have the other. You can't have a 200 unit subdivision and create affordable housing impact that will make any appreciable difference in this county.

Jenny – I realize you have this conversation all the time. I myself live in Carbondale and it's wonderful. Everyone should be so lucky.

Tom – We are a small organization. The cost of housing has impacted what we do. We have an advocate in Avon after four years, very dedicated worker, rave reviews; she was lured away by \$5.00 pay increase in Eagle County. Their gain our loss. I recently lost another staff member here to Garfield County, again another significant increase. This issue of the cost of housing is primary in their minds. It is having a big impact. In terms of producing housing, last 7 years we have been trying to produce 60 units of low income rentals in the town of Basalt. Why is this taking so long? It's always something about its not the right place or the right spot, whatever it might be. Again we need to start working together drop the jurisdictions here. Start to come up with things that maybe painful to do.

Commissioner Martin – Keep up good work. We will talk again on the 30th. I have some examples of how you were successful, one West Glenwood, one in Carbondale they need to look at those and they were controversial at the time.

Tom – It's almost like I would like to see a vote in the valley. Are we who we say we are? Are we these communities that we talk about?

McCalia – Thank you for your time, just wanted to present you with a different format. Next month we will continue discussions.

Commissioner Martin – I think it's a challenge we get things on the ground, get things built.

McCalia – Everybody that I know is racking there brains. What we can do on an individual basis a community basis, government basis? I think we are all moving in the right direction.

PUBLIC MEETINGS:

BUILDING AND PLANNING - UPDATE ON THE REVISIONS TO THE LAND USE CODE AS PREPARED BY THE PLANNING COMMISSION – PHIL VAUGHAN, CHERYL CHANDLER AND FRED JARMAN

Phil Vaughan and Fred Jarman presented the memorandum to the Commissioners, which included the complete review.

Purpose: The Garfield County Planning Commission, Garfield County Staff, and Sullivan Green Seavy (Consulting Firm) have been involved in an intense revision to the County's Zoning and Subdivision regulations over the course of the last three years. The purpose of this endeavor was to accomplish the following:

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Update and refine the regulations to deal with a maturing and more complicated land use climate in Garfield County.

Eliminate antiquated or meaningless language and solve inconsistencies; and

Streamline process where possible making the regulations more practical meaningful and user friendly.

As the process is coming to a close, it will be the Planning Commission’s responsibility to make a recommendation to the Board of County Commissioners. It was agreed that the Staff prepare a brief document that highlights the main changes that have occurred in the revised land use regulations. It is intended that this memo serves to meet that purpose.

General Changes:

- (Change) Sketch Plan:
- (New) Pre-Application Conference
- (New) Subdivision (Minor) Exemption Eligible for a Minor Exemption
- (New) Amendment to Preliminary Plans, Final Plats, and Exemption Plats
- (New) Administrative Process(es) in Zoning
- (New) Amendment to an Approved Site Specific Development Plan
- (New) User-Friendly Administration
- (New) Zoning Process
- (New) Zoning Designations

(New) Affordable Housing Regulations – The Planning Commission considered amendments to the Affordable Housing requirements specifically to link to commercial development, an option of cash-in-lieu, and increasing the percentage of AH required for a development. Ultimately no changes were recommended because they felt they needed more information. They are proposing to apply the existing regulations to study areas 2 and 3 and not just study area 2.

(New) Definitions – One of the most challenging aspects of administering a land use code is the terms that are used but not defined. The new code includes a major overhaul in the definitions section which better reflects the terms used in today’s land use world and eliminates antiquated terms in an effort to reduce ambiguity and add clarity.

(New) Conservation Subdivision – The purpose of this regulation is to provide an applicant considering developing land into a residential subdivision in Garfield County with certain incentives which include density bonuses and zoning flexibility in exchange for the provision of certain amounts of land that is preserved as open space within a development plan. This regulation is intended to provide a regulatory mechanism which encourages residential lots to be reduced in size as well as be clustered on a property so that a greater amount of open space can be provided as an integral component in a development’s design and possible integration into adjoining property open space.

(New) Standards – Because the proposed uses and land use context of the County has changed since 1978, it was necessary to revisit what standards should be used to deal with these uses and the changing County landscape. To that end, the new code rewrites the “Supplemental Section” of the present zoning regulations with a more specific set of standards for specific land uses rather than trying to use general standards for a wide variety of uses. This new section also takes the standards that were located in a variety of locations in the present regulations and places them all in one section for the ease of the reader.

Fred showed illustrations within the standards section depicting how one applies certain concepts within the code.

(New) Workbook – Often, the users of the land use code are required to provide certain documents such as Subdivision Improvements Agreements, Well/Access Sharing Agreements, etc. Additionally, certain regulations in the code need extra explanation or examples of concepts to make them more clear to the reader. The workbook is a document to be used as a “side resource” to provide examples of documents in the form used to the County. The workbook is intended not to be codified/adopted as it is more a resource to aid in the administration of the code. This should prove very helpful to the public user so that they have examples of forms the County requires rather than go through a timely reiterative process.

What did not Change:

- ❖ PUDs (No change as this is primarily statutorily determined)
- ❖ Affordable Housing (While the County recently commissioned a study, the Planning Commission believed more information was needed to revise the Housing regulations to add a commercial linkage, cash-in-lieu, and an increase in the % of Affordable Housing Units required per development)
- ❖ Preliminary Plan (No change as this is primarily statutorily determined)
- ❖ Final Plat (No change as this is primarily statutorily determined)
- ❖ Exemption (Rural Land Development Option/Normal Exemption)
- ❖ Non-conforming Land Uses/Structures (No change as this is primarily statutorily determined)
- ❖ Enforcement (No reason for change)
- ❖ Zoning (Dimensional standards such as min lot size, height, etc.)

Summary & Next Steps - The process to rewrite Garfield County’s land use regulations has been a long endeavor which has required thousands of hours in staff time, consultant time, and Planning Commission time in approximately 30 public meetings over the course of the last three years. Again, the purpose of this endeavor to rewrite the land use code was to accomplish the following:

Update and refine the regulations to deal with a maturing and more complicated land use climate in Garfield County

Eliminate antiquated or meaningless language and solve inconsistencies; and

Streamline process where possible making the regulations more practically meaningful and user friendly.

The Planning commission intends to present the draft to the public in an advertised public meeting in the Town of Carbondale (4/18/07) and the City of Rifle (4/19/07) to gain additional input. Finally, the planning commission has scheduled a public hearing on May 16, 2007 in which they intend to forward a recommendation to the Board of County Commissioners.

Discussion:

Phil Vaughan introduced Cheryl Chandler and Fred.

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Phil – I appeared before you in July 2006 and gave you an update. Today, I'll give you a brief history on August 24, 2005 we did a roll out session on the initial code. Between that date and last week we've had 28 separate meetings to review over this code. Prior to January 31, 2006 I asked all the planning commission members to do a full review of this initial draft that we received from the consultants. I personally had over 100 man-hours. On top of that we have spent in our 28 meetings just time at the meetings we're about 168 hours per person in on this operations. That's not counting outside of the meetings. Just to acknowledge those folks if I may (Phil mention his whole list of volunteers). Again, from the staff standpoint and from what I see somewhat as a voluntary effort as well obviously these folks are here at night meeting with us outside of businesses hours and that's Fred Jarman, Don DeFord, Carolyn Dahlgren, Craig Richardson, David Pesnichak and Marv Ray. We appreciate all the staff time that has gone into this as well. When we received the first product and I issued this concern to you all last July, I was extremely unhappy with what we received as a first draft and the consultant on this. I have expressed that displeasure, we have spent time and the effort necessary to redraft this document the way I think makes good sense for Garfield County. I think it was a very clear message from you all as County Commissioners, take this document put your brains in on this, gather whatever information you need and come up with your best proposal to submit to you all. Again we are a recommending body only we don't adopt this code. That adoption comes from you all. I feel like that is what we have done. I'll be up front with you about the community involvement on this, it has been minimal to non existence and that is not because of staff efforts nor planning commission efforts to get other people to come into these meetings. I've found from most consultants and the like that I have talked to in the county about it is the general opinion out there is they are busy they have other projects going on. When it gets adopted their clients will pay them to learn about this new code and they will come in. What we will be submitting to you all, hopefully next month is an item that we have spend a tremendous amount of time and effort in and I think it put the best minds together that we can to come up with a good recommendation. But it's not the end all. A code is a living document just like our comprehensive plan is a living document like other codes you all deal with on a daily basis. I think the best acknowledgement of that is the International Building Code. I'm a member of the international code counsel as well as your building department is and we meet on a regular basis. I think you will not find it to be completely perfect when we make the submittal to you. There are going to be things that you may disagree with and that's okay. What you will find is however; you will find a document that the planning commission agrees upon 100%. What I will let you know, there are things in the document once you see it in May, Cheryl may not agree on certain or I may not agree on certain items. But we have come together and basically our group has indicated we support the code as a whole. We may not like every single section of it but this is the middle ground we had to come to as a group. I want to give you the update on where we stand on that. You received a memorandum from Fred, I'd like to hit just a few high points things I think are important to remember. What was the purpose of doing this? The purpose of doing this was not 28 nights away from our loved ones. We needed to come up with a change in the Garfield County Code, we knew there were things we were dealing with within the code since 1978 that needed to be worked on and changed and the general view of how the code looked. The code has served us well since 1978. There have been changes and amendments made to that code on a yearly basis by your-selves and recommended by the public, commissioners and the planning commission. The reasoning for updating that's really on Fred's first page is to eliminate the antiquated language within the code and then to stream line the process. That in my mind was a major part of what we were looking at. The folks that were speaking to you prior, this is something we have hammered on at not every meeting but at least every other meeting to the point, every one is sick of hearing it. Every single page, everything single thing we add on to this code is an added cost to development, that's transferred down to the folks that are buying homes, renting the apartments, however it comes down. If it is something we need to have in order to protect the public, put it in the code. If it is something that's flowery and fun and a general pain, don't put it in the code. We have attempted to come to that ground and you will see.

Chairman Martin – Easy to understand, useable by anyone and straight forward. Not subjective to numerous opinions and its easy to use.

Phil – Don and Carolyn have been good about keeping us in line on things where we put wishy washy language. This truly was a team effort. We have changed out the sketch plan process. We would recommend a mandatory pre application conference with staff. I think that will help to get rid a lot of questions that come up during the process. Staff and applicant will have already spoken with each other. A lot of times staff has indicated to me they get fresh applications and nobody has said a word to them. They just show up with \$300.00 or \$400.00 check, here you go here's what I want. All of a sudden letters of completeness issues come up and all those crazy things. I think this will be beneficial for both sides of the table. Item F on page 3, new administrative processes in zoning, there's clearly some things that need to be done administratively. This is not because we are lazy on the planning commission this is simply that we think there is a number of things that can be done administratively, with a set of standards and criteria set forth. The applicant meets it, able to do it. The applicant doesn't meet it, not able to do it. Why have hearings before the planning and zoning commission and before you all, we know how busy your schedule is. Item G, an item we fight with all the time. Amendment to an approved site specific development plan. Very important item, something you all will see and hopefully be proud of in the changes. On page 4 the zoning measures, this was an item we spent countless nights on and countless time on. I'm trying to figure out what is major development, what is a limited development and what should be done administratively with the zone districts? I think you will find the document there is easy for folks to understand and easy to apply. They can go into the matrix and say I'm doing this in this particular zone district I need limited approval or major approval or administrative approval or to use my right. Page 5 new zoning regulations designations you'll see all that. I think those changes are positive. I don't think you will find anything wild or crazy and different with it. Item 6, new affordable housing regulations we again had Susan Shirley and Geneva Powell in as you all know we depend heavily upon them to give us advice on how to deal with these issues from a land planning stand point. Again the more regulation we set upon affordable housing operations and the like, the more expensive that housing becomes. What you will see in here are mobile home park regulations that I think are going to be preferential to doing that kind of work. Other issues within this code as well will help out with affordable housing. We are players at that same table, we agree with it we understand why it needs

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to happen. What can we do from our end as planning commission to help that process a long? The new conservation subdivision you'll see some information about that which is very interesting. Finally on page 6 the new standards. The standards are really an important part this is how practitioners in the trade are going to take a look and apply that code. It details out what a grading and drainage plans have. It details out the scale that it should be done in. On storm water management issues, all the things an applicant needs to be provided, I think, in a much clearer stand point and where the applicant can know what needs to be provided; staff can have a simpler check list on what needs to be there. I think we are going to have better communication in that area. The standards section is a huge section. The new work book is really a side resource as Fred notes. Lastly on page 8 are some notations Fred made about what did not change. Our next steps, this Wednesday at 6:30 pm will be in at town hall in Carbondale to bring a copy of this final red line code to them. Basically show them and go thru the document showing major changes. Give copies to the towns. This again the meeting is for all folks, in county in town etc..... We will be in Rifle this coming Thursday night at 6:30 pm at city hall to do the same thing. And finally on May 16th we will have a meeting for the final adoption. That is our goal, the planning commission certainly on the 16th could between now and then could pick out certain areas they see that don't fit well together or have particular concerns about. We have had two test drives on this we ran a special use permit that had already been run through and approved by Garfield County and secondarily a subdivision needed a comp plan changed. Staff went ahead and prepared a report utilizing a draft of the new code to take a look at those and apply. We found some areas in there that were not up to par we made changes in those areas. We'll assure you we have done two test drives, one with special use permit and another with a residential subdivision. We will find areas that are not going to work. We will be happy to come back with changes.

Cheryl – Phil does a fabulous job.

Commissioner Houpt – Is your current red line version on line?

Phil – Yes it is.

Fred – Only to add to that we are very proud what we have done over past 3 years. The document as well as the draft is also on line. Anyone can pull this up and see what it looks like. Again we are going to road show out to our communities.

Commissioner Houpt – I really appreciate the amount of time you have put into this. It deserves a lot of thought and analysis and the commission put that time in. We appreciate it.

Commissioner McCown – You did such a great job on this. We thank you.

Phil – After the submittals are made to you on May 16th we will offer from our planning commission stand point whatever assistance that we provide to you all during that review process.

Commissioner Houpt – I think we will definitely need to schedule a couple of work sessions. I think it deserves some time to sit down and discuss some issues.

Commissioner Martin – We will review the different changes, we might even come up with some other changes or issues. Thank you.

No action

PUBLIC MEETINGS:

CLERK AND RECORDER - SUBMITTAL OF REQUEST AND SETTING OF PUBLIC HEARING TO AMEND SERVICE PLAN FOR BURNING MOUNTAINS FIRE PROTECTION DISTRICT – MARIAN CLAYTON AND CAROLYN DAHLGREN

Marian Clayton and Carolyn Dahlgren presented a notice of a public hearing to be set for Burning Mountain Fire Protection District.

Discussion:

Carolyn – This is a statutory proceeding and you know that Burning Mountains Fire Protection District has already been in to ask to set this hearing. I've been in contact with their lawyer as has the Clerk and Recorder. Mary Lynn has prepared a notice to DOLA. As soon as you set hearing, Mary Lynn will get that off to DOLA. We will get a copy of it to Burning Mountains Fire District; they will then do all of the public noticing.

Commissioner Martin – Do they need 30 days prior to that?

Carolyn – The statute states that you have to set this within 30 days of today's hearing. However; they have waived that statutory 30 days because it is taking them longer than they expected to get all of the information they need from the assessors office. Also considering their lawyers schedule and your meeting schedule, their lawyer has asked that you set this for Monday, June 4th.

Commissioner Martin – Lets go ahead and get that done.

Commissioner McCown made a motion that we set the date for the hearing for the first amendment for the service plan for Burning Mountains Fire Protection to June 4th, 2007, 10:15 am. Commissioner Houpt seconded

In favor: Houpt – aye Opposed: McCown – aye Martin – aye

PUBLIC MEETINGS:

AIRPORT - RIFLE JET CENTER – AMENDMENT TO LEASE – RICKY GALLENBACK, BRIAN CONDIE AND CAROLYN DAHLGREN

Brian submitted the first amendment of the FBO land lease and operating agreement. Brian was before the BOCC on February 12, 2007 and the board had approved this action. Lease parcel 3FL and Parcel 9FL shall terminate and revert to BOCC and shall no longer be covered by the FBO Agreement. Lease parcel 3FL will be used to construct an office building and lease parcel 9FL to a third part for a private hangar. Parcel 1FL will be one of the parcels covered by the FBO agreement. Within 60 days after execution of this agreement, the BOCC shall remove from Lease Parcel 1FL the Modular buildings and any other BOCC owned improvements. (Pending ASOS relocation)

Brian – This is now the actual amendment, releasing land 3FL and 9FL also release 1FL, 1 flight line. On this first page we will remove the existing modular building, only difference is within 60 days of written notice.

Carolyn – 60 days from whom - from us?

Brian – no, from them. Under the improvements we discussed building two 30,000 sq ft. hangars and now we are looking at one 40,000 sq ft hanger to be placed on 1FL. Surrender gate access, we have alternate

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routes. There was no penalty discussed at that time for non-compliant. They have 10 years from the date of this agreement to build this. Start leasing that land as of tomorrow. What we talked about was at the end of 10 years if not completed they surrender the land back to us; they also forfeit their right to any extension. They had two five year extensions, which they agreed to. The option to extend, which means their penalty would be 8.7 million dollars if they fail. In the option to extend they would like a third option for another ten years. Brian gave a breakdown of what the county would receive over 38 years.

Carolyn – I would ask that you give us some lee-way in drafting because there is yet another lawyer involved; the lawyer for Rifle Jet center.

Commissioner McCown made a motion to approve the first amendment of the FBO land lease as presented.

Commissioner Houpt seconded

In favor: Houpt – aye Opposed: McCown – aye Martin – aye

Carolyn – Can we put this on the consent agenda once it is finalized?

Commissioner McCown - Absolutely

AIRPORT - BOB WOODWARD LAND LEASE FOR HANGARS – BOB WOODWARD – BRIAN CONDIE

Brian Condie and Bob Woodward were present. Both were before the BOCC on February 12, 2007 were they presented a concept plan.

Brian – Letter of intent is to build two private hangars. One will be used by myself the other by a good friend of mine who has a home in Snowmass. I thought it was simpler for me to build both hangars and then transfer one over to him. Included are the utility approvals that were necessary and a letter from the fire district. The construction budget for the two hangars, \$620,000.00 and that is a contract I signed last Friday with a local contractor. Mr. Pennington is going to carry the entire project. The letter of credit will be issued next week and I set the amount at \$700,000.00 to give a little cushion in the event there are some change orders. Bob went over his resume, have been in construction for the last twenty years and recently retired. I thought the two most important references I could give you is one from the airport association in Princeton, Kentucky where I currently rent land and built a hangar. The other is from the City of Key West Florida where we currently rent land. It was a government subsidized hangar system we put up. We started the FAA form and we are waiting, it will be submitted in the next couple of days, we are waiting for longitude and latitude coordinates to be added to it. The construction plans is for the two hangars which are going to be build on 12B2 and 12B3. They are identical hangers and are 100 foot wide, 70 foot deep with a 60 foot door. Fully insulated and heated, we are adding an office and restroom. We had a firm in Rifle do these for us and I’m really pleased. People seem to work together and that is not the case in most communities I’ve found. The drainage plan is currently being drawn, we would have had that in the package but I found that your engineers were between one and six months behind. It will be available within the next two weeks. The last thing I would like to comment on is the lease. For 20 years I have built and leased buildings, shopping centers, we have just completed a 450,000 foot distribution center. That lease was 23 pages long and this one little piece of land is the most comprehensive lease I have ever seen in my life. It’s 45 pages long, I’m talking my hat off to your attorney, and you’re as well protected as humanly possible. I’ve never seen such a comprehensive lease in my life.

Brian – I’ll go over the lease. You received a draft copy and have asked for a summary, changes we are going to recommend, that is what is in your packed. Any things in red are the requested changes. On page two we had a question about the insurance and if you look at the bottom number three, commercial hangar operator permit that was taken from a commercial on leases, we want to change that heading to private non-commercial hangar operator. On the next page 3 conveyance of interest in land I didn’t know if we could convey the interest in land just in a building that was a question I had for Carolyn.

Carolyn – It’s a function of the conveyance document that the tenant decides to use. The tenant could sublease the underlying real estate as well as a part of the hangar. Generally, to my understanding they would generally be use agreements. Which are more in the nature of a permit or a license rather than giving people an interest in the underlying real estate?

Brian – The next one no commercial operations on page 4 we did change the base term to reflect 20 years with two ten year options. We have the ability to give them a punch list at the end of 20 years and then 30 years to make sure the hangars are up to county standards. On page 5 we had to add a section the lease rate cap, the lease rate would not go over 150%. The thing that was not discussed was the length of time. Originally it was for 30 years. I just wanted to show you that 30 years if we cap it at 150%, that 3.12% growth. After 30 years we are able to adjust the ground rent based upon the current value of the land. On page 6 there maybe a statute to allocation costs for road relocation.

Carolyn – I wanted to clarify that the statute is not an airport statute the reference would be to the special district statute, which lays out several different mathematical formulas. Folks in special districts can tax themselves. I only use this as an example.

Brian – On page 7, hangar improvements, just wanted to point out that gravel and asphalt they aren’t allowed in a commercial service area. Mr. Woodward has asked that we allow the building contractor or a professional engineer to certify the concrete. Every time there is a profession engineer he would like to add a building contractor there.

Bob – That does not remove the necessity for us to meet the building code and to have the inspections and get the certificate of occupancy. I’m just trying to save myself about \$2,500.00 to keep an engineer from coming out and saying okay each time.

Carolyn – When the flight department put up their big hangar, we did allow that.

Brian - You have at least one sign on the extreme side of the building for the fire code. On page 8 we have one master meter; all the tenants pay a portion of the water bill. My intent is to allow the tenants to put in a meter so they can actually be billed for this. We have a tenant that is not out there in the summer and he gets a water bill every month that he never uses.

Carolyn – The problem is our pre-annexation agreement with Rifle, disallows that. I would ask that you allow us to draft the lease consistent with that pre-annexation agreement, until we can get it changed.

Brian – What this would allow is the City of Rifle to bill on an individual meter. The County bill we still pay the entire bill to the City of Rifle.

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Commissioner Martin – But the reimbursement is based on the usage within the organization.

Bob – In the case of our hangar it looked like our percentage on square footage would be somewhere between \$200.00 and \$300.00 dollars per month.

Commissioner McCown – Can I go back to page 7? If you contract with a contractor to build and let that contractor become his own QC and the warranty on his work extends a year out and you have no problems until a year and one month. And your floor starts crumbling and you have some body come in and check it and instead of a six-inch pad you ended up with a three-inch pad in spots because of improper grading.

Bob – I would assume that concrete floor has to be inspected by your building people.

Commissioner McCown – The form has to be inspected. We do not have an inspector on site when you're pouring that slab and that is a large slab. I'm just wondering if you wouldn't be better protected by an engineer certifying it took place as was said by the contractor. If you're okay with that. Paying an engineer \$2,500.00 would be significantly less than replacing the floor in that hangar.

Brian – We're going to check on the water meter. On page 10, performance and payment bond, we require performance and payment bond on any section we add a letter of credit.

Carolyn – Let me bring up another issue please. Mr. Woodward voluntarily added a certain percentage as a contingency amount in case he had some cost overruns or some change orders. The document is now written, says that the letter of credit will be for the full contractual amount. This is somewhat like what you see in the building and planning arena when you are approving subdivisions and PUD's. There we require people to have a 10% contingency. Does that seem, Mr. Woodward, to you as a business man, does 10% seem like a reasonable amount?

Bob – We are pretty well covered.

Carolyn – The county has had a long standing policy that we will accept our own negligence, we don't try to pass the risk of our negligence on to anyone else. So the commissioners have instructed me to leave this document like all of the other contractual agreements in the county.

Brian – Okay we will take that out. The type of insurance we had actually changed the coverage from 5 million to 1 million for private hangar. We did not have an aggregate limit on this right now it is 1 million dollars per occurrence.

Carolyn – What did Patterson say about the aggregate? Could we please have the leeway to follow the advice of our carrier?

Commissioner Martin – I think that is what we will have to do.

Brian – I would say not to exceed 5 million that is used for commercial.

Bob – Are you talking an aggregate annually or yearly?

Carolyn – It depends upon how the policy is written. That is why I wanted to talk with our consultants. Usually there is an annual aggregate and I don't know how this insurance is written that's why I asked the commissioners if we could rely upon our carrier. Certainly you can be involved in that conversation.

Brian – This can be a follow up item I can bring to you on the 7th. We also recommend a change in the notice of cancellation from 10 days to 30 days. On page 12, at the end of all lease and extensions the options for the owner is different than are commercial. The owner may operate under a new lease or remove it.

Carolyn – But if there is going to be a new lease it has to come back to the BOCC. There is not a perpetual lease here.

Brian – Number D says if the commissioners decide this land is better used for something else, we may require them to be removed.

Carolyn – When the term expires, we do not have to renew.

Brian – This will be the main lease we take to the five additional private hangars that are coming.

Mr. Woodward just wanted to compliment everyone for working together.

Commissioner Martin – Miss. Dahlgren any other issues in regards to this lease?

Carolyn – No just to clarify there is still an operating agreement hearing. This is just for the lease part of it today.

Commissioners agree this lease is acceptable. No motion at this time and Commissioner Martin gave the direction to go ahead and proceed with those changes.

COMMENTS FROM CITIZENS NOT ON THE AGENDA

COUNTY ROAD 311

Herman Stauffer – I live on County Road 311 at 9109. I think you are familiar with that area, it the ranch next to Elk Ranch. I didn't realize I was here before the board asking for some help and it was 10 years ago. At that time I asked if the county could/would chip seal and extend the chip sealing on CR 311 road by about 2 miles, which would bring it up to about the cemetery. I was willing to put money in and I was assured your resources are better spent making sure that the election goes through when the county sales tax is ear marked for road and bridges. We would connect CR 311 to Dry Hollow and fix it all up. I spent a lot of time, phone calls, meetings and cash and the tax was passed. I think about a year later they extended and chipped sealed CR 311 Road right up to the corner of CR 313 and stopped. Waited a few years and nothing has happened. Since the gas trucks are up there, the chip and seal I don't think will do anything it's all mud. I talked to Charlie Diaz and he worked for the county almost 40 years and he said that base was put in, in the late 50's. When it rains we have about four inches of mud there is absolutely no base left. The best time to travel that road is in the winter, when it's frozen and the snow plow goes up it is absolutely wonderful. Just to give you an idea, I don't think I have to give you an idea of what condition CR 311 is in. I counted 48 trucks in 2 ½ hours, that does not include pick-up trucks. I'm asking you for the sake of safety to do something with the road from CR 313 going southwest on CR 311. I noticed you did some work on CR 342 and CR 327. We who live on CR 311 are taking a beating from all the traffic and I would ask you kindly to look into it. Talk to your staff, talk to the road and bridge guys, we need some help up there. I didn't realize 10 years went by. Thank you very much for your time.

Commissioner McCown – Well the improvement is scheduled, it won't help your situation on CR 311 specifically but, Jenkins cut-off is scheduled to be improved this year. I don't think I saw anything on CR 311 above that.

Herman – If you can do a couple of miles there; maybe to the bridge or the cemetery.

Commissioner McCown – We will look into it.

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BUILDING AND PLANNING - CONSIDER PLAT AMENDMENT TRACT 1, OF THE TAMBURELLO NORTH EXEMPTION – APPLICANT – BRIAN FRAZKE – FRED JARMAN

Fred Jarman, Carolyn Dahlgren and Brian Frazke were present.

Fred Jarman presented and stated the owner of Tract 1 of the Tamburell North Exemption (a currently vacant lot) requests approval to relocate the previously approved building envelope consisting of 3.145 acres to a proposed envelope of 1.44 acres. The initial building envelope was somewhat centrally located on tract 1 while the proposed relocated building envelope is planned to be located at the westerly side of the parcel. The proposed relocation would be in an area less susceptible to possible flash flooding from three drainages and would accommodate a driveway to the proposed building envelope without impacting the wetlands. According to the land owner no HOA exist. Section 6:10 of the Subdivision regulations states that an amendment may be made to a recorded plat, if such amendment does not 1.) Increase the number of subdivision lots or dwelling units, or 2.) Result in the major relocation of a road or add new roads. This request will not result in either of the two aforementioned standards and staff finds these standards are met. Staff Recommendation: The applicant has provided all required documentation and has satisfied the applicable standards for a plat amendment. Therefore, the Planning Staff recommends that the Board of County Commissioners, pursuant to Section 6:10 of the subdivision regulations of 1984, as amended, approve this amended plat request with the following conditions:

1. That all representation of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in Section 5:22 of the Garfield County Subdivision Regulations.

Fred presented – Specifically to relocate a building out of the center of Mr. Frazke's property and move it west. In fact it reduces the overall acreage from 3 acres to a little over an acre and a half. He is requesting this change be reflected on a new Plat. No new units are being developed or no new roads are being developed.

Brian – Fred has covered everything.

Commissioner McCown made a motion to approve the amended plat with the two conditions as recommended by staff. Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner Martin – Fred, Brian also had a question would he be able to get a building permit that had already been made up? If you would get with Andy and see if he found that building permit and talk with

BUILDING AND PLANNING - CONSIDER PLAT AMENDMENT TRACT 2 AND 3 OF THE TAMBURELLO NORTH EXEMPTION – APPLICANTS: GREG AND ANNE TAMBURELLO AND DOUG AND BONNIE NIELSEN – FRED JARMAN

Fred Jarman, Carolyn Dahlgren and Greg Tamburello was present

Fred Jarman presented and stated the owners of Tract 2 and 3 of the Tamburello North Exemption request the Board to approve the readjustment of the common property line seventy (70) feet westward and slightly increase the existing building envelopes on both amended tracts. The proposed amended plat will decrease the existing 9.169 acres to 8.028 acres in Tract 2 and increase the existing 9.947 acres to 11.074 in Tract 3. The proposed change slightly increases the size of both development envelopes and they will remain in compliance with Garfield County zoning regulations.

Staff Recommendation: The Applicant has provided all required documentation and has satisfied the applicable standards for a plat amendment. Therefore, the Planning Staff recommends that the Board of County Commissioners, pursuant to Section 6:10 of the Subdivision Regulations of 1984, as amended, approve this amended plat request with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
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Fred presented material – Again the matter before you is an amended plat. These would be tracts two and three. The idea is to move center lot line between these two lots to the west, and accordingly just adjust those building envelopes. Fairly minor changes, no change in access and no additional increase in units

Commissioner McCown made motion approve the amended plat of the two lot amended lot line and the two conditions recommended by staff.

Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin – aye

PUBLIC MEETING

BUILDING AND PLANNING - CONSIDER PLAT AMENDMENT LOT 4 AND 5 OF THE RANCH AT ROARING FORK 1V, #1 – APPLICANTS: FRITZ AND VANESSA ANTHERS – FRED JARMAN

Fred Jarman, Carolyn Dahlgren and Fritz Anthes were present.

Fred Jarman presented and stated the owners of Lot 4 and 5 of the Ranch at Roaring Fork 1V, no. one (1) request the Board to approve the realignment of the common property line between the two (2) lots to coincide with the existing fence line. The proposed property boundary realignment will not affect the building envelope on either lot. The HOA has reviewed and does not object to this request.

Staff Recommendation: The applicant has provided all required documentation and has satisfied the applicable standards for a plat amendment. Therefore, the Planning Staff recommends that the Board of

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County Commissioners, pursuant to Section 6:10 of the subdivision regulations of 1984, as amended, approve this amended plat request with the following conditions:

1. The applicant shall realign the side yard ten (10) ft. wide easement for utility, drainage, irrigation between lots 4 and 5, Ranch at Roaring For 1V, no. one (1), to reflect the realignment of the common lot line.
 2. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
 3. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy) then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder’s Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in Section 5:22 of the Garfield County Subdivision Regulations.
- Fred Jarman presented material – Again this is a request for a plat amendment. The zoning of the property is actually PD. The request is just to amend a property line. We have no issues with this request. The only thing we suggest is that the property lines be amended also to reflect the jog in the property line. This has to do with the fence and some landscaping that has been put in since the lot was developed.

Commissioner Martin – Was there an architecture review committee?
Fred – There was and you should have a letter in your packet. This letter is a letter of approval from The Ranch at Roaring Fork for the fence between the properties.
Fritz – I don’t have any questions.
A motion was made from Chairman Martin to approve the plat amendment.

Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin – aye
BUILDING AND PLANNING - CONSIDER AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION TO DIVIDE AN APPROXIMATELY 78 ACRE PARCEL LOCATED SOUTH OF THE TOWN OF NEW CASTLE AT 6640 COUNTY ROAD 312 INTO A TOTAL OF 5 LOTS – APPLICANT: LACY ORR AND GIL SMITH – DAVID PENSINCHAK

April 11, 2007 – Received letter from John L. Taufer, the owner’s representative, requesting to reschedule this Public Hearing.
David presented letter to reschedule. Upon review they will need to apply for a variance in order to meet the criteria of an exemption.
Commissioner McCown – Have they been informed about the normal criteria? Made aware 4 lots as opposed to 5?
David – Yes
Commissioner Martin – Do we have a date certain?
David – We do not have a date at this time.
Commissioner Martin – We will wait until we hear from them again and they will post it etc.
Commissioner McCown – Before we adjourn, I would like a brief executive session to discuss a road issue.
Executive Session:

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an executive session to discuss a road issue. Motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of executive session. Motion carried.
Meeting to be continued on Wednesday, April 18 at 5:30 at the Rifle City Council Building.
RECESS:

ATTEST: _____ **CHAIRMAN OF THE BOARD**

**APRIL 18, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

The CONTINUED meeting of the Board of County Commissioners began at 5:30 p.m. on Wednesday, April 18, 2007 at the Rifle City Hall with Chairman John Martin and Commissioner Tresi Houpt present. Also present were Ed Green County Manager; Randy Withee County Engineer and Marian Clayton Deputy Clerk to the Board. Commissioner Larry McCown was absent.
Present for the City of Rifle were: Mayor Keith Lambert, Alan Lambert, Beth Bascom, Jennifer Sanborn, Jonathan Rice, Sandy Vaccaro, Jeff Johnson City Council; John Heir City Manager, Planner Matt Sturgeon, Police Chief Daryl Meisner and Wanda Nelson City Clerk.
Representatives from White Construction Group and Humphries Poli Architects, PC. were also present.

**CALL TO ORDER
JUSTICE CENTER – MEETING WITH CITY OF RIFLE AND COMMISSIONERS**

Keith Lambert, Mayor of the City of Rifle called the meeting to order at 5:45 p.m.
Randy Withee presented the Justice Center scope and budget for the design/build to be constructed in the City of Rifle.
The background of the project was stated by Randy. The concept of this combined facility began several years ago and then in January 2007 an RFP was noticed in the Glenwood Springs Post Independent. There was one proposal submitted from White Construction Group and the evaluation team made up of members from Rifle and the County personnel determined the proposal was complete and responsive. Discussions are currently on-going and tonight the concept, architectural renderings, elevation and floor plans were submitted. The budget was presented:

Construction Budget

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County cost - \$3,577,753.50 City Costs - \$3,849,439.50
Funding included the buildings, quality control, tap fees, building inspection and 5% contingency:
County - \$3,792.753.00 City - \$4,069,438.00

The design is a campus setting versus 18th street open.

The recommendation:

The evaluation team recommended the Board of County Commissioners and City Council award the design/build of the Justice Center project to White Construction Group for an amount not to exceed \$7,395,332.

Those mainly involved in the planning process included: John Heir, Rifle City Manager; Planner,, Matt Sturgeon; John Gossett, State Judicial; Solving Olson, State Judicial; Daryl Meisner, Chief of Police; Ed Green, County Manager; and Randy Withee, County Engineer.

Presentation:

Michelle from Humphries Poli Architects, P.C. submitted the site plan and floor plans and submitted the handout. She said the materials for the two buildings would be similar but to add distinction between the two facilities, a difference in roof lines was deliberate. The policy facility has a pitched roof and the court facility a flat roof. The design was submitted showing 18th street closed and instead having a common area between the two buildings.

Discussion:

Keith Lambert voiced some concern for the flat roof as well as Chief Meisner for reasons related to terrorism. Alan Lambert relayed the architecture reminded him of the 50's and 60's era.

Commissioner Houpt and Jennifer Firmin expressed some concerns over the exterior design.

Jennifer Sanborn said it reminded her more of the 70's era and would like to see the façade have more character especially related to the other buildings in the Rifle area. She referenced the Henry Building now housing County operations, the Human Services Building and the Library. She was especially looking for shadow lines, split face and mixed texture. She wanted the red brick to blend in with current buildings.

Commissioner Houpt was concerned that the Police Facility design had more of a grand appearance with the pitched roof than the County building. She liked the natural light of the large entry way but the exterior design presented looked stark.

Discussion was held with respect to the reasons for the design/build contract to be approved citing the cost of steel escalating rapidly as well the timing issue when ground could be broken. It would be essential to lock in prices and align subcontractors. Once the design/build contract is signed, the contractor and architect stated they could work with whomever is selected to obtain input on the exterior design and complete additional modifications in the interior sections.

Any further delay will add additional cost to the project. The cost of steel has climbed 32% since March 1, 2007. The contractor can lock in a price on the steel once the award has been approved.

Randy Withee described the process of how this will move forward:

- Negotiations to the contract
- Present this to the Board of County Commissioners
- Present this to the City Council
- Recommendations for the design phase
- BOCC and Rifle City Council agrees
- Meet with the various departments housed in the buildings to tweak the layout of offices, etc.

Randy suggested the award for the design/build should move forward and then exterior design and interior layout could be negotiated. Cost would be a definite factor in the design as the construction material and general plan were based on the architectural renderings. Randy reminded everyone that if change orders were necessary and the cost escalated, then it would be a give and take situation.

Discussion was also held regarding LEED certification of the building which denotes you've achieved your environmental goals and your building is performing as designed. The LEED certification levels for new construction are – certified; silver; gold; and platinum that corresponds to the number of credits accrued in five green design categories: sustainable sites, water efficiency, energy and atmosphere, materials and resources and indoor environmental quality.

The target for sustainable is 27 and White Construction is at 28 now with a possible additional 15 points.

Commissioner Houpt said she understood the goal was to have a LEED design. The contractor explained that this was an expensive label and the building would be certifiable without the LEED label. There is a great deal of paperwork and if you want the LEED certification it could cost as much as an additional \$150,000 per building to get it LEED certified. He assured the Board and Council that it was priced at a certified design but not a LEED certification. The interior will use recyclable materials as much as possible referencing the carpet material as an example.

City Council's budget is \$4.1 million and may be short of furnishings. There is a second evidence building that could be negotiated out of the plan. Chief Meisner explained that without the second building the Council would surely be revisiting this in a very short period of time with the growth occurring in the area. He also mentioned that the current site plan did not have perimeter fencing and the policy area would not be secure. Ed Green stated that the board approved a total budget in the 2007 budget document of \$3.2 million for this building. The new estimate that Randy provided the Commissioners Wednesday night is for \$3.8 million. The Board approved increasing the total budget for this project by \$600,000.

This allows us to place a contract for the full amount to incorporate approximate amounts in the 2008 budget, and to set up a project account in finance for the full \$3.8 million dollar project.

One key component of their approval is the recognition that our fund balance in the capital fund grew by 600k from October to January. That's because we returned unused money from other projects back into the Capital Fund. Therefore, the net effect on the ending fund balance for 2007 is that there will be no decrease in the projected fund balance.

{Added note: Just a note of clarification from Patsy Hernandez – the BOCC approved \$3,135,000 in the 2007 budget. I have placed a note in my 2008 Budget file to add \$600K on to the carry forward amount (amount of \$3,135,000 not expended in 2007 + \$600,000 = 2008 budget amount.) }

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Added note: Ed Green responded in his review of the minutes: That doesn't mean that we will spend \$3.8 million this year. It is a two year project and I doubt that we will encumber more than about \$ million to \$.5 million this year.

This allows us to place a contract for the full amount, to incorporate appropriate amounts in the 2008 budget, and to set up a project account in finance for the full \$3.8 million dollar project.}

Ed explained this would not strain the County budget but it would require a motion from the Board to allow this to occur.

Discussion was brief on the 18th street closure. The City of Rifle wants to leave the street open whereas the County prefers to close it and have a common's area instead. The setbacks from the street are 15 feet as currently depicted.

Ed said the purpose for the street closure would be to prevent pedestrian/traffic hazards and vehicles from parking next to the buildings.

John Heir explained that the City has been negotiating with the County to redesign Whiteriver Avenue and direct more traffic to that street because Railroad has advanced from 9,000 to between 13,000 and 14,000 vehicles per day. Whiteriver would be a collector street.

The City appointed Jennifer Firmin, Jeff Johnson, Daryl Meisner, John Heir and one additional staff to be named later to a committee to work on the design.

The City will continue to work with the Commissioners, Ed and Randy.

Motion by the City:

A motion was made by Jeff Johnson to approve the contract with White Construction Group & Humphries Poli Architects, P.C. for the design/build of the Justice Center project to White Construction Group for an amount not to exceed \$7,395,332 with more additional input from City Council. Beth Bascom seconded the motion.

Discussion: Beth Bascom wants more discussion on the 18th street item and the exterior design.

In favor:

K. Lambert – aye; A. Lambert – aye; Bascom – aye; Firmin – aye; Rice – aye; Vaccaro – aye; Johnson – aye.

County Motion:

A motion was made by Commissioner Houpt that we approve the design/build for the Justice Center to White Construction Group and Humphries Poli Architects, P.C. for a not to exceed \$7,395,332 and the fact that we're not finished with the exterior and based on the fact that we're not finished with negotiations of the exterior and interior design and may need changes. Chairman Martin seconded.

In favor: Martin – aye Houpt – aye McCown – absent

Motion by the County:

A motion was made by Commissioner Houpt to transfer \$600,000 to capital improvements to meet the County portion of the Justice Center. Chairman Martin seconded.

In favor: Martin – aye Houpt – aye McCown – absent.

Attest: _____ Chairman of the Board

MAY 07, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, May 7, 2007 with Protém Chairman Commissioner Tresi Houpt and Commissioner Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico, Clerk and Recorder.

CALL TO ORDER

Commissioner Chairman Protém Houpt called the meeting to order at 8:00 A.M.

COUNTY MANAGER UPDATE – ED GREEN

ROAD AND BRIDGE SALARY SURVEY – PHYLLIS LUNDY

Ed Green and Phyllis Lundy were present.

Ed presented a request to adjust pay levels for positions in Road and Bridge. They have found it extremely difficult to recruit candidates for positions. Road and Bridge is currently down eight employees and will likely be down a total of nine within a month. That represents an entire crew. We will have a difficult time accomplishing our maintenance projects this summer and meeting snow removal in November. We are doing a number of things to address this issue which includes sending out notices to local schools for crew and moving support, participating in a number of job fairs and packaging maintenance projects and placing them out for procurement with private industry. We have asked Phyllis Lundy and Associates to evaluate the compensation issue and critique the work done by Gallagher recommendations.

Ed is requesting that the Board act upon the report as follows:

Approval of salary adjustments to Equipment Operator Level I and II as well as Lead Operator by one full level. These adjustments are estimated to be \$120,000.00 annualized.

Approval of the effective date of January 15, 2007 for these adjustments.

Ed also informed the board there is a similar situation with respect to the Mechanics. The cost for these adjustments is \$22,856.00 and he is requesting that the Board also approves the following actions:

Approval of salary adjustments for the Heavy Equipment Mechanic and Mechanic II (Motor Pool) pay levels

Approval of the effective date of January 15, 2007 for these

Phyllis Lundy concluded that in these two instances the salary structure from Gallagher Byler fell below on one level from where they should be. The adjustment proposed today corrects that deficiency and hopefully it will help us retain employees.

Discussion:

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Don said the County adopted an entire pay and classification system for the County and if this is approved the Resolution No. 07-11 would need to be amended. It is a jointly executed document by the elected officials and the County Commissioners and the Amendments have to follow a similar practice.

Marvin stated this amended pay scale will assist in retaining employees.

A motion was made by Commissioner McCown to approve the compensations for the Road and Bridge and bring them into the salary range and this can be set on the consent agenda at the next meeting. Commissioner Houpt seconded.

This is only an amendment and the only change is the Road and Bridge; it will need to be signed by all elected officials however, Commissioner McCown stated the Board is going to sign it.

Commissioner Houpt wanted administration to make sure the signatures are on the amended Resolution before it is put before the Board.

In favor: Houpt – aye McCown – aye Martin – absent

FAIRGROUNDS - BUILDING AND INSTALLING ANNOUNCERS BOOTH AT THE FAIRGROUNDS – JESSE SMITH

Jesse Smith and Tim Arnett presented the situation regarding the announcer’s booth.

Tim Arnett, the Contract Administrator received a request from David Ebeler, Fairgrounds Manager to issue a competitive bid for building a new announcer’s booth in the rodeo arena. Specifications were prepared and a legal advertisement was place in the Post Independent. We received one responsive bid from Groth Construction.

Recommended Board action: Award bid to Groth Construction for a building and installing an announcer’s booth at the Garfield County Rodeo Grounds at a cost of \$45,300.00.

Discussion: Jesse stated when the master plan for the Fairgrounds was presented back in September 2006, we showed photos of this booth and the current booth doesn’t have a safe way of getting into it. This is an architectural design that Tim presented. There is money in the budget and he has commitments from EnCana and Williams to pay the \$38,000 that were bid on the marquee and we had placed in the budget \$50,000 for that so that would free up the entire \$50,000. The letters haven’t been received because the grant committees met last week but they called and said you have it.

The current sign was donated by four sponsors: Swallow Oil Company, Snyder Oil who is no longer here, Alpine Bank and the Chamber of Commerce and it is so duly noted on the sign. Commissioner McCown would see the addition of these two names. Jesse stated that Snyder Oil will come off as the company no longer exists. The original doners will stay on the sign as they paid for the structure, these other two names will be added.

A motion was made by Commissioner McCown to award a bid to Groth Construction to build and install an announcer’s booth at the Garfield County Rodeo grounds and not to exceed \$45,300.00. Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin – absent

FAIRGROUNDS - PROCUREMENT OF ONE UTILITY VEHICLE FOR THE FAIRGROUNDS – JESSE SMITH

Tim Arnett the Contract Administrator received a request from David Ebeler, Fairgrounds Manager to issue a competitive bid for procuring a utility vehicle that included a hydraulic snow plow and electric bed lift. Due to the fairgrounds plowing snow for the Human Services Building it is imperative that the blade can be adjusted electrically instead of manually. A top and windshield were also included for winter and summer weather. A legal advertisement was placed in the newspaper and a copy of IFB 22-07 was sent to four local utility vehicle dealers. One responsive bid was received from Bobcat of the Rockies

Recommended Board action: Award bid to Bobcat of the Rockies to provide one 2200 utility vehicle in the amount of \$11,447.00.

A motion was made by Commissioner McCown to award a bid to Bobcat of the Rockies to provide one 2200 utility vehicle in the amount of \$11,447.00. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – absent

ROAD AND BRIDGE - Chip and Fog Sealing Various County Roads – Marvin Stephens

Tim Arnett and Marvin Stephens were present. The Contract Administrator received a request from the Road and Bridge department to issue a formal request for bids from qualified individuals or companies to provide chip and fog seal specifications. A legal advertisement was placed in the Post Independent and two responses were received, with GMCO LLC of Colorado submitting the lowest responsible bid of \$1,049,014.08.

Performance and Payment Bonds will be provided as part of this bid.

Recommended Board action: Award competitive sealed bid to GMCO LLC of Colorado to provide and apply chip and fog seal throughout the County

Discussion was held regarding using 3/8 inch chips versus the ¾ inch.

Commissioner Houpt suggested the smaller chips be used to alleviate the problem with bikers and walkers.

Commissioner McCown added that it will increase the price about 50%. It will also be two complete processes. He was uncomfortable with amending the contract because it was advertised for ¾. Also, if the bid was revised there would not be time to chip seal any of the roads this year due to the time frame. The 3/8 would require a two step process.

Marvin concluded that the 3/8 might have to be brought in from Denver because the local pits are crushing ¾ and smaller to fill the orders of the oil and gas industry.

Commissioner Houpt – would like to have an investigation on the smaller chips and come back with pricing and time frames. She has heard complaints for the past 5 years from residents in the Battlement Mesa and Roaring Fork areas who ride bikes and also those who like to run or walk on the shoulders of our County roads. She would like to see what the numbers look like. If it would save the taxpayers money in the long run and make the people happy it would be worth the extra expense.

Tim agreed with Commissioner McCown that there would be no chip seal this year as the schedule is already done.

Ed suggested negotiating with the low bidder.

Commissioner McCown stated this would not be fair and others may want to bid on the two step process. He also noted that we would be able to do about ½ of the planned work by using the 3/8 inch chips.

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Don – procedurally it would need to be re-bid since the specifications would change. We did advertise for bids.

Ed – users of the pit demand $\frac{3}{4}$ and that’s what they are crushing.

Commissioner Houpt said we’re going here with a road base that people aren’t happy with. This is a potential fix for that problem. She would like to find a way without losing the contractor

Don – are we in a position to hold the award for one week.

Marvin – if we went ahead with the process as it is now and investigate the cost and come back to the board with cost estimates.

Don asked if we would plan on using $\frac{3}{8}$ for all roads or some selected roads.

Commissioner McCown – go ahead with the $\frac{3}{4}$ ’s now and then go back and see what the bids come in for $\frac{3}{8}$ ths.

Tresi agreed.

A motion was made by Commissioner McCown to award a bid to GMCO LLC of Colorado to provide and apply chip and fog seal throughout the County and not to exceed \$1,049,014.08.

Commissioner Houpt seconded.

Another bid will be forthcoming on $\frac{3}{8}$ th.

In favor: Houpt – aye McCown – aye Martin – absent

FINANCE - Out of State Travel Request for Patsy Hernandez

Patsy presented a request to attend the Government Finance Officer Association program in Madison, Wisconsin. The program takes place from July 29, 2007 through August 3, 2007 and the estimated cost for this trip is \$2,408.00. This includes program fee includes tuition, housing, meals, classroom materials and sponsored activities. This cost is included in the Finance Departments 2007 budget.

Each year 50 people are selected and she was accepted.

A motion was made by Commissioner McCown to approve out of state travel for Patsy Hernandez to attend the Government Finance Officer Association program in Madison, Wisconsin in an amount not to exceed \$2,408.00.

Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin – absent

Ed – for Executive Session

Negotiation strategy with the City of Rifle; Two personnel issues; Battlement Mesa Service Association;; Negotiations on CR 204; weight restrictions on CR 215; discussion with CMC and programs.

COUNTY SHERIFF UPDATE – LOU VALLARIO

On Saturday – the Battlement Mesa Parachute Chamber of Commerce gave out some special awards to the community and one was the volunteer organization of the year which the Sheriff’s Auxiliary received for all the work they do up there in that part of the County and beyond.

SHERIFF - HORSE ABUSE CASE

Lou Vallario presented the update.

SHERIFF - AUXILIARY - AWARD

General information on the abuse of 29 horses; the case is in criminal court. Found a home for these horses and we will only pay for feed to the tune of about \$3,000 per month. They could auction off the horses at the end of this case. We will not recover the cost of care. One of the horses has already had to be put down due to the condition it was in. Several more are not in good shape.

ABUSE OF SICK LEAVE

Lou handed out an email that he put out and followed up with some discussion. The topic was the abuse of sick leave and Lou said it sparked some controversy. He had some discussions with a very few employees who abuse sick leave and this is based on two philosophies; one is work ethic. One is that I pay people to work, not work; and the second part is that it’s based on performance and production. This memo is a reminder to employees that are abusing sick time and are taking sick days that are not qualified allowable sick days per our policies and procedures that don’t fall under FMLA qualifying events. It is basically the people that say, at the end of the month I just got an additional 8 hours of sick time, I’m going to call in Monday because I’m going to take a day off for a stress day or having a headache or something. I said if a stress day were a legitimate excuse I’d never be at work, so bottom line there’s a couple of concerns specifically in the 7th paragraph where it says, eventually you’re position is going to deteriorate to a situation where you either abusing sick leave in which you’re going to be terminated or you’re sicker than an average person and can’t perform up to standards in which case you’re going to be terminated. What I meant by that wasn’t at all to step on legitimate FLMA or county sick leave issues. What I meant was the person that takes a day here, a day there, a day there and before you know it, they’re missing 20% of their work time at the Sheriff’s office and that’s a productivity issue. The best way I can explain that is if we are both sitting on an assembly line and you’re there all the time and I’m gone one day a week or 20% of my time I’m gone, as it affects their pay to work and based on performance. The issue here is people taking sick time and not using Paid Days Off in order to have a day off. He noted that several organizations create one category as PDO and you can take it and it reduces sick time abuse. This concept doesn’t change FMLA. This is food for thought – one single source of time off.

Commissioner McCown voiced a concern for those folks who have banked hours and saved up and are holding it for that time and we know that a lot have done so. We want to protect those who have been diligent.

Lou’s problem is he has to pay time and $\frac{1}{2}$ for someone to work for that person who abuses sick leave. A combination of time off seems to make people more cautious of how they want to spent those days off.

Commissioner Houpt – it gives the employee the opportunity to plan.

Lou – I believe I have a right to expect people to show up and perform a function or produce a product in which they’re getting paid for. He is a big supporter for this concept and he will wait for the new HR Director to discuss this concept.

Commissioner McCown said perhaps we could look at it in the 2008 budget.

Airport

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Carolyn said that Brian will be asking for the addition of some enforcement provisions to the Airport Rules and Regulations under Colorado Criminal Statutes which make the inappropriate conduct in violations of your Rules and Regulations at the Airport a potential misdemeanor under the Code.

Lou has previously spoken to Carolyn and Brian and anything that's out there at the Airport he will be happy to enforce this – also trespassing. Anything that falls under the criminal code they will be happy to enforce. Carolyn said this would be at the Airport and the buildings that the County owns.

Lou - This is part of the job.

COUNTY ATTORNEY UPDATE – DON DEFORD

CR 211 - CONSIDERATION/APPROVAL OF JOINT PARTICIPATION AGREEMENT FOR COUNTY ROAD 211 – CHEVRON U.S.A., INC.

Don DeFord presented two original of the above agreement with one change. That change is the addition of the word “out” before the word “of” on line two of Section II.

The BOCC will improve 4.36 miles of County Road 211. Basic improvements will consist of BOCC adding gravel, approximately 15,673 tons, to a depth of four inches. BOCC will compact the gravel and will uniformly apply approximately 36,834 gallons of magnesium chloride to the upgraded portion of the road to stabilize the road surface and to decrease the amount of dust that will occur when the road is in use. The BOCC will act as contract administrator and project manager of the project.

Funding: Chevron will reimburse BOCC up to \$391,207 as its contribution to the project.

A motion was made by Commissioner McCown to approve the joint participation agreement for with Chevron for the improvements to CR 211.

Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin – absent

TRAILS AND TRANSPORTATION - CONSIDERATION/APPROVAL OF FIRST AMENDMENT TO THE ESTABLISHING CONTRACT FOR THE ROCKY MOUNTAIN RAIL AUTHORITY

Don DeFord presented this first amendment.

Commissioner Houpt stated this amendment request came from the City of Colorado Springs to add more protections and it also enhances the original IGA that we signed.

A motion was made by Commissioner McCown approve the first amendment to the establishing contract for the Rocky Mountain Rail Authority.

Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin – absent

CONSIDERATION/APPROVAL OF IGA REGARDING SUPPORT FOR RFTA'S BUS RAPID TRANSIT PROJECT DEVELOPMENT AND ENGINEERING TEAM

Don DeFord presented, Garfield County agreed to enter into a transportation planning partnership and with other local governments in the region to fund RFTA's Bus Rapid Transit Project Development and Engineering Team. The agreement shall be effective May 1, 2007 or on the date in which both parties have executed the agreement and the agreement shall terminate effective December 31, 2007.

John signed the contract so the motion would be to ratify the signature on the contract.

A motion was made by Commissioner McCown to ratify the signature of the contract for the bus rapid transit project development.

Commissioner Houpt seconded.

Commissioner McCown stated he did not initially approve this and therefore his motion was only for the signing.

Don – after the discussion in a previous meeting, John asked that Don bring it back before signing.

In favor: Houpt – aye McCown – aye Martin – absent

BUILDING AND PLANNING - CONSIDERATION/APPROVAL OF PURCHASE OF PROFESSIONAL SERVICES AGREEMENT RECURRING OR AS-NEEDED ENGINEERING SERVICES – MOUNTAIN CROSS ENGINEERING – FRED JARMAN

Fred Jarman presented three Exhibits A through C for Mountain Cross Engineering for work to be performed. Engineering company will review land use applications submitted to Garfield County Building and Planning Department, consistent with Contractor's "Proposal", a copy of which is attached hereto as Exhibit A and incorporated herein by reference. Such work shall be performed in a satisfactory manner, as determined at the sole discretion of the BOCC.

Discussion:

Commissioner McCown noted that this contract is only through June 30, 2007 and a since there is a possibility of bringing an engineer on board, he suggested to make this a month to month renewable contract until the end of the year..

Fred was in agreement with the concept.

A motion was made by Commissioner McCown to approve the purchase of professional services agreement with Mountain Cross Engineering that we would amend the length of the terms of the agreement to run until December 31, 2007 and the amount of not to exceed amount would go from \$40,000 to \$80,000.

Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin – absent

SHERIFF – CARE CONSIDERATION/APPROVAL OF PURCHASE OF SERVICES AGREEMENT – ANIMAL SHELTER – COLORADO ANIMAL RESCUE, INC. – LOU VALLARIO

Lou Vallario presented a purchase of services agreement where CARE will furnish animal services to the County.

Lou is pleased with the contract for this year.

The Spa and Neuter program is doing great. Amy reported to Lou on some special events, one upcoming event will center on Fathers Day. She has an aggressive marketing program.

A motion was made by Commissioner McCown to approve the contract with the Colorado Animal Rescue, Inc. in an amount not to exceed \$200,000 for 2007.

Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin – absent

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OIL AND GAS CONSIDERATION/APPROVAL OF BBC CONTRACT WITH WAIVER OF INSURANCE REQUIREMENTS AND AUTHORIZATION FOR COUNTY MANAGER TO SIGN

An Agreement to Facilitate Workshop on **Draft Oil Shale PEIS** Comments was submitted to Jesse Smith. BBC would like to facilitate a one-day workshop with municipal and county planners to discuss the draft BLM Oil Shale PEIS documents. The date of this workshop will depend on when the draft EIS materials are provided to the County and the availability of key participants from the cities and the County. They are anticipating the workshop will take place sometime between May 14th and June 1, 2007. Total cost will not exceed \$5,500.00 including any travel-related expenses.

Discussion:

Don stated this has a very short time frame and it is for a very specific task.

Commissioner McCown this is what we discussed previously.

Jesse – the only thing they see is this contract is for the one day workshop where they will be soliciting the concerns and ironing out the key issues then we will be going out to bid for a regional cumulative bid. Each entity will go back and draft a letter and Jesse will come back with those issues.

A motion was made by Commissioner McCown to authorize the letter agreement.

Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin – absent

Executive Session – Litigation Update and Legal Advise - ACLU, Silt litigation; Vezzoso administrative litigation, general operation of Don’s office over the next several weeks, liquor licensing issue, Adrienne Crouch – Item F; JQS Trail and Ed’s issues previously identified.

Carolyn – zoning violation; IRT and land acquisition at the airport.

Lou and Marvin, Jeff, and Lynn will be needed for specific issues.

A motion was made by Commissioner McCown to go into Executive Session

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – absent

A motion was made by Commissioner McCown to come out of Executive Session

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – absent

Action Taken:

CR 242 DISCUSSION/DIRECTION TO Staff Re: C.R. 242 (JQS Trail) – Request of Samuel & Teresa Potter to Vacate and Quitclaim Right-of-Way

Don DeFord presented a letter from Stuver, LeMoine & Clifton, P.C. Attorneys at Law on behalf of the Potters. The Potters are claiming the JQS Trail as it has been located and maintained by the County for many decades is not consistent with the descriptions of County Road rights-of-way contained in the deeds in their chain of title. The Potters request the County vacate or quit claim to them the road descriptions contained in the various deeds. In return, the Potters are willing to deed the County a sixty foot right-of-way for the JQS Trail in its present traverse of their property. It is understood that right-of-way conveyance would be exclusive of any mineral rights.

This was discussed and agreed to take a center line survey of the road and then bring back to the board for discussion and

Don explained the request to consider the location of that County Road – the Board would initially like to undertake a center line survey of that road; it’s connection with the road coming up from Fravert Reservoir and then bring the matter back to the board for further discussion. If that’s the Board’s direction, Don would like officially to retain the County Surveyor for that purpose.

A motion was made by Commissioner McCown for Don to contact the County Surveyor and direct him to establish a center line survey on the JQS Trail from the intersection of Colorado Highway 13 to the west edge of the Potter Property.

Commissioner seconded

In favor: Houpt – aye McCown – aye Martin – aye

COUNTY ATTORNEY – IGA WITH RIFLE CITY ATTORNEY – ANNEX WHITE RIVER AND PROVIDE COUNTY CONTRIBUTIONS

Don explained that his understanding the Board would like him to initiate discussions with the Rifle City Attorney leading to intergovernmental agreement that would annex White River Avenue and also provide the County’s contribution to the improvement of that road.

Commissioner McCown so moved. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - absent

CROUCH PROPERTY – MISSOURI HEIGHTS AUTHORIZE CHAIR PRO TEM TO SIGN LETTER TO ADRIENNE CROUCH

This was discussed in Executive Session. No public action taken.

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-Fund Transfers
- d. Changes to Prior Warrant List
- e. Authorize the Chairman to Sign the Amended Final Plat for Tract 1 of the Tamburello Exemption – Applicant; Fratzke, Brian – Fred Jarman
- f. Authorize the Chairman to Sign the Second Amended Plat for Tract 10 of Antlers Orchard Development – Applicant; Pollard, Wayne – Fred Jarman
- g. Authorize the Chairman to Sign the Resolution of Approval for a Special Use Permit Allowing an Accessory Dwelling Unit on a Property Described as 5352 County road 233 – Applicants; Collins, Bruce and Betty – Craig Richardson
- h. Authorize the Chairman to Sign the Resolution of Approval for a Special Use Permit Allowing an Accessory Dwelling Unit on a Property Described as 1491 County Road 237 – Applicants; Lloyd, Fiona and Pegg, David – Craig Richardson

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- i. Authorize the Chairman to Sign the Resolution of Approval for a Conditional Use Permit Allowing an Aircraft Landing Strip on a Property Described as 1689 County Road 300 – Applicant; Throm, Donald – Craig Richardson
- j. Liquor License Renewals for Retolisa LLC – DBA – Columbine Restaurant, Thunder River Market Inc. – DBA – Thunder River Market, and Catherine Store Wine & Liquor Inc. – DBA – Catherine Store Wine & Liquor – Jean Alberico
- k. Approval of Minutes for April 2, 2007, April 9, 2007 and April 16, 2007

A motion was made by Commissioner McCown to approve the Consent Agenda Items a - k;
Commissioner Houpt seconded; motion carried.

In favor: Houpt – aye McCown – aye Martin – absent

PUBLIC MEETINGS:

TREASURER’S SEMI-ANNUAL REPORT – GEORGIA CHAMBERLAIN

Jean Richardson, Bob Slade, and Georgia Chamberlain presented the Annual Report

Discussion:

Georgia handed out the annual reports to the Board.

A motion was made by Commissioner McCown to accept the annual report and also authorize the Treasurer to publish in the newspaper of general circulation.

Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin – aye

TREASURER - GEORGIA ALSO SUBMITTED THE TAXES CERTIFIED AND HOW MUCH COLLECTED BY ENTITY. NOTIFICATION OF SCHOOL DISTRICTS

Georgia informed the Commissioners that they are required to notify the school districts that we have collected school and park site money for – she has money for Re1 in the amount of \$304 thousand plus and RE 2 of \$1700 and the Board notifies them so they can either ask for it or use it towards capital improvements. The specific statutes was identified as to how they can use that money. The Board is the one who releases the funds and that’s the purpose of the school districts being notified.

Annual Sales Tax Collection for 2006

Annual sales tax collection for 2006 was shown by entity.

Gross Amount collected in the 1% Sales tax was \$11,938,832. And how it was distributed before the fees were the Library received \$2,984,708; Emergency Communications - \$2,238,531; Road & Bridge - \$3,133,943; and Road & Bridge Municipalities, which means this money needs to be spent on projects that adjoins the cities was \$223,853; the Municipalities received some money also: Carbondale \$214,384; Glenwood \$289,990; New Castle - \$136,975; Parachute- \$92,787; Rifle \$269,149; and Silt \$115,978. The amounts are calculated is they receive 12.5% of the ¾ cent sales tax. 30% of that is distributed evenly among the six cities and then 70% is distributed according to their population. The Sheriff received \$1,119,265; Public Health/Community Services \$1,119,265 and that is distributed according to the budget between nursing, extension and then the Human Services Commission. Nursing received \$426,440; Extension - \$148,190; and the Human Services Commission - \$544,634.

The way the sales tax is set up is that 25% is given to the Library; then the ¾ cent is distributed according to the certain percentages in the sales tax resolution. In that sales tax resolution also it was put in that anything received over 105.5 % from the prior year, that excess money was to go back to the County and we called the recovery installments so in recovery installments they County received \$850,545 and then in the Treasurers fees which is 1% - \$119,388

When Georgia read the gross amounts to you those are not the actual amounts that went into each of the authorities; what they actually received in their bank accounts was minus the recovery installment and the treasurer’s 1% fee.

10-year bar graph – 1997 – 2006 and combine with the monthly chart how much each month we received in sales tax, so the highest month is November of 11.33% - you can also see that from 2005 to 2006 our increase was over 41%.

The Sales tax for April 2007 and also sales tax collected in 2007, which has so far been \$3,933,882.

Georgia is working on publishing this on the web.

PUBLIC TRUSTEE REPORT

Bob Slade – Deputy Public Trustee – The breakout of how they earned their income over the last year \$79,045 from processing releases; earned \$36,839 from foreclosures; interest from the bank account - \$32,400; misc. income of \$101 for a total of \$148,579.82. The next charts showing the activity of the public trustee office for 2006; the releases processed \$5,283; the foreclosures were down 25% over 2005 we did 96 and submitted a breakout by zip code where the foreclosures are occurring. Rifle close to 30% - that’s typical. Chart - Status of the foreclosures – 96 opened, 58 were withdrawn. 8 of those were redeemed by the owners and increased the number of homeowners to refinance. Of the 96 we had only issued 26 public trustee deeds. Less than 25% of our properties are going to a deed status.

This year of 2007 – income for the first four months are \$39,000 so it is just about the same as last year.

Processed 82 releases. Foreclosure’s – looking at 90 for the year. Chart by location of the foreclosures. Out of 30, 8 withdrawn and 2 pending withdrawal.

The rest of the state is experiencing a lot of foreclosures.

Commissioner McCown – are we trying to determine the cause of the foreclosures?

Bob – the dollar of the financing based on the value of the property. Most are within the last 18 months.

Much of it is due to the innovative financing and include a first and second mortgage financing.

CROUCH TITLE PROBLEMS - RESOLUTION FOR CROUCH TITLE PROBLEMS – MS. M. ADRIENNE CROUCH

Louis Beutner and Adrienne Crouch were present.

This should have been Louis Beutner addressing title not Adrienne Crouch

Louis identified 7 major problems and they basically go to legal matters. Last November he tried to speak to the Commissioners since the County Attorneys were involved.

First item – informed to come up with a solution, so the first is to an old road right of way dedicated in 1913.

The document itself isn’t real clear if it is an easement or a fee title. The County has been taxing this property

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with this right of way included in it the property, so I assume it is an easement. I would put forth that Ms. Crouch and the County enter into a boundary agreement to settle where that road is – the road basically can't be found because the monumentation that the road is tied to has been lost in the last 120 years. The present day monumentation that is in the field, the record on how it was established has not been supplied to me, I requested that information this from the County Surveyor and I have received no reply. I can only assume there is no record of how that monument for the section corner was established. There is a great deal of evidence that the monument can be anywhere from 70 to 200 feet off – the 70 feet is based on lot line adjustments that have been made in the area and the 200 feet off is based on the theory that a found road in the area crossing the Crouch property is the old road but it is not conclusive evidence. That would put that section corner 200 feet off. Another problem that I have identified is when the Sun Mesa PUD and the Stirling Ranch PUD, the required roadway for them was acquired, the Lot 21 of Sun Mesa, the entrance to that lot to the public road was burdened across the Crouch property. The County required Sun Mesa and Stirling both where a county road to their property that is identified currently as 162A. It joins the Crouch property on the east and the construction of that road was supposed to be designed and engineered and constructed in the field; the design and engineering of that road, the construction of that road now floods the Crouch property. Plus at the SE corner of the Crouch property the road was constructed on the Crouch property. In 2003 this problem was brought forth to the County, the Board here, it is on the Minutes page 193. The County Surveyor was instructed to verify the item of encroachment and he did go out and he located the road on the property. 2003 to now no action has been taken to remove that road from the property. The construction of the road on the property, flooding of the property, I think is items that are County now as the road was supposed to be constructed and accepted by the County before the subdivisions or the PUD were approved for recording. Well, they are selling properties up there now so it must be on, but now the road is still on the property and there's still problems there. The last two items I have identified was the Crouch exemption and the Crouch exemption amended. The Crouch exemption was never recorded there was no public notice of that exemption plat. In 2002 the Crouch exemption amended was recorded. Part of that process was the County would vacate a section of road in front of the Crouch house which was her driveway. I have not found any dedication of a road across her property that the County labeled 162 and I believe they were probably misled by Ms. Crouch. Her surveyor who labeled her driveway in front of her house as being 162 Road. I requested information about the 162 Road and Road & Bridge was unable to supply me with said information. The Crouch exemption, the vacation description, basically all description are supposed to for a geometric closed figure – in other wise a four (4) sided property should close four (4) sided.. That property description does not close by 10 feet. That land that was vacated by the County was then deeded back to Ms. Crouch in exchange for a transition from 162A to her driveway. That description does not form a closed geometric figure by some 40 feet. I think that those two descriptions discrepancies help us but at the present time I'm not going to address either the exemption or the amended exemption because the other five items I think I have to have information on and agreement and elimination if possible before I tackle the re-division of the property. I have prepared a short summary including a boundary agreement that I will give you and as I say, I tried to start this last November. I was diverted the last meeting I had with the County official was real quick, "is that what you want to know – that's a legal question – we can terminate right now" thank you, boom – that was it. No cooperation whatsoever. As I say I have prepared a short synopsis of all these problems and I will give that to you right now. Do you have any questions?

Commissioner Houpt – I know that you've been in contact with our staff and so my questions would be geared toward them as to whether or not there's a response, some understanding of where we are in the process of some of the issues that have been raised and.....

Louis Beutner – a boundary agreement shouldn't require staff other than to say they don't know where that is. This has – they could say right now, we don't know where the 1913 road is, your County Surveyor should be able to say we do not know if that County Surveyor's monument, that section corner is where it's supposed to be. So the thing is Ms. Crouch would like to do something with her property and she can't do anything with her property until these problems are straightened out. I have contracted 2 of the Commissioners and I have received no response from them as to setting up a meeting one on one so as to clear up all their questions. Commissioner Houpt – the response was to talk to staff in order to better understand what is going on with this piece of property.

Louis Beutner – going on for years.

Commissioner Houpt – I know, I have copies of letters and understand he is frustrated.

Louis Beutner – any staff should be able to give you a quick reply by writing or verbal. He asked for a response by next Monday to the first 5 items he's addressed.

Commissioner McCown – no.

Louis Beutner – when may I have a reply?

Commissioner McCown – when staff has done the research and gets the information back to us.

Commissioner Houpt – request staff follow up on current and as soon as a packet is together back to the Board and make a determination.

Louis Beutner – 2003 – the County surveyor prepared a map and presumes he gave it to you and it shows an encroachment and it is still there. Four years later the encroachment is still there. What type of inspection there was performed on the road or what the plans for – been unable to locate any plans for the construction of the road but the property is being flooded and erosion is taking place - 4 years of erosion that is not required for my client to suffer. I would like to see a red flag put on this so your staff will immediately reply – we have bent over backwards – we have been instructed by a lawyer to go out and fence off the Crouch property and if necessary put a big boulder out there – this I think would be reckless endangerment and I have talked to Ms. Crouch and said don't do that but if it's necessary, legal counsel has told us to do that.

Commissioner Houpt – understands he is very frustrated and can see the outline of issues.

Louis Beutner – has one more document and it includes a boundary agreement – it's a legal document.

Commissioner Houpt – we'll give it to the County Attorney.

Commissioner McCown – the County Surveyor is not a staff person and does not work for us per se and we do not have the ability to direct him to do anything. If there is a need we can hire a private surveyor but what

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we need from you is a brief summary at the end of the day and at the end of this process what are you wanting.

Louis Beutner – a brief summary – I would like the 1913 road to be abandoned and before we can abandon it we must agree on where it is. I would like to have the record documents that the state statutes 1973 and 1963 require to be on record and either the County Surveyor’s office or with the County Clerk if there is no County Surveyor’s office; the Garfield County Surveyor section corner 1920, 1929 and 1930. Can’t address exemption plat – it was never recorded – I have documentation that states that the exception plat was signed and delivered to the County. That’s the last time that we have any record of that plat. It was never recorded. The exemption amended plat – title doesn’t mean anything –I don’t know if it’s truly amended to the exemption or if that was recorded or not but the land transfers made by that plat, permitted by that plat voidable. The Sun Mesa burden on the Crouch property for access Lot 21 should never have happened, from reading the code –that all properties are to have public access – I have many, many responses where the County doesn’t know where 162 is and in fact I have a letter between a lawyer and her client talking about 162 being 600 feet or more from the east line of the Crouch property. The construction on the road into Sun Mesa and the Stirling PUD’s has been before the Board in 2003 - no response. The construction is such that it floods and causes erosion on the Crouch property – those are the 7 items that I have identified and they are on this summary information that I have once more.

Commissioner Houpt – appreciate Louis putting that together again and asked for copies.

Louis – left all three copies for the BOCC.

Commissioner Houpt – we will have staff move forward and we will respond to you as quickly as we can.

Adrienne Crouch – Louis Beutner has done a lot of work for me and he’s correct, this has been in front of the Board many many times without a response – the County since 1989, 1990, 1992, 1994 – many many proceedings but the bottom line spent is I’ve spend 10’s of thousands of dollars responding to the requests that the County has asked me for multiple times have asked me for my title policy, the bottom line is there’s a cloud on my title; the only exception from my families property is a 1913 road and 1899 road. We’re not going into a lot of detail today because we have requested in writing the 1899 road because that’s also an exception on the property of my families, my two brothers and myself being the heirs of our parents and I think also I would like to come back next Monday and discuss the chronology order of everything that has happed on my 35 plus acres.

Commissioner Houpt asked Adrienne if she would like to do this after the response.

Adrienne – I might have a legal response too. My request is that you ask my neighbors and we all know who those are since you’ve asked me many times, to come up with a title policy on their own property. Just the letters I have here are very significant since I came 3 years ago and was working with the people that my family had purchased the property from up in Missouri Heights in August 1982, that attorney has provided me with all of the closing documents that my family did with that law firm, title policies, research and very significant documents to my neighbors essentially say “please have these quit claim deeds signed because you don’t own the properties so get the people that do to sign the documents and that went a week, that went between the time my parents signed a contract for the land and the title company sending the letters out saying please have these quit claim deeds responded because you’ve signed things that you don’t own the land to. So I don’t want to go into any more detail but please ask my neighbors for the same information you’ve asked me for many many times that I have provided.

Commissioner Houpt – let’s work on clearing yours up and take it from there.

Louis Beutner – one problem that I have come across in my researching this property – is like the 1899 road – the map of that road is missing from the vault and we have been unable to set down and go fiche by fiche to find the fiche because I don’t think the fiche is in the files either. Adrienne – and the title policy that my family has is the 1899 road, number 22185. I’ve been working with the title companies but things are really messy.

Rules and Regulations and Minimum Standards Revision – Brian Condie

Brian Condie and Carolyn Dahlgren were present.

Brian Condie presented a resolution concerned with amending and retaining of the Garfield County Regional Airport rules and regulations and Garfield County regional airport minimum standards for aeronautical activities, 2002 – 2007.

Discussion:

Brian submitted the rules and regulations, Section 11 of the Minimum Standards for aeronautical activities, scope of activities, ownership structure, aggregate limits on insurance,

A motion was made by Commissioner McCown to approve the Minimum Standards and the Rules and Regulations for the Airport as presented and corrected.

Commissioner Houpt seconded

The Resolution will be put on the Consent Agenda.

In favor: Houpt – aye McCown – aye Martin – absent

PUBLIC HEARINGS:

ASSESSOR - ABATEMENT - ROBERT M. ENGEL BRECHT – Lisa Warder

John Gorman and Lisa Warder were present.

Commissioner Houpt swore in the speakers.

Lisa presented abatement Schedule R590283, Robert M. Engel Brecht, River Valley Ranch Block S Lot 4, in the amount of \$1,877.80 for the tax year 2006. The taxes assessed against the property for 2006 are incorrect due to a clerical error.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.

A motion was made by Commissioner McCown to approve the abatement Schedule R590283, River Valley Ranch Block S Lot 4, in the amount of \$1,877.80 for the tax year 2006.

Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin – absent

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CLERK & RECORDER - LIQUOR LICENSE RENEWAL FOR J. THOMAS SCHMIDT & CO. – DBA – IRONBRIDGE CLUB WITH A MODIFICATION OF PREMISES – JEAN ALBERICO, MARIANNE MCCARTY AND ERIC FORESTER

Carolyn Dahlgren, Jean Alberico, Eric Forester and Marianne McCarty were present.

Commissioner Houpt swore in the speakers.

Jean Alberico submitted the liquor license renewals. Sign was put up on the Pros hop building. Signage was the only notice.

Commissioner McCown questioned the validity of having to have a modification of the premises since Ironbridge has a perimeter including the golf course.

Jean said they did need to have a modification of the premises and checked with the state to determine the need.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.

A motion was made by Commissioner McCown to approve the liquor licenses for J. Thomas Schmidt and Company for the modification of premises.

Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin – absent

AIRPORT - HEARINGS UNDER MINIMUM STANDARDS FOR PRIVATE HANGAR OPERATORS – SKYE GRYPHON, BOB WOODWARD, WOOLDRIDGE, EVANS AND SAVAGE – BRIAN CONDIE

Brian Condie and Carolyn Dahlgren were present.

Brian explained the noticing was done by Airport Manager and Carolyn determined it was adequate and timely and advised the Board they were entitled to proceed.

Commissioner Houpt swore in the speakers.

Bob Wooldridge and Mr. Evans will be heard separately.

AIRPORT - JOHN SAVAGE PROPOSAL

Brian handed out the Savage proposal.

Taxi way bids were opened last week. Next week Brian will present this to the Board.

These are private general aviation hangars and requested it be continued until June 18, 2007

Commissioner McCown stated the Savage hearing has been requested to be postponed until June 18, 2007 and made this into a motion to continue. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - absent

WOODWARD PROPOSAL

John Parrington, General Construction was present.

Brian determined the application was in conformance.

Commissioner McCown moved to approve the Woodward hanger with changes to the proposal.

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – absent.

SKYE GRYPHON – TECTONIC PROPOSAL

Greg Alan, architect and Ken Molson, pilot were present.

This proposed facility is a privately held non-commercial aeronautical hangar. The concept is for a single two-story facility and consists of a storage hangar and a two-story office area. Tectonic provided attachments 1 through 9

They reviewed the development proposal. It is a LLC doing business in Colorado. It is storage, non-commercial, no businesses, single plane, 60,000 sq. feet, small shop/conference area and small offices for the owner and his staff. Ready to get construction underway. No signage only a small monument, landscape sign only and the only real waiver requested was the parking is excessive and have asked for 6 parking spaces to be deleted. Resumes are in the packet. Have FAA approval. Color scheme will be abided by – tan. 14 stalls for parking are too many.

Building numbers are acceptable. Their own sign could be on the ramp area.

Carolyn – drainage plan must be reviewed by the county engineer and building and planning.

Brian has a draft letter – drainage letter and the format approved, additional 50% release on their letter of credit – last week the BOCC said no partial releases and at the end of the term they can renew and the fourth option they can give it to the County – two additions to the lease. Partial lease per Carolyn is fine and can draft that in. The gift is always there for any entity.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.

A motion was made by Commissioner McCown that the development plans for tectonic and the contract drawing amendment on the parking stalls, the partial release be allowed and the gifting be allowed.

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – absent

Brian stated the others are working – Shane Evans and Wooldridge will be later.

AIRPORT – DHL - Hearings Under Minimum Standards for Commercial Hangar Operator – Joel Sax

Joel Sax, John Parrington and Brian Condie were present.

Carolyn this is on the operating rights – the concept has been previously heard.

Carolyn reviewed the noticing and determined it was accurate and timely and advised the Board they were entitled to proceed.

Commissioner Houpt swore in the speakers.

Discussion:

Brian stated DHL is anxious to get this going.

The drainage report is underway and they estimate it will be ready within a week.

Carolyn – problems in the letter of credit and asked for permission to call Mr. Burns at the bank – they added a clause to notify the bank if there is a problem and it is not part of the standard language.

Joel gave permission.

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This is an 8,875 sf building and a complete proposal was submitted. Brian reviewed the proposal with the Board including the improvements, uses and operations, terms, rents, fees and charges, construction and remodeling process and approval requirement, maintenance and security, utilities, appurtenant rights, liens, security and indemnity and insurance, etc.

Commissioner McCown addressed the insurance.

Carolyn explained they were going with the manner in which the insurance company suggested for insurance for airports. This is the first time to run a commercial operation and once all the paperwork is completed she requested authorization to put this on the consent agenda.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.

A motion was made by Commissioner McCown to approve the commercial lease hangar operations for Joel Sax DHL as presented. Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin – absent

Executive Session – Two (2) personnel matters, update on status in County Attorney’s office, Jean and Don need to talk with the Board and Don to give advice on a new type of liquor license the County will be involved in.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session. Motion carried.

Health Educator/Special Project Coordinator

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve a Health Educator/Special Project Coordinator as a full time employee for public health as presented to begin July 1, 2007.

Comments: Mary has enough in savings in her budget to start this position in July.

In favor: McCown – aye Houpt – aye - Martin – absent

BUILDING AND PLANNING - CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT FOR EXTRACTION, STORAGE AND MATERIAL HANDLING OF NATURAL RESOURCES – APPLICANTS; ELWYN & FRANCIS COULTER – FRED JARMAN

Fred Jarman presented the following project description: Rocking Chair Ranch Irrevocable Trust is the owner of 739 acres of pasture land located in Garfield County, Section 1 & 2, Township 4 South, Range 92 West of the 6th P.M. This is a trust consisting of Gail L. Martin, J. Scott Coulter and Diana L. Grant, brother and sister, who are concerned with being good stewards to the above land. They have applied to the Colorado State Forestry Service for assistance in attempting to remove the diseased and dead trees and thin the remaining trees in order to establish a healthy forest. They have no plans now or in the future to clear cut any of their land. To date, the Colorado State Forestry Service has marked several areas in the south valley of their land and is prepared to advertise these areas this spring for bid to any loggers who may be interested. Future plans are for the Forestry Service to also mark and advertise for bid the diseased and dead trees in the north valley of their land. They have obtained a Private Road SUP from the U.S.D.A. Forest Service for a period of 5 years, 4 of which are remaining. This will give the logger’s access through the Forest Service Land to County Road 245, the Buford/New Castle road. We are now applying to Garfield County for an SUP for loggers to haul their logs down County Road 245 to the State Highway system to get to logging mills in the area.

Staff has provided a letter from the Colorado State Forest Service that includes specific detail for hours of operation, haul routes, closings, etc.

Staff Recommendation is not to refer this application to the Planning Commission for the following reasons:

Actual timbering will consist of three small pockets of land with virtually no impact to neighbors

Will not require water/wastewater

Is very limited in nature with a 2-3 month duration with limited truck traffic

The request is time-sensitive in dealing with the spread of diseased timber

Discussion:

This property accesses CR 325 – New Castle has voiced concern of the trucks coming through the town of New Castle and suggested that Fred might bring this into the discussion.

A motion was made by Commissioner McCown to set this for a hearing before the Board of County Commissioners. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – absent

BUILDING AND PLANNING - CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT FOR STORAGE AND MATERIAL HANDLING OF NATURAL RESOURCES. APPLICANT IS ESTATE OF WILLIAM CLOUGH – FRED JARMAN

This was pulled as Phil Vaughan was unable to be present. It will be rescheduled.

BUILDING AND PLANNING CONSIDER AN ANNEXATION IMPACT REPORT FOR RIFLE HEIGHTS ANNEXATION – APPLICANT IS THE CITY OF RIFLE – FRED JARMAN

Fred presented and provided supporting documents for the Rifle Heights Annexation. Those documents included an Annexation Impact Report, County Map of parcel and adjacent roads, minutes and follow up letter from the Board’s action on 3/20/07 and a site plan of the subject parcel to be annexed.

Staff comments and concerns: It would appear the City has elected to provide the report instead of accepting the waiver because the City has not been inclined to annex the subject portion of Whiteriver Avenue as conditioned by the Board. The parcel subject to the annexation does not rely on any access from Whiteriver Avenue. Instead it relies on existing City streets. The report provides the information that satisfies the state statutes and Staff finds that there are no other issues that directly affect the County; however, Staff only suggests that the Board continue its long standing policy that County roads that are adjacent to parcels to be annexed are also annexed.

Discussion:

Commissioner McCown stated that Rifle will annex Whiteriver Avenue and the County will be giving a cash donation.

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BUILDING AND PLANNING - CONSIDER AMENDMENT TO FIRST AMENDMENT AND RELATED DOCUMENTS FOR SPRINGRIDGE RESERVE PLANNED UNIT DEVELOPMENT – FRED JARMAN AND CAROLYN DALHGREN

David McConaughy, Fred Jarman, Georgia Chamberlain and Carolyn Dahlgren were present.

An email in the packet from David was presented.

Fred and Carolyn presented the amendment along with a copy of Exhibit Replacement A

Discussion:

Carolyn – the wrong exhibit was attached and an incorrect reference on the documents and this is to correct the errors with a new exhibit and it references the US Bank letter of Credit. The original letter of credit was from WestStar Bank. The process will now include giving them back the original letters of credit; release the two letters of credit.

Georgia stated these letters of credit were dated after Christmas and were mailed to the Board of County Commissioners. We have the cash.

David gave a brief explanation and submitted to the Board a replacement letter of credit and requested the Board authorize signature on the document.

A motion was made by Commissioner McCown to approve the first amendment to the SIA as presented for Phase I and II and the Chair authorized to sign.

Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin – absent

A motion was made by Commissioner McCown to approve the final reduction certificate and still hold in our account \$163,910 in cash and that we also authorize whatever other legal documents or letters of release it takes to deal with the US Bank. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – absent

David stated that the Water Agreement was signed and sealed. The irrigation is fine and the new tank is

BUILDING AND PLANNING - CONSIDER A REQUEST FOR AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION – APPLICANT: THE COLORADO ROCKY MOUNTAIN SCHOOL (CRMS) – FRED JARMAN

Fred Jarman, Carolyn Dahlgren, Larry Green, Gil White and Michael Kennedy were present.

Carolyn reviewed the noticing requirements and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Fred presented and provided the following Exhibits A through H. Exhibit A - Mail Receipts, Exhibit B - Proof of Publication, Exhibit C - Garfield County Zoning Regulations of 1978, as amended, Exhibit D - Garfield County Subdivision Regulations of 1984, as amended, Exhibit E - Garfield County Comprehensive Plan of 200, Exhibit F - Application, Exhibit G - Staff Memorandum and Exhibit H - E-mail to

Commissioners Tresi Houpt from Jake Menke dated May 1, 2007.

Commissioner Houpt entered Exhibits A – H into the record.

Colorado Rocky Mountain School would like to split off a 5.65 acre parcel of land from the larger 295 acre property. Under the present configuration, the 5.65 acre property is already physically separated from the parent parcel containing the school campus and agricultural related activities by County Road 106 (Satank Road). This small parcel is presently improved by a single-family dwelling constructed in 1970 and is presently served by a well and an ISDS. Access to the lots is from County Road 106. The remainder of the CRMS campus is presently served by central services from the Town of Carbondale. The owner wishes to separate the property from the remainder of CRMS so that it can be sold separately from the campus. Staff understands there is a discussion underway to annex the property into the Town of Carbondale.

Staff Recommendation:

That all representations made by the Applicant in a public hearing before the Board of County

Commissioners shall be considered conditions of approval unless otherwise amended or changed by the board

The Applicant shall include the following text as plat notes on the final exemption plat:

Control of noxious weeds is the responsibility of the property owner.

One (1) dog will be allowed for each residential unit within a subdivision exemption and the dog shall be required to be confined within the owner’s property boundaries.

No open hearth solid-fuel fireplaces will be allowed anywhere within an exemption. One (1) new solid-fuel burning stove as defined by C.R.S. 25-7-401, et. seq., and the regulations promulgated there under, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.

All exterior lighting shall be the minimum amount necessary and that all exterior lighting be directed inward and downward, towards the interior of the subdivision exception, exemption, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.

Colorado is a “Right-to-Farm” state pursuant to C.R.C. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County’s agricultural operations as a normal and necessary aspect of living in a county with a strong rural character and a healthy ranching sector. Those with an urban sensitivity may perceive such activities, sights, sounds and smells only as inconvenience, eyesore, noise and odor. However, State law and County policy provide that ranching, farming or other agricultural activities and operations within Garfield County shall not be considered to be nuisances so long as operated in conformance with the law and in a non-negligent manner. Therefore, all must be prepared to encounter noises, odor, lights, mud, dust smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as part of a legal and non-negligent agricultural operations. f.) All owners of land, whether ranch or residence, have obligations under State law and county regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the

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County. A good introductory source for such information is “A Guide to Rural Living & Small Scale Agriculture” put out by the Colorado State University Extension Office in Garfield County. Prior to the signing of the exemption plat the Applicant shall submit the results of a water quality test on the existing well on the 5.65 acre tract conducted by an approved testing laboratory in order to meet state guidelines concerning bacteria, nitrates and suspended solids.

The property is located in the RE-1 School District which requires the payment of \$200.00 school site acquisition fee for each new lot created.

The property is located in the Carbondale Fire Protection District, which requires the payment of \$437.00 development impact fee for each new lot created.

The Applicant shall convey a 60 foot right-of-way to the County measured 30 feet from each side of the centerline of County Road 106 for the length of the County Road that passes by the new 5.65 acre lot. This deeded easement of the right-of-way shall be provided in a form acceptable to the County Attorney’s Office and provided with the final exemption plat materials. Further, with prior notice by the Garfield County Road and Bridge Department and prior to the construction of any upgrades to County Road 106 requiring the use of the 60’ Right-of-way easement, the property owner shall remove all berms, fences, brush or other impediments to the road upgrades the current property owner’s expense.

Discussion:

Larry Green said this is a straight forward exemption and very little to add to Fred’s report.

The purpose is to enable the school to make this property for sale and anyone that would purchase it and try to develop would either come back to the County or the Town of Carbondale to annex.

Larry asked that only one dog be allowed be eliminated but on the residential portion several faculty members have more than one dog and have had for years. The one dog limitation is not warranted.

Condition No. 6 – convey a right of way – already done 1983 – Delores Way and just need to get with Fred and a surveyor to determine the right of way and if not they will accommodate the request.

Commissioner McCown – no opposition, just already done.

Public Comments:

Debra Burleigh – her family has lived next to this parcel for 17 years. She has a close view of the campus. The entire neighbor runs along side of the property. We’ve enjoyed a good relationship with the faculty and are involved with the ditch. Since we are so close we can hear the soccer games. In March 2006 a petition was signed by 32 Sutank homeowners asking the school to continue dry land ranching and keep as a buffer for our neighborhood and themselves. We asked for good neighbor and open communication with them. After many phone calls and letters and hearing all kinds of rumors 6 residents representatives did have a meeting with four CRMS officials and following concerns were shared. The Rockford Ditch flows through this property in two places bringing water to our neighborhood. What ditch shares go with this parcel and how will be assured about ditch care and water flow? Traffic is a huge concern with the closing of CR 106 and the Sutank Bridge, Delores Way is the only access. If there was an emergency how would over 50 homeowners get out of this neighborhood. Add to that a school full of children how much density is allowed on the dead end road. We are a rural development with farm animals, gardens, large lot sizes, shared wells, ditch and a strong sense of history. The development on this parcel piece would change the culture of our neighborhood, add a change in density, noise and light pollution and affect our home and land values. How does the buyer plan to work with us in our neighborhood with height restrictions and view interference? One person let me know they live next door to Wagner Rentals and they move equipment in their parking lot and call out on their outside intercom all day, Sunday is the only day it is quiet. Please make the commercial zoning stop there and don’t continue into our neighborhood. Concerns over pavement runoff that would go directly into our aquifer. All of the homes on this parcel are on well water. Before any subdivision is granted CRMS should have to align the road and fix the ditch siphons under it that they created which would cut into the size of the parcel. The CRMS administration did not communicate with us as promised when decisions were made and we read about SCORE that had contracted with them in November. Since then we have had two neighborhood meetings with SCORE in which they told us that CRMS did not pass on any of our letters with concerns. In my review of the application and disputed the following – the parcel is an isolated. They also told us of the secrecy CRMS held them to. In reviewing this application and the explanation for the subdivision exemption I dispute the following: It states that the exempted parcel is an isolated tract of land separated from the rest of the CRMS property. What is not mentioned is this separation was created by CRMS when they created Delores Way. A shortage of faculty housing is a problem at CRMS and the single family home on this parcel is used to house a faculty member and his family or four. Horses are also kept on this property for on and off months at a time and during the CRMS soccer games, cars are parked on this parcel, this parcel with its close proximity to the core campus could be easily integrated into the campus activities, the school could move its athletic obstacle course from 109 road or use the ditch for gardening or continue to use as it does now. It is also stated on this application that they have no intention of development the exempted parcel upon approval of the requested exemption. Did CRMS forget they are under contract with SCORE – Board of President Michael Kennedy is on the SCORE advisory board? It also stated that any presumed purchaser will use the property as it currently exists or seek approval for additional development on the property through either Garfield County or the Town of Carbondale through annexation. She continued on with comments regarding the Market Place property, the Wilson property and how it was separated by CR 109. She offered to submit a complete history and submitted copies of letters, SCORE, the deed on Delores Way and Garfield County.

Pat Menke – submitted a letter addressing concerns saying he has lived here for 30 years. He voiced his concern over the rezoning request. He pointed out where the commercial development stopped. He knew CRMS would sell this parcel.

Tamara Mattarano has lived there 40 years – no problem with development. CRMS decreed their own problem by putting Delores Way through there. Car counter through their property and did note that this changed the issue. She claims that promises by CRMS have not been kept to Sutank residences. Like more honesty.

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Edward Trenin– this is just a go around by SCORE to get this property zoned commercial and then they will take the parcel to the Town of Carbondale for annexation. Promises were made and this property should be kept as is as a buffer.

Lisa Johnson – Pat Menke’s caregiver. Lives on the ditch and some environmental and traffic issues should be given consideration.

Joe Burleigh – not against CRMS using this for productive use – all properties in Sutank are on well water.

Delores Way – the corner is too tight and no commercial permits should be granted. Re-open CR 106 through the campus property.

Michael Kennedy – doesn’t know of the promises – this potential sale of the property will make the school healthier. This property can be subdivided in the existing zoning. SCORE would be requesting a change and that would come to the County or the Town of Carbondale. Have a school to run, not in a position to use this property. Long range plan is to move the residential faculty housing closer to the dorms.

Fred Jarman indicated that the County does not get involved in the ownership and ditch rights.

Commissioner McCown stated the applicant is requesting, in this application, a simple split and no change in use. If they have plans to do so they will have to come back and then specifics on the location/use of the ditch easements will be addressed.

Larry Green stated the Rockford Ditch is an incorporated ditch and CRMS owns a significant amount of shares – whatever the proportioned share will be conveyed to the new property owner.

Pat Hunter – question – the Delores Road was created by CRMS – the 106 road ran through the campus. Did the county retain ownership of CR 106? Delores Way exit is a real problem. This will be covered in a future way. Could they come back on CR 106?

Larry Green stated in 1980 – the County agreed to close CR 106 through the campus and the County retained the right to use it for cattle drives. In his knowledge it was never formally vacated. A couple of years thereafter according to correspondence between the officers of CRMS and Art Aplenault who was a County attorney for a while and at the request of the County CRMS deeded the right of way for Delores Way.

Debra Burleigh – she has a copy of the deed on Delores Way and there was nothing mentioned in it that it was amending or vacating that road. We couldn’t continue to use it if it was agreed and the neighborhood did agree to start using Delores Way, large boulders and chain link fences was put across CR 106 and if it’s not being used it’s because its impossible to use. They also chain linked the fences on the entire side there in three different openings. So if there was an emergency, when we agreed to use Delores Way there was a Satank Bridge and there was 106 Road. Both now are completely closed off and it is a horrible experience trying to get the entire neighborhood including all the commercial units and the school all to use that one road to get out on Hwy 133. It’s very unsafe and near impossible.

Kate Ramirez – brother owns property on Delores Way - asked if it was possible to divide the property with restrictions.

Commissioner Houpt – they are dividing the property with same use. They have the opportunity for a request to change use. Any other property owner would have that same right.

Tamara Mattovaro –we don’t want to appear that we are stupid or naïve or ignorant - we realize that this is just a split for your subdivision and understand what the applicant is here for – we have not had a good history with CRMS. We do not trust Mr. Kennedy – need to get a jump on it as we will deal with the impacts.

Debra Burleigh – has information about SCORE where they have mapped out what they want to put on the property and newspapers articles with SCORE. We have sketches of what they want to put on this property.

We know the next step and have already discussed what’s going on that piece and it’s not in its current use.

Commissioner Houpt – what we have in front of us we must look at what is in the application.

Michael Kennedy – we too will be neighbors – it is less than 100s yard from dorms and 200 yards from classrooms. We will make sure that any development will fit the character of the neighborhood.

Kate Ramirez has two kids that go to CRMS – Home Depot might go there. They don’t want storage next to their homes and the kids don’t want a parking lot there either.

Commissioner McCown – for Fred on the parenting parcel and the one dog applying to that; the one dog would only apply to the portion that we created. Technically the one dog currently applies to the parenting parcel.

Fred – technically it applies because you are going through a new land use action and at the end of the day you are legally creating two parcels so these are truly two new parcels so the parent is gone.

Commissioner McCown if it were a true enforcement issue, the existing parcel has to abide by the one dog rule.

Fred – under these regulations we’re suggesting that you apply this now. The background was set by former Commissioner Marian Smith and was born in the subdivision world, and what you have is the exemption rule before you today and we have commonly suggested regardless of the process, the dogs still have issues with wildlife and it doesn’t really matter how the lot was created – that’s the view of the planning staff as to how it should be applied.

Commissioner McCown moved to close the public hearing; Commissioner Houpt seconded. Motion carried.

A motion was made by Commissioner McCown to approve the request for exemption from the definition of subdivision for Colorado Rocky Mountain School (CRMS) and that the conditions of staff 1 – 6 be noted and noting that number 6 the issue of the 60 foot right of way, there’s been an indication that this has already been done and it would only require documentation and if it has Number 6 will be deleted. Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin – absent

BUILDING AND PLANNING - CONSIDER A REQUEST TO REZONE AN APPROXIMATELY 77 ACRE PARCEL LOCATED 4.5 MILES WEST OF THE TOWN OF PARACHUTE ON HIGHWAY 6 & 24 FROM AGRICULTURAL/RESIDENTIAL RURAL DENSITY (ARRD) TO RESOURCE LANDS (RL) – APPLICANT: FRAC TECH SERVICES, LLC – DAVID PESNICHAK

Martin Howard, David Pesnichak, Chris Boelker of Development Construction Services, and Jana Gerow were present.

Martin reviewed the public noticing requirements and determined they were timely and accurate and advised the Board they were entitled to proceed.

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Commissioner Houpt swore in the speakers.

David submitted the following Exhibits: Exhibit A – Garfield County Zoning Regulations of 1978 as amended; Exhibit B – Garfield County Comprehensive Plan of 2000; Exhibit C – Staff Memorandum; Exhibit D – Application; Exhibit E – Memo from Roy McClug, Mayor for the Town of Parachute dated 2-13-2007; Exhibit F – Memo from Michael Howard, Deputy County Attorney dated 4-1-2007; Exhibit G – email from Rob Zies dated 4-16-07; Exhibit H – Letter to Frac Tech Services LLC from the Garfield County Planning Department dated 4-23-07; Exhibit J – from Jennifer DeKam dated May 4, 2007 and Exhibit K – Proof of publication.

Commissioner Houpt entered Exhibits A – K into the record.

The Colorado Revised Statutes establish the standards of review for rezoning land in the county. The standards depend on whether the proposed rezoning is in compliance with the Comprehensive Plan (the Plan). If so, the proposed rezoning need only bear a reasonable relationship to the general welfare of the community. If the rezoning is in conflict with the Plan, the Applicant needs to show either 1) that an error was made in establishing the current zoning, or 2) that there has been a change in the conditions of the neighborhood that supports the requested zone change. At present, the subject properties are designated “Outlying Residential” in the Plan which generally conflicts with the Resource Land zone district sought for the property. As a result, the rezoning request needs to demonstrate that either 1) an error was made in establishing the current zoning, or 2) that there has been a change in the conditions of the neighborhood that supports the requested zone change.

The Applicant believes the conditions of the area have changed enough so that the existing uses that define the area are more “industrial” in nature and consistent with the uses identified within the Resource Land zone district. To this end, the Applicant asserts that the area should be eligible to rezone to the Resource Land zone district. Staff concurs that conditions in the area have changed significantly since the zoning in the area was initially established.

STAFF SUMMARY

Staff makes the following observations:

The proposed rezoning generally conflicts with the Comprehensive Plan, but is consistent with the past application of the Comprehensive Plan;

The subject parcel directly abuts existing RL zoning north of I-70;

A portion of land to the east of the subject parcel and west of the City of Rifle, south of I-70 and north of Highway 6 & 24 is currently zoned Resource Land;

The recent nearby industrial developments including the gravel pit, compressor station, natural gas development, limited residential development, and commercial development in the Traveler’s Highlands Subdivision, is enough of a change in the conditions of the neighborhood to support the requested zone change from ARRD and RL.

However, Staff notes that rezoning this property to RL will create three interior ARRD zoned parcels, which will not be adjacent with any other ARRD zoning. By that act, rezoning this parcel will create de facto spot zoning. Due to this reality, *the Garfield County Planning Commission has initiated a rezone of the three internal parcels (2409-273-077; 2409-273-076; 2409-273-075) from ARRD to RL*. By taking this action, the creation of de facto spot zoning will not occur. This action is in accordance with Michael Howard’s memo regarding spot zoning, dated April 1, 2007: “If it does further the Comp plan and/or Enhance Public Welfare by providing an area for this type of activity that assists the public in some way then it would only seem proper for the BOCC to re-zone all 4 properties.”

On April 11, 2007, the Garfield County Planning Commission moved to recommend that the Board of County Commissioners approve the rezoning of Frac Tech parcel number 2409-273-114 from ARRD to RL by a vote of 7 to 0. In addition, the Garfield County Planning Commission initiated a rezone of the three internal parcels (parcel numbers: 2409-273-077; 2409-273-076; 2409-273-075) from ARRD to RL in order to prevent de facto spot zoning if the BOCC approves the rezoning of the parent parcel.

Recommendation: Staff recommends the Board approve the rezoning of the property.

Discussion:

Commissioner Houpt – why the rezoning when they could come to use with a Special Use Permit.

David explained by rezoning they can come in with a Special Use Permit for an office

Commissioner Houpt – the precedent we are setting by saying the change of the neighborhood and why use the rationale. We want to hold onto the old zoning.

David responded this was something as staff they wrestled with and this entire area is within the visual corridor and if this application makes to Special Use Permit that will be something staff will discussing more at length at that point. In showing the slide where the RL is coming south of I-70 that was the precedent we were looking at so is there any precedent with the general change in characteristics in Western Garfield County – is that moving south essentially with the Resource Lands Zoning. In that sense this is not setting precedent since there is RL zoning south of I-70 and west of Hwy 13 but there is no RL zoning south of Hwy 6 and that is not something we are proposing here. The issues of the visual corridor are there are no regulations to compare it against. Yes it is within the visual corridor but we don’t have anything to say this is good or bad within the visual corridor. It’s merely a statement of fact at this point.

Commissioner Houpt stated it almost feels as if we’re moving toward industrial sprawl.

Commissioner McCown – in rezoning the three smaller parcels to RL it would not prohibit the other parcels to stay residential.

David – no Resource Lands and Gentle Slopes in lower valley floor permits residential and has a minimal lot size of 2 acres.

Commissioner Houpt – they are moving forward with that on somebody’s land that is not pushing for this rezoning. Has there been a response?

David - No response was received from the person, he sent the letter April 23, 2007 and informed the current landowner. There is no development on Mr. Ziegler’s property.

Applicant:

Jana Gerow president, Chris Boelker project manager, legal counsel Sharon Hicks and John Rooney regional manager from Frac Tech presented.

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Jana responded that she has watched the changes in western Garfield County; she lives in Grand Junction and Frac Tech is a company willing to listen to the environmental sensitivity of areas. This facility will be set in the lower portion of the parcel and lower than the Interstate. It will be less visible because of the way they plan to locate it and it will bring workers into the area. She remembers Black Sunday from the 80's when Union Oil closed. Photos were shown.

Chris – there is increase in the industrial area in this location. This is primary a shop and a truck operation. Uses are very similar to what's already in the area.

Sharon Hicks – general counsel for Frac Tech – zoning is about compatibility. Frac Tech services are the largest oil company's support and they go into neighborhoods and participate in the community and become a partner. Reference was made Page 2 of the presentation and look at all the x's showing well head heads, the services they provide are very applicable to this area.

A proto type of a site in Longview Texas was shown. Computer generated equipment. Facilities are kept very clean. They do a high quality development.

Commissioner Houpt – one of the things concerning her is the way we approach zoning is that we are doing industrial sprawl saying the character of the neighborhood is changing and we know it is important to have support services. But the property owners want to retain the reason they purchased land in the first place. There are industrial parks outside of Rifle and she is not terribly convinced this is the best location for this type of a facility.

Sharon Hicks – stated there is a gravel pit nearby as well as the Travelers Subdivision where a similar type of operation is going on. With the gravel pit they felt it was an appropriate location. Our use fits into the character of the neighborhood. They are interested in protecting their investment; part of the inclusion is a reclamation plan and she explained what would be restored and removed.

Chris – in terms of impact – other companies are providing services out of Grand Junction and Frac Tech is willing to make an investment in the County. More attractive to employees to work in this area and not have the drive from Grand Junction.

Commissioner Houpt said she is looking at neighboring property owners.

David – they want to build an office building and what they want to do requires a rezoning.

Sharon Hicks - Fracing trucks are necessary. They will hire 20 to 30 employees. They are currently leasing other facilities. They purchased a site appropriate for what they want to do. They have worked with the Planning Commission and staff to address the concerns.

Terry Kirk – owns property in the Traveler's Highlands and these people are willing to spend millions of dollars and they are here for the long haul. They have no hidden agenda. Frac Tech is leasing some buildings from others at the present time and they are not like some companies coming out of Grand Junction with 20 to 30 trucks sitting at our exit in Parachute all at once and backing traffic up on an interstate. They also have the DeBeque access versus the Parachute exit. They've joined the Chamber of Commerce and are better for the community.

Joe Casteel sold the property to these gentlemen – they have the resources – understands Commissioner Houpt's concerns – the panoramic view is there and they are concerned. With the overwhelming support of the planning board he recommended the Board approve it. This group is committed to Garfield County and the panoramic view.

Chris – going to the energy expos in Grand Junction and they fully expect the drilling in this area for the next 25 years. Some wells can be fraced up to 8 times. The level of time in planning this project speaks to their commitment to invest in this community.

Commissioner McCown moved to close the public hearing. Commissioner Houpt seconded. Motion carried. A motion was made by Commissioner McCown to approve the rezoning the 77 acres of land of Frac Tech parcel number 2409-273-114 from ARRD to RL. Commissioner Houpt seconded.

Need to find compatibility and a better vision.

In favor: Houpt – aye McCown – aye Martin – absent

Commissioner McCown stated he has a different feel about industrial sprawl and how it's handled and the fact that you're going to put this in a low lying area, maybe a wonderful thing for Highway 6 – it may be the worst thing you could do for Interstate 70 because it's like looking down on the top of a fishbowl – you can't build a screening wall high enough to enclose it. It's a catch 22 but I wish you luck and we'll see you as you come back.

Michael Howard – Commissioners I need to request a finding if there has been a change in the nature of the community.

Commissioner McCown – it's certainly of the surrounding area and that's why I made that motion, otherwise I wouldn't have made a motion to approve it. Commissioner Houpt didn't necessarily agree with the staff's determination of change in the surrounding area.

Commissioner Houpt – not sure I would agree – I didn't like staff's definition of why we were changing but I already voted for it so.

Consider a Request for a Text Amendment to Remove “Camper Parks for the Purpose of Providing Temporary quarters Employees and Contractors of the Energy Extraction Industries” From Sections 3.10-.01, 3.10.04 of the Zoning Resolution of 1978 as Amended – Applicant; Garfield County – David Pesnichak Michael Howard, David Pesnichak and Fred Jarman were present.

Michael reviewed the public noticing requirements and determined it was complete and timely and advised the Board they were entitled to proceed.

David presented the following exhibits: Exhibit A – Garfield County Zoning Regulations of 1978 as amended; Exhibit B – Staff Memorandum; Exhibit C – Application; Exhibit D – Resolution 2006-108 amending Section 5.02.21 Temporary Employee Housing; and Exhibit E -- Resolution 2006-95 amending Section 3.10.01, 3.10.03.3, 3.10.04 Camper Parks for the Purpose of Providing Temporary Quarters to Employees and Contractors of the Energy Extraction Industries.

Commissioner Houpt entered Exhibits A – E into the record.

On November 13, 2006, the Board of County Commissioners directed staff to start the process of rescinding what has become known as the Oxy Amendment, which added “Camper Parks for the purpose of providing

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temporary quarters to employees and contractors of the energy extraction industries” which has been added as a Use, Special in the Resource Lands Zone District.

The context of this request is dictated by a recent amendment by Williams Production RMT which changed Section 5.02.21 to accommodate manufactured homes and campers for the use of temporary employee housing (Resolution 2006-108). The revision of Section 5.02.21 was effective in all zoning districts and includes provisions for temporary employee housing by the resource extraction industry. The removal of the Oxy Amendment will prevent duplication within the Zoning Resolution since Section 5.02.21 now allows for campers as a means of temporary employee housing.

The Oxy Amendment (Resolution 2006-95) which was passed on June 6th, 2006, added: “Camper Park for the purpose of providing temporary quarters to employees and contractors of the energy extraction industries” as a Uses, special to Sections 3.10.01, 3.10.03 and 3.10.04 of the Garfield County Zoning Resolution of 1978, as amended.

“Camper Parks for the purpose of providing temporary quarters to employees and contractors of the energy extraction industries” are currently permitted in the following zone districts:

Zone District	Permitted
Resource Lands (Plateau)	Special Use Permit
Resource Lands (Talus Slopes)	Special Use Permit
Resource Lands (GSLVF)	Special Use Permit

On March 14, 2007, the Garfield County Planning Commission recommended that the Board of County Commissioners remove “Camper Parks for the purpose of providing temporary quarters to employees and contractors of the energy extraction industries” as a Uses, Special from Sections 3.10.01, 3.10.03 and 3.10.04 of the Garfield County Zoning Resolution of 1978, as amended by a vote of 4 to 0.

REQUEST

To remove “Camper Parks for the purpose of providing temporary quarters to employees and contractors of the energy extraction industries” as a Uses, Special from Sections 3.10.01, 3.10.03 and 3.10.04 of the Garfield County Zoning Resolution of 1978, as amended. This change will remove duplication within the Garfield County Zoning Resolution as campers for the purposes of Temporary Employee Housing are also allowed under section 5.02.21.

STAFF RECOMMENDATION

Staff recommends the Board of County Commissioners approve the amendment as submitted.

Commissioner McCown – this allows it to occur in any lands through a special use permit and does it denote any number of trailers or any limit maximum or minimum on the sizes. I know there’s been some conversation as to a major development, a minor development and require essential rig employees. Is there a distinction between these?

David – at this point there is no distinction – this is referring back to regulations that are currently in place. So it’s a special use permit whether it’s one person, one trailer or a thousand people in a thousand trailers. They would all fall under this Section 5.02.21.

Commissioner McCown – so in doing this right now everyone that has a trailer on a pad would automatically become in violation because they don’t have special use permits?

David – there are two applications by Occidental where they were permitted to have trailers under this amendment.

Commissioner McCown – they are permitted.

David – technically all the trailers went into violation at the point where this 5.02.21 went into effect. This is a cleaning of our regulations so that an application doesn’t have two avenues to go down if they did want to put campers or RV’s on their well pads. They have to go down this avenue for temporary employee housing which also permits campers but they have a different set of regulations.

Commissioner McCown but we don’t get half the provisions in place to handle them.

David – those provisions are being worked on – they are going before the Planning Commission this Wednesday for the first hearing.

Fred stated the Board directed the planning department to prevent duplication within the Garfield County Zoning Resolution in regards to the use of campers for temporary employee housing. Everyone in the industry be aware you are now on notice for being in violation of the zoning code so we are trying to get to you with something that we hope you can decide on.

Commissioner McCown – I believe we gave you the direction that it was something that we as a County could live with to regulate it to a point where the health safety and welfare issues were taken care of and not create a 800 pound Gorilla so that every special use permit would have to be scheduled and heard anytime a well pad was developed or a trailer was moved from one well pad to the other. That was the direction.

Fred – we were not directed to create a whole new level of bureaucracy per se, the question is how do you deal with the impacts – is there a way that is palatable to what we’re looking at. That’s what we’re attempting to do and we’ll come back to you soon.

A motion was made by Commissioner McCown to close the public hearing; Commissioner Hought seconded. Motion carried.

A motion was made by Commissioner McCown to approve the amendment to the zone text amendments as presented and removing the Oxy Resolution if you will.

Commissioner Hought seconded. This gives me heartburn as much as the RFTA gave you because I didn’t vote for this type of housing around the County; I wanted it to be more specified.

In favor: Hought – aye McCown – aye Martin – absent

BUILDING AND PLANNING - CONSIDER APPROVAL OF AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION – APPLICANT: GRAND HOGBACK, LLC – CRAIG RICHARDSON

Michael Howard, Craig Richardson, Fred Jarman, Bruce Lewis and Warren Roberts, managing partner were present.

Michael reviewed the notifications and determined they were timely and accurate and advised the Board they were entitled to proceed.

Commissioner Hought swore in the speakers.

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Craig submitted the following exhibits: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F – application; Exhibit G – Staff memorandum; and Exhibit H – Email from the County Road and Bridge Department dated 3-16-2007.

Chairman Martin entered Exhibits A – H into the record.

Craig presented stating the exemption will create three lots out of a 952.85 acre parcel. This is located 3 miles north of the Town of Silt, 0.5 miles below Grass Valley Reservoir (Harvey Gap) with access from County Road 237.

A plat of an approved or conditionally approved exemption shall be presented to the Board for signature within 120 days of approval. Please do not hesitate to contact this office should you have any questions.

STAFF RECOMMENDATION

Staff finds, the proposed Exemption complies with § 8.00 of the Garfield County Subdivision Regulations of 1984, as amended and recommends the Board of County Commissioners approve the request for an Exemption from the Definition of Subdivision for Grand Hogback, LLC, with the following conditions of approval.

That all representations made by the Applicant in a public hearing before the Board of County Commissioners shall be considered conditions of approval unless otherwise amended or changed by the Board.

The Applicant shall include the following text as plat notes on the final exemption plat:

Control of noxious weeds is the responsibility of the property owner.

One (1) dog will be allowed for each residential unit within a subdivision exemption and the dog shall be required to be confined within the owner's property boundaries.

No open hearth solid-fuel fireplaces will be allowed anywhere within an exemption. One (1) new solid-fuel burning stove as defined by C.R.S. 25-7-401, et. seq., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.

All exterior lighting shall be the minimum amount necessary and that all exterior lighting be directed inward and downward, towards the interior of the subdivision exemption, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.

Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. Those with an urban sensitivity may perceive such activities, sights, sounds and smells only as inconvenience, eyesore, noise and odor. However, State law and County policy provide that ranching, farming or other agricultural activities and operations within Garfield County shall not be considered to be nuisances so long as operated in conformance with the law and in a non-negligent manner. Therefore, all must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.

All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.

All new septic systems and residential foundations shall be designed by a professional engineer licensed to practice in Colorado.

Addresses are to be posted where the driveway intersects the County road. If a shared driveway is used, the address for each home should be posted to clearly identify each address. Letters are to be a minimum of 4 inches in height, ½ inch in width and contrast with background color.

Driveways should be constructed to accommodate the weights and turning radius of emergency apparatus in adverse weather condition.

Combustible materials should be thinned from around structures so as to provide a defensible space in the event of a wild land fire; and

The mineral rights associated with this property (also known as Parcels 1, 2, 3, and 4 of the Grand Hogback Subdivision Exemption) have been partially severed and are not fully intact or transferred with the surface estate therefore allowing the potential for natural resource extraction on the property by the mineral estate owner(s) or lessee(s).

Prior to the signing of any final plat, all physical water supplies shall demonstrate the following as part of the final exemption plat submittal according to state and local standards.

The Applicant shall construct the required 6,000 gallon fire protection water storage tank and include a maintenance agreement as part of the common well covenants;

The Applicant shall provide an approved well permit for the water well located on the remaining 786+ acre parcel;

A pump test and water quality analysis for the water well located on the remaining 786+ acre parcel demonstrating compliance with State and Local standards.

Commissioner McCown asked the need for the gap between parcels 2 and 3.

Bruce said it is the slope and terrain and it would preclude a building envelope.

A motion was made by Commissioner McCown to close the public hearing; Commissioner Houpt seconded. Motion carried.

A motion was made by Commissioner McCown to approve the exemption from the definition of subdivision with the conditions recommended by staff. Commissioner Houpt seconded

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In favor: Houpt – aye McCown – aye Martin – absent

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

MAY 14, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, May 14, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

TAXES ON PROPERTY - DAVE FORCE

Dave was before the Board of Equalization regarding his taxes in 2006. He didn't get any change on the taxes and took exception to Commissioner McCown's comments that he wouldn't sell it for the price Dave was proposing the reduction of value.

Dave explained that this year's valuation added \$154,000 to his property making the total valuation to \$624,000 an addition of 24 to 25%. He stated the County is forcing him out of the area in pricing property so expensive. He voiced a concern on no change on his property when he did protest it. Last year his property was valued at \$469,000 and the comparables used by the Assessor's office were in a subdivision. The house qualifies as a cabin. The current valuation shows his house and land at \$624,000.

Commissioner McCown – reiterated what would Dave sell it for.

Chairman Martin reminded Dave that the Assessor sets the overall cost and it is his process is to mitigate the costs. The Assessor makes the recommendation.

Dave says his property is worth about \$250,000. He says he has to put \$19.00 a day aside just for taxes – this is every day of the year. He has 6-miles of private road to take care of.

Chairman Martin suggested that Dave sit down with the Assessor and see what he can work out. He also reminded Dave that the Governor froze the school tax and it will double or triple – the signing of the mill levies for school is part of the problem. He asked Dave to go through the process and get real loud.

Commissioner McCown – noted his property escalated 34% in valuation with an increase in valuation of \$110,000 up. He had an appraisal done just a few weeks before the Assessor came out to value the property and the appraised value was \$20,000 higher than what the appraiser had in his valuation. The Assessor is bound by state statutes to determine the value of property and if he doesn't do so then he is out of compliance with the State.

Dave said he may have to sell his property and feels this is not right. He feels that the Commissioners can change this. He protested the comparables the Assessor's office submitted last year.

Commissioner Houpt – suggested that Dave bring them some additional comparables for the more remote areas similar to his property.

CROUCH PROPERTY –MISSOURI HEIGHTS - ADRIENNE CROUCH - Louis Beutner – I'm representing Adrienne Crouch on Missouri Heights. I just stopped by to somewhat continue last Monday's conversation basically would like to know if anything has happened and if there is somebody you'd like me to contract so I may stay in the loop and know what's going on.

Chairman Martin – all right. Asked the other Commissioners what the direction was last week because he was gone.

Commissioner Houpt – staff can respond.

Don DeFord – I had a meeting last week as did Fred with Scott Aibner and I need to discuss this in Executive Session so I can get some direction from the Board. I anticipate that as a result of direction from the Board there will be further correspondence from the County Surveyor hopefully further responses from him. I think we're probably talking the first meeting in June which I think is June 4th before we get a firm commitment from the County Surveyor on cost and time.

Chairman Martin – anyone Mr. Beutner needs to have conversation with or is he still in the waiting pattern.

Don DeFord – from my perspective – no – I think it might be helpful once the Board resolves where you want to go with the County Surveyor you may want to make a judgment to copy Ms. Crouch and Mr. Beutner on correspondence between you and the Surveyor, that way they're kept current on what's going on.

Chairman Martin – we'll have a better idea and be able to contact you after our Executive Session today, Mr. Beutner.

Louis Beutner – okay – some information – the County Surveyor's drawing on this property and encroachment was made July 10, 2003. So he should have that on file and there shouldn't be more than a \$5.00 charge or something like that for a print if need be. I think the first step that the Commission can do with the shortest amount of effort is correct the encroachment on the road. They've known about this since 2003; there should be complete files on it and it should be very readily correctable.

Chairman Martin – well, we'll discuss this in executive session and make our adjustments where we need to Mr. Beutner. That's the best I can do and we'll have the outcome of that and get the direction or give direction and then we can contact you on who you need you need to talk to or what's going to happen within the next couple of weeks.

Louis – well, like this encroachment it has gone on for almost 4 years now and I do want to stay in the loop and so we can persecute this to a finish.

Chairman Martin – very good – let's hope that we can.

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COUNTY MANAGER UPDATE – ED GREEN

**COMMUNITY CORRECTIONS - DETENTION CENTER INSTALLING FIVE AIR
CONDITIONING SYSTEMS - PAUL TEGTMEIER**

Sheriff Lou Vallario, Tim Arnett and Paul Tegtmeier presented the recommended award of the 5 Mitsubishi ductless split air conditioning systems in 5 electronic equipment rooms in the Garfield County Detention Center. Mountain Air Mechanical's bid is for \$23,878.00.

Paul explained the budget including this equipment and he said the temperature of the room is getting out of control.

Mountain Air and Climate Control were the bidders.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the contract to Mountain Air Mechanical for a not to exceed amount of \$23,878.00 for the electronic rooms in the Detention Center.

In favor: Houpt – aye McCown – aye Martin – aye

**COMMUNITY CORRECTIONS - DISCUSSION OF FOOD SERVICES CONTRACT WITH
DEPARTMENT OF CORRECTIONS – DALE HANCOCK**

Dale Hancock submitted the bid for food service to the Rifle Honor Camp to provide services to the new Garfield County Correctional Facility. The former arrangement was to have food service provided by Grand River Hospital however, due to a shortage of labor and what would be a forced upgrade to the kitchen at the hospital, they declined to contract with the County.

Guy Meyer was instrumental in contacting Bobby Johnson, the warden at the Rifle Honor Camp who then obtained permission to contract with the County to provide meal service through the Colorado Department of Corrections. Institutional Food Service Component at the Rifle Honor Camp. It will be a win-win situation as the County will lease a van that will be used by Rifle Honor Camp and the Camp will be able to hire two additional staff one of which will be used to teach dietary program. The contract is for \$113,400.00 and Dale recommended the Board sign the contract.

Don DeFord has reviewed the contract and determined it to be in good standing with the County policies.

Don stated there are issues in the contract that the County requires and these are not too far out of line. The bottom line is, do you want to have food service supplied from the Department of Corrections. Illegal immigrations – Board directed Don to add the immigration bill to all contracts – their argument is not too far off and Don has no particular problem going with the State's language. It is the Board's discretion to include it or not. The insurance is in a similar manner and requires the State to be included in the insurance.

The redlined version is what was received from the State.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the purchase of food services contract with the Department of Corrections for the Garfield County Community Corrections facility for a not to exceed \$113,400.00 including all the redlined changes from the state and allow the Chairman to sign.

In favor: Houpt – aye McCown – aye Martin – aye

May 23 is the open house and June 1 is the opening of the facility.

FINANCE - 2007 (PRIVATE ACTIVITY BONDS) PAB ALLOCATION – PATSY HERNANDEZ

Patsy submitted a memo to the Board explaining that we have received certification from the Colorado Department of Local Affairs certifying that \$2,153,603 will be allocated to the County for the purpose of issuing Private Activity Bonds (PAB) in 2007 under the state ceiling imposed by the Tax Reform Act of 1987.

The request is to direct the 2007 PAB for Garfield County be allocated to Colorado Housing and Finance (CHFA) and authorize the Chairman to sign all the necessary documents to accomplish this transaction.

Commissioner Houpt – there is a new regional housing authority and she asked if Geneva mentioned holding these funds.

Ed – the funds are for rentals. They were hoping we could use the funds for the Meadows but they didn't need it. We roll over every year.

Don – if you don't use it for the certified project it is rolled back into the state process.

Does the program opportunity go away if we don't use it.

Don – there were years were we set it aside and we did lose it.

Commissioner Houpt – would like to have Geneva weigh in on this.

Commissioner McCown – never found anyone who wants to use this for rental units; they want deed restricted units.

Commissioner Houpt – wants to hear from this group – housing and rental housing is a huge discussion. Regional meetings and another one to be held on the 24th and there are needs in this County.

Don said there has to be a qualifying project – it doesn't have to be applied to that project for 3 years. It doesn't have to be for something a building permit has been issue but it does have to be a project that's far enough in the planning phase that you can certify that it will be qualified under state and federal regulations when it is constructed. In the past when we did set this aside for projects, we envisioned a facility in Battlement Mesa and we tried to set aside funds for that and then the project didn't work out financially.

Patsy is correct that you have to actually certify to the state the project exists and has been proposed and accepted by the County and then it will qualify when it is completed. This has to be in September 15, 2007.

Commissioner Houpt wants to discuss this with the housing individuals who will be here today at 10:15 a.m.

Commissioner McCown – we can table this and act on it after the discussion with Geneva.

A motion was made by Commissioner Houpt to table this until the 2nd meeting in June; we have until September and I want a response back from them before I dispense it.

Commissioner McCown seconded.

In favor: Houpt – aye McCown – aye Martin - aye

FINANCE - GASBY 45

Chairman Martin had a question on the GASBY 45 on the new rule in reference to securing of the retired benefits for the employees of the County.

Patsy asked if we could hold this until the second Monday in June.

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Chairman Martin – just wanted you to be aware that GASBY 45 is going to be mandatory within the year - the post employment benefits. How are we handling those?

Patsy said she discussed this with a few people but it's her understanding we don't have post employment benefits at Garfield County therefore it's moot.

Chairman Martin – however with the rules changing it may not be.

Patsy so what you're asking me is to double check.

Ed – the only retirement benefit we have is COBRA and that stands on its own.

Chairman Martin – we're hoping it does.

Ed – we don't provide medical or anything else.

Jesse – COBRA can be extended for 18 months.

Chairman Martin – just wanted to make sure, unfortunately places like California got hit and one was over \$1 billion dollars that they had to secure.

Patsy will look into it and prepare some information and bring it to you.

FINANCE DEPARTMENT TEAM BUILDING ACTIVITY

Patsy – last Thursday the Finance Department was closed for a Team Building Activity and what we did this year was made arrangements to have the Finance Team do private tours of different county-owned facilities touring from the Jail to the Airport, Fairgrounds and all were impressed who did the tours. It presented a positive day and the outcome was that we were happy to be working here in the County.

ROAD AND BRIDGE - REQUEST TO REDUCE SPEED LIMIT FROM 45 MPH TO 35 MPH FOR 8.77 MILES ON CR 215 FOR SAFETY REASONS – MARVIN STEPHENS

Ed Green, Marvin Stephens and Lou Vallario presented a request to reduce speed limit from 45 mph to 35 mph for 8.77 miles on CR 215 for safety reasons. This request is due to bad road conditions and it is mostly due to bad soils. The road is deteriorating and the speed limit change is justified.

Marvin stated about one year ago he came to the Board to adjust portions of the speed limit on CR 215 and again coming to you due to the deterioration of the road due to bad soils and would like to reduce it again another 10 miles per hour to make it 35 mpr the whole length of the CR 215 and Lou is here to offer his support.

Lou agreed the road is degrading again, when we looked at it a year or so ago we had grave concerns and it's not getting any better obviously. The other thing that you need to keep in mind is whenever we have a speed limit there's an acceptable perimeter on either side of that, that we allow traffic to travel, so it's currently at 45; we know people are going to be doing 50 to 52 mph and that is somewhat acceptable in the world of speed limits but you start getting up into those ranges and given that road, particularly with the bumps and some of the deterioration it's a safety issue so we drop the speed limit to 35 then we know people are going to be in that 42 to 45 mph and that's a little more reasonable. Not that we encourage that or it's not technically a violation of the law but we know the reality of speed limits. So I would support the reduction to 35 on the entire road.

Commissioner McCown – you're taking it all the way to the gate?

Marvin Stephens - yes sir.

Jesse Smith– we did alert the Energy Operators Subcommittee that all of the energy companies belong to that this might happen and they have already put out a notice to all their people that it's likely this will be reduced and they will enforce it.

A motion was made by Commissioner McCown to reduce speed limit on the remaining portion of CR 215 from 45 mph to 35 mph. Commissioner Houpt – second.

In favor: Houpt – aye McCown – aye Martin - aye

CR 213 – the Board had a request from a citizen to look at the road – Marvin stated it has been bladed and mag chloride.

AIRPORT - BOX HANGAR TAXI LANE CONTRACT – KIEWIT – BRIAN CONDIE

Brian Condie and Carolyn Dahlgren presented the box hangar taxi lane contract with Kiewit Western Company who bid on the work at the Airport. Two bids were submitted:

Asphalt \$150,792.00 and Concrete - \$213,339.50.

When Bob Woodward came to the Board there was a discussion regarding paving this. Two bids were received and the bid from Kiewit was reviewed and it was the lower bid. The aggregate was 3 times the price of what they had proposed.

Brian requested the Board approve and award the contract in an amount not to exceed \$136,000 for the notice to proceed for asphalt to Kiewit Western Company and the rest is for engineering for a total of \$147,280.00.

Commissioner McCown so moved; Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - aye

HUMAN RESOURCES - AUTHORIZE THE CHAIRMAN TO SIGN A RESOLUTION AMENDING THE COMPENSATION AND CLASSIFICATION PLAN FOR GARFIELD COUNTY EMPLOYEES ADOPTED BY RESOLUTION 07-11 – PATSY HERNANDEZ

Patsy submitted the resolution with an attachment amending the compensation and classification plan for Garfield County Employees adopted by Resolution 07-11.

Ed said there were three people - Landfill personnel that were overlooked who are also equipment operators and needed to have that additional salary of about \$2500 and it raised the total to \$109,000. A spreadsheet was attached.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the resolution amending the compensation and classification plan for Garfield County Employees adopted by Resolution 07-11 and authorize the Chairman to sign.

In favor: Houpt – aye McCown – aye Martin - aye

Ed Executive Session – FairBoard and Contract negotiations related to Police Court Facility.

COUNTY ATTORNEY UPDATE – DON DEFORD

TREASURER'S DEPOSIT AGREEMENTS AS SECURITY; IMPROVEMENTS/RE-VEG SECURITY AND PERMITS.

Jean Richardson and Carolyn Dahlgren were present.

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Treasurer's agreements are getting more popular – as long as the Treasurer approved the TDA the package can go on the Consent Agenda. It comes up in the Road and Bridge arena when they prefer to deposit cash versus a letter of credit. Georgia will come back to the Board if this becomes an overload to her department. Hold the funds until the check clears.

Commissioner McCown – asked how much this increased the workload for the Treasurer's department.

Carolyn – it is a piece of paper held in the vault – it's just a filing. The Treasurer's deposit agreement may require some work on their part, in Building and Planning's part and the BOCC to get a partial release out of it.

Commissioner McCown moved to approve the policy change as long as the Treasurer has approved it and things can be put on the consent agenda. Commissioner Houpt seconded.

Carolyn - and Road and Bridge shop? BOCC – yes.

In favor: Houpt – aye McCown – aye Martin - aye

AIRPORT - RESOLUTION OF APPROVAL: AMENDMENTS TO GC R. AIRPORT RULES AND REGULATIONS AND MINIMUM STANDARDS WITH EXHIBIT A AND B.

Carolyn submitted the Resolution for the Amendments to the Garfield County Regional Airport Rules and Regulations and Minimum Standards including Exhibit A and B noting that the changes were made to the document as discussed on May 7, 2007 before the Board.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Amendments to the Garfield County Regional Airport Rules and Regulations and Minimum Standards

In favor: Houpt – aye McCown – aye Martin - aye

HOUSING AUTHORITY - CONSIDERATION/APPROVAL OF 2007 FUNDING REQUEST OF GARFIELD COUNTY HOUSING AUTHORITY FUND – ED GREEN AND GENEVA POWELL

Don submitted the 2007 funding request for participation in the Roaring Fork Community Housing Fund which is a multi-jurisdictional housing authority for the purpose to plan, finance and cooperate with members in the planning and financing of acquisition, construction, reconstruction to repair housing projects and programs within the means of families of low or moderate income and affordable housing projects or programs for employees of employers located within the jurisdiction of the Housing fund.

Geneva noted that this was formerly known as “Valley Housing Partners Housing Fund”.

The request is for \$27,000 from the County to be contributed to the fund to support the work plan and she stated that the Town of Basalt, Town of Carbondale, and the City of Glenwood Springs will be contributing partners in this endeavor.

Don presented – Geneva wasn't present.

The request is under the IGA where the general budget is set forth – no separate agreement, no separate documentation and authorizes those funds to be spent.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the request for \$27,000 for the Housing Fund for 2007 requested by Geneva Powell to fund the work plan as presented.

Commissioner McCown asked about the structure that used to rule and control this fund, is it still in place?

Don responded he was not certain of the status of the City of Glenwood Springs – you'll see that they do provide office space but in terms of their funding Geneva has told Don that this has not yet been accomplished. Basalt and Carbondale have approved this funding and still have members – the agreement itself that formed the Housing Fund provides that it can only be terminated by written agreement of all of the members. So until you see a proposed Resolution in front of you that will be signed by all four political entities, the housing fund will continue to exist.

Commissioner McCown – who is manning the store?

Don and Geneva have met and discussed the structure of the housing fund and what needs to be done to put it out of existence.

Commissioner McCown – so will that fund roll back into the housing authority?

Don – the balance yes, and that what's anticipated; can't guarantee that.

Commissioner Houpt – it would create a regional housing authority.

Don – that's what she wants to do.

Don said that Geneva wants to bring the Pitkin County Housing into this.

In favor: Houpt – aye McCown – aye Martin - aye

CITIZEN NOT ON THE AGENDA

CHRIS JANUSZ – ZONING ISSUE - LAND ON HIGHWAY 82 – Chris submitted handout to the Commissioners. He said there are two houses on the property of 1.5 acres since 1964; a mistake made and it should have been two lots. Since 1964 only one home has been taxed; the other property is a trailer that pays \$20 a year to the motor vehicle department so the County has lost tax income for 40 years on this property. When he purchased it 7 seven years he approached the planning commission to cut the property into two lots and the only thing that they can do is make him do a complete subdivision plan similar to a 100 homes in the middle of the valley floor. This is too expensive and he can't afford it. He has been looking to find a way to resolve this for 6.5 years in a common sense fashion. He would like the Board to say okay to cut the property in half and Gamba & Associates can do it for about \$3,000, nothing will change except making it into two lots. The road access is the same it's been for the last 44 years – no adverse changes. The Planning Commission is predicated on new development. This is not what we want to do. There's an elderly couple living in the trailer and want to stay there until they die. This is my plea.

Chairman Martin said he knows about this and there is quite a history going back to the creation of the new Hwy 82 which took some property as well. It is documented that this was grandfathered in with 2 houses on the one lot.

Chris – from the Garfield County Building & Planning, it was proven that two homes were on the property from a federal aerial photograph of Hwy 82 when it was still two lanes and they were going to make it into 4 lanes. No changes to the location, size, scope. When the current occupants of the trailer leave, there is a letter stating he can replace the trailer with a new modular home. So again, long term what I'm asking for is two individual properties. They've had individual addresses for 44 years except ownership. This has been

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recognized by this Board as a special case and part of the Board's responsibility is to mitigate problems for their citizens and he is a good citizen and wants this problem mitigated.

Commissioner Houpt – we have obstacles in our Code that put a lot of people in the position of having to go through the process to split their property and asked if there is an easy solution being proposed in the new code.

Don, at the request of the Board, has spoken to Mr. Janus about this issue and asked if the Board wants him to proceed with the legal issues or discuss it in Ex Session?

Commissioner McCown – can see the legal issues on its face. It's just a matter if we're going to make an exception or not to the legal issues but it's a non-conforming lot to begin with and it's even too small for an ADU which is being grandfathered.

Don – it is an unlawful use in its current configuration; if you split the property or authorize a split of the property however that's done, then the property is going to be separately conveyed for any lawful purpose. Right now the purposes are restricted to the non-conforming uses. Those issues are there; we have frequently had problems where individuals are not entitled to an exemption but are entitled to go through the exemption process to create their own lot. This is not the first time this has happened.

Chairman Martin – this doesn't set some kind of precedent – it takes on this issue and also Chris's 6 years of trying to get this through. This is 2nd time in front of this Board.

Commissioner McCown – having looked at the new rewrite of the new land use regulations, is there any relief other than a full blown subdivision?

Don – there may be but until this is adopted in final form, no. There should be a process under the minor exemption to deal with this. It is being proposed.

Chris – told by the head of the planning committee that what is being proposed will not help my particular case.

Commissioner Houpt – requested an executive session.

Chris asked the Board to use their authority.

Commissioner McCown gave an example of a gentlemen on Stevens Hill Road that has a parcel that's about the same size as this that has been there for 20 plus years and he hasn't been able to do anything about it. If we make an exemption for you he'll here next Monday wanting his subdivided.

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE AND THE COURT SYSTEM – DISCUSS THE STATUS OF THE JUSTICE CENTER IGA WITH RIFLE, DIRECTION ON LEGAL ISSUES ON CR 301 AND CR 306; DISCUSS CONVERSATIONS WITH THE COUNTY SURVEYOR AND RECEIVE DIRECTION FROM THE BOARD CONCERNING BOTH CROUCH AND POTTER; CAROLYN – VARIANCE; CODE ENFORCEMENT; LAND ACQUISITION AT THE AIRPORT; FAIRBOARD ISSUE; HISTORICAL PRESERVATION AND CAROLYN'S DEVELOPMENT APPROACH; AND THE NEW JUDGE.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

ACTION TAKEN: CHRIS JANUSZ REQUEST

Don – the request is to consider his proposal to split his property into two parcels. Don provided advice to the Board on some legal issues in conjunction with Fred Jarman concerning the legal affect of this proposed new code.

Commissioner McCown – there was an indication on Fred's part that in the writing of the new code there will be some relief for you – will it be free no, but there will be a provision for a minor subdivision that will allow you to just move forward with a basic exemption in your case. If the land code as it stands now is certified and presented to us and accepted by the Board that will happen later this summer. But that will give you some relief, will it be a free "go out and divide your land", no. You will still have to go through the land use process which is very similar to a subdivision exemption which is the least intrusive possible land use split we can allow. Wait until the new code is adopted then come forward with a minor subdivision.

Commissioner Houpt recommended the same – it sounds as if there's going to be a tool in place.

Chairman Martin – I find it awful, very frustrating for the people trying to use the code, been waiting for 6 years and we haven't done anything yet – you have to spend some money.

Chris - \$3,000 compared to \$25,000 and Gamba is willing to come in with a final plat to remedy a grandfathered situation.

Commissioner Houpt – it's within our old code and many have been frustrated as they know the code rewrite is underway. Sound like there is a tool in there that will help.

Chris – one issue – they are playing catch up – suggested they include some rules for what happens in the real world. He suggested some way to handle the little glitches in life that do happen.

Fred stated they anticipate that something will occur, a public meeting may occur in June and then it will come to the Commissioners.

Action Taken:

BUILDING AND PLANNING - YURTS

Don - Public Direction –concerning the Housing staff.

Carolyn – the County Attorney on behalf of the Building and Planning Department is seeking authority from the Board to proceed with zoning and building code violations both in criminal and civil court for persons using Yurts for human habitation.

Commissioner McCown made a motion to proceed. Commissioner Houpt – second. I do want to state this is an issue we need to look into as a County because under the current regulations they're clearly in violation.

Chairman Martin thinks we over regulate humanity.

In favor: McCown – aye Opposed: Houpt – aye Martin - aye

Commissioner Houpt - We need to come up with a different solution, I don't think that we need to follow criminal prosecution in reference to someone trying to survive under these conditions – I think we need to seek another remedy to allow at least a review, to establish what the rules, regulations, building code, acceptable in Garfield County would be under Yurts. Understand the rules and regulations I know and

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understand our staff has made a good recommendation but I just cannot follow it because our regulation is what I see. I would suggest we schedule some kind of hearing to establish rules and regulation for Yurts as acceptable dwelling units.

Commissioner McCown – that would also apply to all tents, Teepees, pop-ups, anything soft and flexible in the County would have to meet the same building codes.

Chairman Martin – possibly and if we can’t come up it

Commissioner Houpt – we can be more specific about something that is more structural like a Yurt.

Chairman Martin – like snow loads to wind resistance, to fire retardants, whatever it is – understand it is an emotional issue – just don’t know where we’re headed on this – there are other places that do allow them and why they allow them and we can’t is one of the issues we adopted under the International Fire Code, did we go too far. I think we need to find out if we did or not.

Motion failed.

Chairman Martin – tried to put together another motion to go ahead and establish a meeting to establish the rules and regulations to see if it is acceptable to accept Yurts as habitable dwellings but no second on that.

Commissioner Houpt – you mean to come up with criteria. I’ll second that.

Chairman Martin – in the failure of that then I guess we’ll have to revisit this particular issue.

There is a motion to establish a hearing to see if we can’t come up the proper criteria and exemptions in reference to the building codes, fire code, insulation code, plumbing code to make this acceptable if that is not successful then we’ll have to revisit that and under the revisiting of this motion, someone who voted in favor of the motion in reference to its defeat, will have to go ahead and revisit the motion to say we proceed under criminal violation or our present code. At present we’re just putting that aside.

Commissioner Houpt – John had mentioned there are other counties that are accommodating this right now and think we both want to see what they are doing, how they rationalize that and what their criteria is so that.

Commissioner Martin – we also have commercial use and rentals of these units as temporary dwelling units or hotel rooms, etc. How do they get away with that under commercial application versus what is residential? There is inconsistency with it and we need to investigate it fully as to why and how these folks are either overlooking it or have come up with rules and regulations to exempt it in one way or another. We need to make a decision in public hearing.

In favor: Houpt - aye Martin – aye Opposed: McCown – aye

Schedule something within the next 120 days we’re not going to enforce them; advise them they are in violation but not proceeding with enforcement at this time.

FAIRBOARD - FORMAL DIRECTION TO STAFF TO ESTABLISH AN AGENDED CONSIDERATION OF MEMBERSHIP ON THE FAIR BOARD.

Commissioner McCown so moved; Commissioner Houpt – seconded.

Jesse asked, and to draft a letter for the Chairman’s signature pertaining to a fair policy.

Commissioner McCown included that in his motion. Commissioner Houpt – amended her second.

In favor: Martin – aye; McCown – aye; Houpt - aye

CONSENT AGENDA

- a. Approve Bills
 - b. Changes to Prior Warrant Lists
 - c. Authorize the Chairman to sign a Resolution of approval for a Special Use Permit for Extraction, Processing, Storage and Material Handling of Natural Resources for Gypsum Ranch LLC – Fred Jarman
 - d. Authorize the Treasurer to release April Mitigation Fees in the amount of \$6,750.00 to RFTA
 - e. Liquor License renewals for Ken Seidel Enterprise LLC dba The Arroyo Saloon – Jean Alberico
- Tim Thulson – requested item c be discussed individually.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a – g absent item c; carried.

- c. Authorize the Chairman to sign a Resolution of approval for a Special Use Permit for Extraction, Processing, Storage and Material Handling of Natural Resources for Gypsum Ranch LLC – Fred Jarman

Tim Thulson wanted clarification on Condition No. 21 – hours of operation. They agreed to prohibit operations on Sunday but thought they could start and work from 6 a.m to 8 pm – Monday through Saturday. His concern is that the motion states 7 am to 8 p.m. and Tim doesn’t believe that was the intent of the motion. Carolyn – this is a process issue and must be held in a public meeting that wasn’t even agended that probably requires re-opening the public hearing. The only thing we can discuss is exactly what happened not what was going on in anybody’s head.

The Clerk and Recorder was requested to submit a literal transcript, not just minutes of the words of the motion. I don’t think you can come back in and ask for a change Tim without going back into the Public Hearing.

Tim – we’re not asking for a change, we’re just asking the board to clarify what they did. What is presently set forth in the resolution is planning staff’s recollection of what the Board did.

Carolyn – which should match the actual motion that was made so I’m suggesting the best thing we can do is get a transcript of the actual motion. Based on that we can determine whether there has to be another public hearing or not.

Tim – why can’t the board state this is what we did that day.

Carolyn – because the board is not doing that in an agended public hearing, the board is doing that because you walked in the door and asked them to try and remember what they did back on April 2, 2007.

Chairman Martin – we need to entertain a motion that we go ahead and research this and compare the request of the applicant to the actual motion and come back and if we need to put a public meeting together in order to discuss is.

Don suggested that first let’s get the transcript in front of the board, set is as agended item, not as a re-opened public hearing because if it’s possible to look at the transcript and say yes this is what the motion said or no it isn’t what it said, then you don’t have to re-open the public hearing. But to clarify what you did, to apply it, to explain what you did, that requires a re-opened public hearing.

A motion to research and compare the action with the minutes – transcript in front of the Board.

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Tim – the second item falls on and is clearly under one we don't know what to do with when Bill went out to implement the berming plan, talking to the neighbors of course things changed. We had two neighbors, the Barta's and Koncilia's, and what they would, the number of the berms and the berming plan that we introduced as Exhibit HH are clearly for their protection because they are the most adjacent of the property owners to the gravel pit. Looking at it on site, they would like to see some changes that they believe would change this berming plan that would work to their benefit.

Tim – we're trying to see if there's anything else we can do to implement that. We're stuck in a procedure glitch for something that really works better for doing it the other way.

Carolyn – the site plan is what the Board approved.

Chairman Martin - that would require re-opening.

Commissioner Houpt – this is the third one this year where all that expense to make changes with the way our process moves forward.

Carolyn – these things should have occurred in the public hearing not after the public hearing because theoretically there are other citizens who might disagree.

Commissioner McCown - once you open it up, it's all open; once you open this Special Use Permit back up the balls are back in the air again.

Tim – regarding these two issues, would this be something the board would be comfortable waiving P & Z review?

Commissioner McCown – I would. As the applicant you're opening the entire process back up again when you come back in to amend the starting times or discuss the starting times and the berming plan.

Chairman Martin – and that recommendation from the application to the Planning Staff would be to have this Board hear that. It would be up to this board to hear it or refer it.

Tim – hours of operation – if planning staff just incorrectly set forth the hours of operation, let's say they say we can operate one hour a day, would we have to reopen the hearing to clarify.

Don – that's not what we're saying, we're asking that the Board have a chance to look at the transcript.

Commissioner McCown – if there's a Scribners error of some type, we can correct that. If in fact that is the motion that was set out, that's what will stand unless you want to reopen the hearing and appeal that portion of it.

Bill – that basically should be in order to get the special use I'm agreeing to something that's not correct but if it's going to be a long period of time.

Chairman Martin – by Monday, Bill.

This was set at 10:15 a.m.; Mary 21st.

PUBLIC MEETINGS:

OIL AND GAS - WATER REQUIREMENTS FOR COMMERCIAL OIL SHALE – CATHY KAY

Cathy Kay gave an impressive power point illustrating the concern.

Western Colorado Congress – sharing our concerns with the BLM's recent decision to issue five oil shale research, development and demonstration leases to three companies in the Piceance Basin. They promote that a go slow process be implemented. This meant not offering commercial leases or authorizing large-scale development until research and development shows that oil shale technologies are economically viable, have acceptable environmental impacts, do not unduly harm local communities and have a transparent process regarding impacts and production levels.

Conclusion:

We strongly believe that it is imperative that a scientifically sound RD&D process be completed and that the potential environmental, economic, and social impacts be fully evaluated, disclosed and deemed acceptable by impacted communities before further leaving go forward. The adequacy of the RD&D process to effectively and accurately assess the potential impacts of commercial oil shale development is completely dependent on the integrity of the design and execution of the RD&D process itself.

The public must trust the BLM to ensure the integrity of the RD&D leasing and development process, but the agency here has violated the law by not taking the required hard look at environmental impacts and by not following the procedures set out in its land management plan.

She requested the Board read the information and be supportive.

Commissioner McCown – do your records indicate that the energy companies with the RD & D leases and even those energy companies that didn't get RD&D leases have legal and adjudicated water rights to water in the Colorado River?

Cathy – what I have seen, that has been very difficult to get hold of the Shell ones because they say that's proprietary but I think as they start applying for the permits one will get more access to that. The only ones I've had access to at the moment told me they have access to 150,000 acre feet so I think they've got enough water rights to do that. I think if you have EGL, Chevron and Shell all proving that it is commercial viable and everyone had to do it, you wouldn't have that scenario happening like that.

Commissioner McCown – that's one of the question, just how long does it have to be commercially viable – do you have to establish that you're making a profit for a 20 year period for it to be commercially viable or can you say, well we're producing oil for \$30 and the open market is \$60 to me that's a commercially viable project, we can move forward or do you have to sustain a pattern over 20-years, that's going to create a gap I don't think anyone is comfortable with.

Cathy – it would be within the economic makeup of how they would be whether it would be economically viable for them or not – they have spent billions in the research and development of this and it would then be how much would they get in terms of royalty breaks or all of those things.

Commissioner McCown suggested Cathy correct one of her slides where she shows the retorting process with the two tall buildings, that was in fact the CB tract. Still about 85% of the Colorado River is adjudicated to agricultural uses.

Commissioner Houpt – I think Cathy brought us a wealth of information and when you put a research and development program together to me even without this information it makes sense that you let it run its course before you go out and lease commercially and Shell has said on many occasions that it is going to take this process to determine whether it's feasible to move forward commercially. I agree in theory that it makes a great deal of sense to wait on commercial leasing until the research and development process has run it's

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course so that we not only know the commercial feasibility but the impacts as well and I would put a motion on the table that we as a commission support that position in theory and take the opportunity to read and make a determination on the letter at a later date.

Chairman Martin – what we have is an agreement with BLM to work with them and not to take a position simply because if we take a position it may vacate our ability to put input in the cooperating agency status so we need to be very careful because we are working with them, we are step by step – don’t cut our own throat before the process is completed. And I’d caution you on that.

Commissioner McCown – I wouldn’t feel comfortable. I can’t agree with the “running its course” because I asked a question and didn’t get an answer – that is an open ended 20 year program that you could say we’re still working on research and development – we don’t know, we need another 10 years. At some point and time we have been in the United States dealing with oil shale for over 100 years, I think that is going slow. Right now we are dabbling with oil shale with R D&D leases and we’re saying we’ve got to slow, let’s add another 20 to 30 years on to that and it’s just a method of not allowing it to happen and are our water needs are not going to get any better, I don’t think so. I’m not saying that water isn’t going to be the spoke that breaks the wheel because those folks can’t go forth unless they have the water and they’ll put that up in a commercial lease, an RD&D lease or any other kind of lease, they flat will not be able to go forth if they don’t have the water, if they have the legally adjudicated water to go forward then it will be a tug of war between them and Denver on the front range on who’s going to get our water.

Cathy – do due diligence where they have to show that the water rights they have purchased are actually being applied to this technology and research and that is maybe where there could be interest in this whole issue because if they don’t show due diligence utilizing their water that can come back onto the table and if you felt I haven’t answered your question but I think they themselves have said that Shell has said they would need at least 5 years to find out if they meet their water needs. If you are then finding, because we don’t have access to the priority information on the mahogany site because it’s a private piece of ground, we do know that they are using \$60,000 a month in electricity and that’s for a very small site, so I think once they are starting to apply for permits the public, you and I will have more access to readily available information which would then more than likely answer your questions.

Commissioner McCown – how does your group feel about nuclear power?

Cathy – I agree but I think if we do look at nuclear power and we clean up the water properly and we put the effort into how you clean up that waste I think it’s a clean form of energy.

Chairman Martin – France found that out – they are doing about 75% of all power produced under atomic power; Germany is about 55%, Europe is moving that way. Not only are they not throwing the waste away but they’re recharging it and reusing it again.

Commissioner McCown – even with France and Germany and all those, United States is still the largest producer of nuclear energy by far.

Chairman Martin – we shut down too many plants unfortunately.

The motion died for lack of a second.

PUBLIC HEARINGS:

FINANCE - DISCUSSION OF THE 3RD SUPPLEMENTAL TO THE 2007 APPROVED BUDGET AND THE 3RD AMENDED APPROPRIATION OF FUNDS – PATSY HERNANDEZ

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Patsy explained the handout and Exhibits.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the 3rd supplement to the 2007 approved budget and the 3rd amended appropriation of funds. In favor: Houpt – aye McCown – aye Martin - aye

ABATEMENTS FOR TOWN OF NEW CASTLE (07-136), 4TH AND MAIN LLC (07-154, 07-155, 07-157), CARSAM REALTY TEN, LTD. (07-158, 07-160 AND STEIN PROPERTIES L.P. (07-159) – John Gorman and Lisa Warder

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

ASSESSOR – ABATEMENT - NEW CASTLE (07-136), 4TH AND Main LLC

Schedule No. R580157 – the taxes assessed against this property for the property tax year 2006 are incorrect because this parcel is being leased to the Town of Carbondale. The abatement is for \$2,340.68 and the lease was signed on June 22, 2006.

Schedule No. R510029 – the taxes assessed against this property for tax year 2006 are incorrect because this parcel is being leased to the Town of Carbondale and the lease was signed June 22, 2006. The abatement is for \$1,170.02.

Schedule No. R510030 – The taxes assessed against this property for the property tax year 2006 are incorrect because the parcel is being leased to the Town of Carbondale. The lease was signed June 22, 2006. The abatement is for \$1,170.02.

ASSESSOR – ABATEMENT - CARSAM REALTY TEN, LTD. (07-158, 07-160

Schedule No. R580337 – the taxes assessed against the above property for the property tax 2006 are incorrect because the parcel is being leased to the Town of Carbondale. The lease was signed June 6, 2007. The abatement is for \$4,307.03.

Schedule No. R580134 – the taxes assessed against the above property for the property tax year 2006 are incorrect because this parcel is being leased to the Town of Carbondale. The lease was signed June 6, 2006. The abatement is for \$4,993.59.

ASSESSOR – ABATEMENT - STEIN PROPERTIES L.P. (07-159)

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Schedule No. R320845 – the taxes assessed against the property for the property tax year 2005 are incorrect because this parcel is being leased to the Town of Carbondale. The lease was signed July 1, 2006. The abatement if for \$4,601.47.

ASSESSOR - ABATEMENT - TOWN OF NEW CASTLE

Schedule No. R041973 – the taxes assessed against the above property for the property tax year 2060 are incorrect because this property has been dedicated to the Town of New Castle as Park Land/Open Space. The Town of New Castle is tax exempt. The abated taxes are prorated from 2-3-2006 to 12-31-2006. The abatement amount is \$2,196.75.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to close the public hearing.

In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the abatements for New Castle – 4th and Main LLC Schedule No. R580157 in the amount of \$2,340.68; New Castle 4th & Main LLC Schedule R510029 in the amount of \$1,170.02; New Castle 4th & Main Schedule No. R510030 in the amount of \$1,170.02; Carsam Realty Ten, Ltd. Schedule No. R580337 in the amount of \$4,207.03; Carsam Reality Ten, Ltd. Schedule %580134 in the amount of \$4,9501.47 and Town of New Castle Schedule No. R041973 in the amount of \$2,196.75 and the Chair authorized to sign.

In favor: Houpt – aye McCown – aye Martin – aye

Continued Executive Session – discuss the items listed previously and in addition discuss the legal status of CR 311 and provide updates on the Bent/Pringle litigation

Commissioner McCown moved to go into Executive Session; Commissioner Houpt seconded; motion carried.

Commissioner Houpt moved to come out of Executive Session; Commisisoner McCown seconded; motion carried.

PUBLIC MEETINGS

BUILDING AND PLANNING - CONSIDER AN AMENDED PLAT FOR LOT 18 OF BLUE CREEK RANCH, LOCATED APPROXIMATELY 3.5 MILES EAST OF THE TOWN OF CARBONDALE.

APPLICANT: KOBA LLC – DAVID PESNICHAK

David Pesnichak, Carolyn Dahlgren and Tom Newland representing Koba LLC were present.

BACKGROUND AND DESCRIPTION OF THE PROPOSAL

This is an amended plat application to change the building envelope on Lot 18 of the Blue Creek Ranch Subdivision. The purpose of this amendment is to preserve an existing Ponderosa Pine Tree, which is located near the property line between Lot 18 and Lot 17. This application was before the Board of County Commissioners on September 18, 2006 in order to move the building envelope five (5) feet to the south and east to reportedly preserve the Ponderosa Pine tree. This relocation also involved a five (5) foot encroachment into the 50-foot wetland protection buffer. The Applicant explains that “after receiving your letter and talking with the surveyor, it was realized that an encroachment of 5-feet into the wetland buffer would not be sufficient to move the building 5 feet to the east and 5 feet to the south of the Ponderosa Pine. To adequately accomplish the relocation of the Building Envelope, it will actually need to encroach 10-feet into the wetland buffer.” This change will result in an encroachment on the wetland protection buffer by ten (10) feet and will leave forty (40) feet of buffer in place. In the end, this is a request to move the building envelope a total of ten (10) feet to the south and east.

Stephen Ellsperman of Ellsperman Ecological Services performed an inventory and analysis of the encroachment and found that “In terms of site ecology, it is clear that the minimal proposed encroachment into the wetland buffer in the rear of Lot 18 within Blue Creek Ranch would have nominal effects on protected wetland resources. This is especially true when comparing the ecological benefits of preserving the root system of the large Ponderosa Pine on this site.” In addition, Mr. Ellsperman suggested a set of three construction protocols which were incorporated into the staff recommended conditions for approval. Staff finds that with the conditions set forth below, impacts to the wetland area will be minimal.

STAFF RECOMMENDATION

The Applicant has provided all required documentation and has satisfied the applicable standards for this plat amendment. Therefore, Staff recommends the Board of County Commissioners approve this amended plat request with the following conditions:

- 1) That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
- 2) All plat notes from the original Final Plat of Blue Creek Ranch PUD shall be shown or referenced on this amended plat.
- 3) Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder’s Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.
- 4) Encroachment of the building envelope into the 50-foot wetland protection buffer shall be no greater than ten (10) feet.
- 5) Once exact construction envelopes have been determined the applicant shall design, install and monitor resource protection fencing along the envelope boundary. This fencing is to serve as both a silt and erosion barrier as well specific delineator to construction personnel that the area is protected.
- 6) Documentation must be provided to the Garfield County Building and Planning office prior to the issuance of the building permit indicating that the fence has been installed in a manner that will serve as a silt and erosion barrier as well as delineation between the building envelope and the wetland protection area.
- 7) Landscaping shall be restricted in the rear of the property abutting the 50-foot wetland buffer area to native grass and herbaceous materials as outlined in the Blue Creek Ranch Homeowners Association Covenants. Proper protocols shall be followed to allow successful establishment of the desired native

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vegetation.

Tom Newland explained the purpose for the amended plat and explained the fencing was temporary. The typical orange construction fencing but we're going to be placing silt fencing there which is the black fencing that prevents siltation off of the construction site onto the wetlands buffer.

A motion was made by Commissioner McCown and seconded by Commissioner Martin to approve the amended plat for Lot 18 of the Blue Creek Ranch for Koba LLC. with the seven recommendation of staff and that the testimony of the applicant be considered a part of the conditions as far as the silt fencing being temporary.

Chairman Martin – noted that would be in Condition No. 5 in reference to temporary.

In favor: Martin – aye; McCown – aye; Hought – aye.

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT REFERRAL TO THE PLANNING COMMISSION FOR AN INDUSTRIAL SUPPORT FACILITY CONSISTING OF A TEMPORARY OFFICE LOCATED AT 431 COUNTY ROAD 246 NEAR RULISON. APPLICANT: WILLIAMS PRODUCTION RMT, INC. – DAVID PESNICHAK

David Pesnichak and Carolyn Dahlgren were present.

BACKGROUND

The Building and Planning Department received a Special Use Permit (SUP) application for an “Industrial Support Facility” comprised of a temporary office and storage facility for Williams Production RMT located at 431 CR 246 west of Rifle. The location of the temporary office is on a 38.66-acre parcel north of I-70, west of the City of Rifle and east of Rulison with access off CR 246.

More specifically, the Applicant requests approval from the Board for an “industrial support facility” to accommodate a temporary office and storage area in the Resource Lands – Gentle Slopes and Lower Valley Floor zone district. The proposed facility is proposed to encompass 2 acres of the 38.66-acre parcel. The Applicant has already constructed an office facility on the location (see photo on next page), which Staff understands is currently being served by portable toilets and hauled water. The Applicant states that “the existing 12’ X 60’ modular unit would be replaced by a 14’ X 66’ modular unit to support construction and production activities in the area.” The applicant goes on to say “in addition to the modular unit, two 10X20 storage buildings are on the site. These buildings are used to store commonly used oil field parts for repair of production equipment and facilities.” The facility is proposed to accommodate 1-3 employees, around 20 vehicle trips per day and be in place for 15-20 years or generally the duration that Williams Production RMT is operating in the Rulison area.

REQUEST

The application is for an “industrial support facility” for one temporary office facility and a storage area not to exceed 2 acres in size in the RL zone district.

Commission is necessary.

STAFF RECOMMENDATION

Staff finds that due to 1) the limited nature of potential impacts to surrounding properties, 2) the fairly remote location of the facility, 3) this facility is to be of a “temporary” nature not to exceed 15-20 years, Staff recommends the Board direct Staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.

A motion was made by Commissioner McCown and seconded by Commissioner Hought to hear this by the Board and not refer this to the Planning Commission.

Commissioner Hought – we really need to look at this because 15 - 20 years is not short term.

In favor: Hought – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT REFERRAL TO THE PLANNING COMMISSION FOR UP TO 32 TEMPORARY EMPLOYEE HOUSING FACILITIES IN THE NORTH PARACHUTE RANCH LOCATED OFF COUNTY ROAD 215 – APPLICANT: ENCANAL USA, INC. – DAVID PESNICHAK

David Pesnichak and Carolyn Dahlgren were present.

BACKGROUND

The Building and Planning Department received a Special Use Permit (SUP) application for “Temporary Employee Housing” for up to 32 facilities on a 27,000-acre property owned by EnCana Oil & Gas USA, Inc located at the end of County Road 215 north of the Town of Parachute and is also formerly known as the old UNOCAL property where oil shale processing occurred. The location of the Temporary Housing Facilities is along the major roadways within the property and within permitted COGCC permitted well pads.

More specifically, the Applicant requests approval from the Board for Temporary Employee Housing facilities each of which will be on natural gas well pads for a cumulative of less than one year. The proposed facilities will all incorporate a vault-and-haul sewage disposal system as well as hauled potable water. The Applicant has submitted surveys of each of the proposed Temporary Employee Housing facilities, which include the boundaries of the respective permitted COGCC APD well pad. As each of these facilities is to be located within a COGCC controlled permit area, reclamation, revegetation and rehabilitation plans are not required for this submittal. In addition, the application is proposing for each of the facilities to house a maximum of 24 individuals. The Applicant is representing that none of the facilities will be one location for more than one year and as such, this permit will not qualify for renewal, but must be reviewed annually by the BOCC.

TEMPORARY EMPLOYEE HOUSING REGULATIONS

This application falls under the new Temporary Employee Housing regulations, which is Section 5.02.21 of the Zoning Resolution of 1978. These regulations were put in place in December of 2006 and the use of manufactured housing and/or recreational vehicles on a temporary basis.

It is required that these facilities install an ISDS unless the Applicant can demonstrate that either it is unfeasible due to topographic, environmental or engineering constraints or that the facility be able to meet the following performance standards:

1. Demonstrate an arrangement for hauling sewage; and,

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2. Maintain all records; and,
 3. All sewage disposal records must be open to Garfield County and the public upon request; and,
 4. The facility can not be on any one location for more than a cumulative of one year.
- Potable water must be tested on a monthly basis for facilities under 25 people unless an on-site disposal system is installed; in this case, the water must be tested quarterly. It is required that these records be public and any indications of coli form be reported to the Garfield County Board of Health immediately.
- All Temporary Employee Housing is required to maintain one mile spacing between facilities except for those located in the Resource Lands zone district and are located on a state or federally controlled lease/ownership area where restoration and reclamation have been secured for that property.

STAFF RECOMMENDATION

Based on the recently approved Temporary Employee Housing regulation by the Board of County Commissioners, the submitted application does not require revegetation, rehabilitation and reclamation for these sites as they are covered by the COGCC. In addition, as these facilities will be able to accommodate a maximum of 24 individuals, they will not be considered a public water system.

Staff finds that due to 1) the limited nature of potential impacts to surrounding properties, 2) the remote location of the facilities such that they are to be situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic, 3) the facilities are proposed to have vault-and-haul wastewater disposal and hauled potable water, 4) these facilities are going to be under a maximum of 24 individuals, 5) no facility is to be on location for more than a cumulative of one year, 6) these facilities are not subject to the one-mile spacing rule, 7) and the fact that the sites themselves will be situated on existing COGCC approved APD well pads, Staff recommends the Board direct Staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to hear this before the Board of County Commissioners and not refer it to the Planning Commission.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT TO ALLOW A “SHOOTING RANGE FACILITY”. APPLICANT: CNR SHOOTING SPORTS, LP – CRAIG RICHARDSON

Craig Richardson, Tim Thulson and Carolyn Dahlgren were present.

CNR Shooting Sports, LP has submitted a Special Use Permit application to allow a “Shooting Range Facility”.

The subject property is located approximately 15 miles northwest of the Town of DeBeque, Colorado on County Road 209. The subject parcel is approximately 49.228 acres, zoned Resource Land: Gentle Slopes & lower valley floor.

Staff Recommendation

Staff recommends that the Board of County Commissioners not refer this application to the Planning Commission for the following reasons.

- The proposed use will have limited impacts on County Infrastructure;
- Subject property is not adjacent to residential development;

A motion was made by Commissioner McCown and seconded by Commissioner Houpt that staff schedule this for the Board of County Commissioners and not refer it to the Planning Commission.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR STORAGE AND MATERIAL HANDLING OF NATURAL RESOURCES FOR A CONDENSATE TANK FARM FOR SEMCRUDE, LLC. OWNER IS THE ESTATE OF WILLIAM CLOUGH – FRED JARMAN

Fred Jarman, Representing the Client from PVCMI Philip Vaughan, and Bryan Nolen from Semcrude were present.

The subject property is located approximately 0.7 miles north of SH 6 & 24 on CR 246 (Anvil Points Road)

SITE INFORMATION: 4.13 acre site on 3,200 acre property

PROJECT DESCRIPTION

STAFF RECOMMENDATION

Staff recommends the Board not refer this application to the Planning Commission for the following reasons:

- 1) Location will provide minimal impact to County Road 246;
- 2) Located in an area south of the County Landfill and surrounded by existing gas production infrastructure;
- 3) Will not require water / wastewater;
- 4) Will reduce physical and safety impacts to County Roads by removing large tanker truck traffic; and
- 5) Does not create a significant visual impact in the County’s visual corridor.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to have staff schedule this before the Board of County Commissioners.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER A REQUEST TO CHANGE OWNERSHIP OF THE PINYON WOODS PROJECT (FKS CALLICOTTE RANCH) AND FIRST AMENDMENT TO THE SUBDIVISION IMPROVEMENTS AGREEMENT, CC&RS, FINAL PLAT AND LETTER’S OF CREDIT TO BE UPDATED AND REFLECT NEW OWNERSHIP – FRED JARMAN

Fred Jarman, Carolyn Dahlgren, Ron Liston with Land Design Partnership, Garrett Branch Attorney, Eric Bush and Troy Smith of Bush Development in Denver were present.

Fred explained this was first submitted in 2001 the name change is from Pinyon Woods back to Callicotte Ranch.

Garrett explained there were no changes other than the name change and updating the numbers and producing all new original documents – we are consistent and once recorded there shouldn’t be any question for the County as far as the history of this – it’s good and clean.

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Carolyn determined that the County Surveyor has signed the Mylar and the only other detail is that the Treasurer is out of town and not sure if Jean Richardson is authorized to sign the Treasurer’s deposit agreement or not – these folks have showed up with good funds because they knew that there wouldn’t be time for the check to clear. Georgia has stated to Carolyn that the Treasurer’s deposit is fine. A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the final plat and the Subdivision Improvement Agreement as presented and the letters of credit which are in fact TDA’s and the Chair be authorized to sign.
In favor: Houpt – aye McCown – aye Martin - aye

PUBLIC HEARINGS

BUILDING AND PLANNING - CONSIDER AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION UNDER THE RURAL LANDS DEVELOPMENT OPTION TO CREATE A TOTAL OF 2 PARCELS LOCATED APPROXIMATELY 15 MILES SOUTH OF THE TOWN OF SILT AND DESCRIBED AS 11084 COUNTY ROAD 311. APPLICANT: WEST DIVIDE RANCH LLC. – DAVID PESNICHAK

Dow Rippy, Kathy Rippy, David Pesnichak and Michael Howard were present. Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. David submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Subdivision Regulations of 1984 as amended; Exhibit E-Application materials; Exhibit F – Staff Memorandum; Exhibit G – Memo from Brit McLin of the Burning Mountain Fire Protection District, dated 3-29-2005; Exhibit H – Memo from Jake Mall of the Garfield County Road and Bridge department dated 4-17-2007; Exhibit I – Email from Jim Sears of the Garfield County Sheriff’s Office, dated 4-24-2007. Chairman Martin entered Exhibits A – I into the record.

DESCRIPTION OF THE PROPOSAL

The Applicant requests an Exemption from the Definition of Subdivision from the Board of County Commissioners to approve an application for a Rural Lands Development Exemption Option (RLDO). The proposed RLDO consists of creating one (1), 2.12 acre parcel from the existing 100.22 acre property. The remaining 98.1 acre parcel has been placed in a Conservation Easement with the Aspen Valley Land Trust. There is currently one manufactured home (see photo on page 4) on the proposed 2.12 acre parcel while there are no structures currently on the 98.1 acre parcel. Per the Aspen Valley Land Trust’s request, the Applicant has delineated a 1.432 acre building envelope on the 98.1 acre protected parcel to permit one new structure on the property in the future (see Development Proposal on Page 3). The proposed plan intends to preserve almost 98% of the current 100.22 acre property in a Conservation Easement with the Aspen Valley Land Trust.

SITE DESCRIPTION

The 100.22-acre property is located approximately 15 miles south of the Town of Silt on County Road 311. The Aspen Valley Land Trust has identified the property has containing “important wildlife habitat in a natural condition that provides good forage, cover, and seclusion for American elk and mule deer in pinyon-juniper woodlands and sage meadows during all seasons. The property also provides habitat for mountain lion and black bear, and provides habitat connectivity for these wide-ranging species.” STAFF COMMENTS
Section 8:82(A) of the Subdivision Regulations contains the review criteria for a RLDO application. Additionally, the provisions of Sections 8.50 and 8.60 (the “regular” Exemption) of these regulations shall apply to the review of applications for approval of exemptions from the definition of subdivision under the provisions of the RLDO except as modified by Section 8:81(B) of these regulations. The following section contains an analysis of the Development with the required review standards for a RLDO.

Lots may be created via the Rural Lands Development Option from any eligible parcel, as that parcel was described in the Records of the Garfield County Clerk and Recorder’s Office on October 16, 2000 except where land was added to a previously eligible parcel, in which case, changes to the legal description reflecting the added land may have occurred at any time without jeopardizing the eligibility of the property. In the case where lands are added to an existing property the existing parcel must have been at least 70 acres in size prior to the lands being added and must have otherwise been eligible for development under the Garfield County’s Subdivision Regulations and Zoning Code. Owners of property otherwise eligible for the Rural Lands Development Exemption Option may also seek approval of an application for exemption from the definition of subdivision to the extent allowed in Section 8:52 (A) of these regulations. Application for the 8:52 (A) of exemption may be processed either concurrently or separately from the application for the Rural Lands Development Exemption Option.

The application contains a Special Warranty Deed dated May 16th, 2005. However, for the purposes of this Exemption, the property must have been as it existed on October 16, 2000. Staff has found no evidence that the property has changed configuration since October 16, 2000. Therefore, the property is eligible to be reviewed under the Rural Land Development Exemption.

The number of lots that may be created by the Rural Lands Development Exemption Option, in addition to the Remainder Parcel, shall be one (1) lot for every thirty-five (35) acres contained in the eligible property plus one (1) lot for every one hundred (100) acres contained in the eligible property plus one (1) additional lot. A maximum of forty-two (42) lots and the Remainder Parcel may be created under the provisions of the Rural Lands Development Exemption Option; including lots that may be or have been approved by exemption from the definition of subdivision more specifically described Section 8.52 A. of these Regulations.

The subject property contains approximately 100 acres. The Applicant is not proposing to create any lots using the traditional exemption process. Therefore, in addition to the remainder lot, the Applicant is eligible for 4 new lots as a result of the following calculation:

- 1 Lot for each 35 acre lot that could have been created: 2 lots
- 1 Lot for every 100 acres in parent property: 1 lot

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➤ 1 lot for going through the process: 1 lot
Total Eligible Lots 4 Lots (In addition to Remainder Parcel.
Proposed Lots 1 Lot (In addition to Remainder Parcel)

The proposal intends to provide domestic potable water from individual wells for both parcels created. The Applicant has provided two well permits (nos. 272715 issued 2-20-2007 and 229602 issued 10-20-2000). Both wells are legally able to serve 3 dwelling units (up to 15 gpm) a piece and each with 1 acre of irrigated lawn and garden. Well 229602 is currently in use serving the existing home on proposed Parcel A. A two-hour pump test was conducted on this well in 1999 at which point the well demonstrated it was capable of 7 gallons per minute. A pump test will need to be conducted on well 272715 prior to obtaining a building permit for any future homes on proposed Parcel B.

Both of the proposed parcels have direct access to County Road 311. No public or private roadways are proposed. The driveway to the proposed building envelope is approximately 800 feet in length.

There are no water bodies designated / mapped within the approximately 100 acre property.

Garfield County has no identified hazard areas within the original 100 acre property or surrounding vicinity. According to Garfield County analysis maps, the wildfire danger is identified as being low within the development area.

According to Garfield County analysis maps, the wildfire danger is identified as being low within the development area. However, per the Subdivision regulations, the applicant will be required to adhere to the National Fire Protection Agency wildfire protection mitigation guidelines.

The Aspen Valley Land Trust has identified the property as being in a natural state with exception to the 2.12 acre parcel to be split from the parent property. The Applicant has submitted a weed management plan, conducted in September 2006. The plan recognizes Hounds Tongue, Thistle, and Burdock primarily in drainages, ditches and trails. The plan anticipates the use of herbicides and mechanical methods of control for the identified species.

The property is zoned Agricultural/ Residential/ Rural Density (A/R/RD) which allows for residential development as a use by right. As proposed, the lots comply with the minimum lot size. All proposed uses shall comply with the uses set forth in this zoning and all structures shall comply with the dimensional requirements stated therein.

The application proposes that wastewater for the 2 lots will be handled by Individual Sewage Disposal Systems (ISDS). The soils are generally described as Torrifluvents, Nearly Level and Torriorthents-Camborthids-Rock Outcrop Complex, Steep. These soils are generally described as varying between well-drained and clayey and loamy. Due to the large variation in potential percolation, Staff suggests that any new ISDS's be designed by a Colorado certified engineer.

Colorado Department of Public Health & Environment ISDS standards require the County to issue an ISDS permit for all such systems installed in the County. The future owners will be required to obtain the necessary ISDS permits from the county at the time building permits are obtained.

STAFF RECOMMENDATION

Staff recommends the Board of County Commissioners approve the application for the West Divide Ranch Rural Lands Development Exemption with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board of County Commissioners, shall be considered conditions of approval.
2. That the applicant shall have 120 days to present a plat to the Commissioners for signature from the date of conditional approval.
3. Unless it has already been deeded, a 30-foot right-of-way easement from the centerline of County Road 311 shall be deeded to Garfield County prior to signing of the final exemption plat.
4. That the following plat notes shall appear on the Final Plat:
 - a) *No further divisions by exemption from the rules of Subdivision will be allowed.*
 - b) *No open hearth solid-fuel fireplaces will be allowed anywhere within an exemption. One (1) new solid-fuel burning stove as defined by C.R.S. 25-7-401, et. seq., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.*
 - c) *All exterior lighting will be the minimum amount necessary and all exterior lighting will be directed inward and downward, towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.*
 - d) *Individual Sewage Disposal Systems shall be engineered by a Professional Registered Engineer within the State of Colorado if percolation rates fall outside of the 5 to 60 minutes per inch.*
 - e) *All foundations shall be engineered by a Professional Registered Engineer licensed to practice within the State of Colorado*
 - f) *Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. All must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.*
 - g) *All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.*
 - h) *One (1) dog will be allowed for each residential unit on Lots 1 – 5 and the dog shall be required to be confined within the owner's property boundaries.*

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- i) *The entirety of land located within Parcel B as shown on this plat is governed by a conservation easement granted to the Aspen Valley Land Trust. The terms and conditions of this easement are more fully described in the document entitled "Deed of Conservation Easement in Gross – West Divide Ranch" that shall be recorded in the records of the Garfield County Clerk and Recorder's Office in Book _____, Page _____ with the reception number of _____. All future activity on this lot shall be in accordance to the terms and conditions in this document.*
- j) *All proposed excavation into slopes steeper than 30% shall be addressed by a geotechnical engineer on a site by site basis and the information shall be provided to the Building and planning department as part of a building permit application.*
- k) *At the time a structure is constructed on the Building Envelope within parcel B, the owner shall obtain all necessary driveway permits from the Garfield County Road and Bridge department.*
- l) *All buildings to be constructed shall adhere to the National Fire Protection Agency wildfire protection mitigation guidelines.*
- m) *Prior to the approval of a building permit for any development on Lot B (well permit number 272715), all physical water supplies shall demonstrate the following:*
 - a. *That a four (4) hour pump test be performed on the well(s) to be used;*
 - b. *A well completion report demonstrating the depth of the well, the characteristics of the aquifer and the static water level;*
 - c. *The results of the four (4) hour pump test indicating the pumping rate in gallons per minute and information showing drawdown and recharge;*
 - d. *A written opinion of the person conducting the well test that this well should be adequate to supply water to the number of proposed lots;*
 - e. *An assumption of an average of no less than 3.5 people per dwelling unit, using 100 gallons of water per person, per day;*
 - f. *If the well is to be shared, a legal, well sharing declaration which discusses all easements and costs associated with the operation and maintenance of the system and who will be responsible for paying these costs and how assessments will be made for these costs;*
 - g. *The water quality be tested by an independent testing laboratory and meet State guidelines concerning bacteria and nitrates.*

Dow Rippy – nothing to add.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing.

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the exemption from the definition with the 4 conditions recommended of staff.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A REQUEST TO REZONE AN APPROXIMATELY 8.39 ACRE PARCEL LOCATED WEST OF GARFIELD COUNTY AIRPORT, ON COUNTY ROAD 352 FROM AGRICULTURAL/RESIDENTIAL/RURAL DENSITY TO LIGHT INDUSTRIAL.

APPLICANT: EYE-SEVENTY, LLC. – CRAIG RICHARDSON

Craig Richardson, Michael Howard and Stephen Carter were present.

Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Craig submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Comprehensive Plan of 2000; Exhibit F -Application materials; Chairman Martin entered Exhibits A – F into the record.

The Applicant requests approval to rezone Parcel A of the Amaya/Madrid Exemption from Agricultural/Residential/Rural Density (ARRD) to Light Industrial.

MAY 2ND, 2007 PLANNING COMMISSION MEETING

This item was scheduled as a Public Meeting on the May 2nd, 2007 Planning Commission agenda. A representative for Eye-Seventy, LLC was not present at this meeting. The Planning Commission moved to have the Applicant reschedule. The request has been placed on the July 11th, 2007 Planning Commission agenda.

The applicant had previously noticed the public hearing in error.

Craig stated the reason the Board is hearing this is because the applicant had previously noticed for the public hearing prior to the Planning Commission hearing so there was a mistake in the scheduling it.

STAFF RECOMMENDATION

§ 10.04 of the Zoning Resolution states that a proposed zone district amendment shall be referred to the Planning Commission.

Steve Carter said they concur with the postponement and request this be hearing until July 11, 2007 before the Planning commissioner and scheduled for the meeting August 6th.

Commissioner McCown noted for the record that this is a first to schedule a land use hearing before it went to the Planning Commission.

Fred – this happened because of the delay in hearing this at the Planning Commission.

Commissioner McCown move to close the public hearing; Commissioner Houpt seconded.

Commissioner McCown – this will far exceed the term for notice of a public hearing if we continue this today until the first of August.

Steve Carter added they could re-post once the new hearing date is picked.

Point of order:

Chairman Martin called for the question to close the public hearing;

In favor: none Opposed: Houpt – aye; Martin – aye; McCown - aye

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A motion was made by Commissioner McCown and seconded by Commissioner Hought to continue this public hearing on the request to rezone 8.39 acres until the first meeting in August 6th at 1:15 p.m. Commissioner Hought asked if Larry was going to require new noticing. Commissioner McCown – no, we’re legal, it’s going to be continued. Commissioner Hought - suggested it would be good to do some kind of new notice. In favor: Hought – aye McCown – aye Martin - aye

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

MAY 21, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, May 21, 2007 with Chairman John Martin and Commissioners Tresie Hought and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

CROUCH PROPERTY – MISSOURI HEIGHTS - Adrienne Crouch – Cloud on Title

Louis Beutner – representing Adrienne Crouch up on Missouri Heights still. Three short items and I’ll be out of your hair. You think you are aware of what the questions are that I have and wish to ask, have you come to any conclusions as to the roads and such?

Chairman Martin – I do believe the petitions on the roads were being gathered; I haven’t had a report back from the legal department. I think that had been accomplished last week but I don’t have a report, my County Attorney is not present, so I don’t have a report on that right at the moment.

Louis Beutner – that leads to the second question I have – have you delegated anybody that I may contact so I won’t be coming down here bothering you each week.

Chairman Martin – yes, Fred Jarman at the Planning Department and Don DeFord of the legal department.

Louis Beutner – is there a preferred one that I should contact?

Chairman Martin – I would say Don DeFord – 945-9150.

Louis Beutner – okay now, the 3rd item – two weeks ago a letter to Adrienne Crouch was okayed for signing and sending. I believe that letter had something to do with the research that we were doing on the roads. For your information that letter has not been received yet.

Chairman Martin – all right. What’s the Board – I was gone two weeks ago.

Commissioner Hought – I don’t think we approved sending it because we had the discussion that changed the nature of the letter.

Commissioner McCown – it was not authorized.

Louis Beutner – okay. That’s the reason it hasn’t been received.

Chairman Martin – that’s probably because they were waiting for the research to be finished and I believe I was told it was finished Friday last week at least on two petition roads that you had questions on.

Louis Beutner – yes, those roads. If that is the letter that I’m talking about it is pertinent to the research in the whole area for locating things.

Chairman Martin – that was definitely discussed last week in reference to the section corner and the monument. So....

Commissioner Hought – and Don is not in town today, so if you do want to contact staff.

Louis Beutner – in my research I have researched a lot of material and it goes back into archiving such as the 1963 Statutes, the 1953 Statutes which both pertain to the particular section corner that we’re discussing.

Chairman Martin – we wish it were real simple but it isn’t – it’s very convoluted

Louis Beutner – I know it’s not simple and the longer it sits the harder it gets to correct.

Chairman Martin- absolutely.

MAINTENANCE - SECURITY AT COURTHOUSE - COMPLAINT

PROPERTY TAX INCREASE - COMPLAINT

Sharon Brenner – Prince Creek Road – came in to complain about the extreme security at the Courthouse. It is ridiculous. She had to take off her belt at the entrance and noticed there were about four (4) guards securing the entrance. Some had nothing to do but sit there. This is costing the County a lot of money. It is past time to time to move the courts. She understands the need for security for the courts with divorces, etc. but she doesn’t have reasonable access to her elected officials.

Sharon stated she was attempting to see the Assessor regarding her property valuation and blamed the increase in taxes to Governor’s Ritter’s property tax – it is illegal and has not been voted on by the residents of the state and people should know how much it’s going to go up through this back door method.

Chairman Martin – you’re talking about the mill levy freeze on school K – 12 in reference to the legislation. I do believe the Attorney General has ruled it was unconstitutional however it still needs to go forward.

Sharon – correct, and I think the County should let people know the percentage is that it will increase over what would be allowed under Tabor and Gallagher

Commissioner McCown – a pretty safe rule of thumb Sharon is how much your assessed valuation went up; it would just pertain to the school portion. If it went up 34% that’s how much your taxes would go up just on the school issues.

Sharon – people need to realize that hey, your taxes next year are not going to be the same next year, and they will go up that 34%.

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Chairman Martin – and 50 to 53% of all the ad valorem tax on your tax you receive is K-12. You can look at a healthy increase in property tax.

Commissioner McCown – worst than that – it doesn’t stay here.

Commissioner Houpt - it will hopefully help the state budget however,

Sharon – no, because it is going for the school

Commissioner Houpt – those monies we bring in locally will go to the school district and the school districts will then not receive as much from the state so it will help with the other state infrastructure issues and we have had this retching down of taxes over the past several years and we’ve gotten a break and I’m anticipating it’s not going to be as huge as people say it is.

Sharon Brenner – looking at the way my assessment went up this last year, I’m looking at probably 30% going up and the fact that the State Legislature couldn’t be bothered by a law for students not to be required to speak English to get a high school diploma, but yet we’re getting this 30% increase in our property taxes that will go to the schools. I have to wonder what is going on here because yes the state needs to deal with the roads but as far as I can see the school haven’t made good use of the funds that they have been getting.

Security Issues

Chairman Martin – Lou Vallario is present and we will talk about that – numerous individuals have called me.

Commissioner Houpt - it was a request from the courts and we do need to make sure people are safe.

Sharon – this has been going on for 4 – 5 years and its past time to be doing something about getting that out of there so everybody coming into the courthouse is not inconvenienced like this.

Commissioner Houpt – we have been looking at what it would take to build another building so that we don’t have to do that but the courts are growing, the county is growing and it just takes time. It is a huge inconvenience but they are trying to set up the system that is the least inconvenient as possible.

Sharon – they haven’t figured that one out yet. The drilling activity has been going on for 4 to 5 years and it is time to move the court system.

Lou – security has been in place 2 years now. As you recall when we discussed this, for historical purposes sheriff’s offices are statutorily responsible for the protection of court groups as we know and one of the options we discussed in securing the courthouse was relocating court rooms to minimize the impact. However that was a huge relocation expense and several other issues and it was cheaper and more efficient manpower wise to secure the entire building. I know you are concerned and receive concerns from the citizens but I can also tell you that those concerns generate less than 2% of all the people that go in and out of that building. The decision of the level of security is up to you. But I would also argue that it’s up to the people that inhabit that building and if the Assessor’s, District Attorney, Treasurer and other people that live in that building want that security, I think we have to consider that as well. At a state level we are seeing clearly increases in security all across the board. Recently there’s a whole division in the judicial branch that has completed a document on courthouse security and lays out several things that we are doing. As long as the sheriff is going to provide security we’re going to do it in a proper manner and as efficiently as we can.

Sharon – the courthouse has been through many remodels.

Chairman Martin – I think since it has been operating for 2 years, we need to evaluate how it is working and if there needs to be any improvement , etc. and take that input from all the folks that are there. The court room does drive that security. It is interesting that the State Capitol building is no longer under security – its wide open.

Sharon – you’re keeping citizens of this County from their lawful elected officials.

COUNTY MANAGER UPDATE – ED GREEN

FAIR BOARD MEMBERSHIP CHANGES – JESSE SMITH

Jesse Smith submitted the Resolution 2006-52 formally establishing the Garfield County Fair Board appointing 2006 members and adopting ByLaws that was approved May 8, 2007. The changes included: Two letters of resignation for the Board to accept. Replacements – Sandy Vallario has agreed to serve if the Board will make the appointment. Jesse did not have the name of the other individual at the present time. A motion was made by Commissioner McCown and seconded by Commissioner Houpt to accept two resignations and appoint Sandy Vallario to the Fair Board and Jesse to bring the second name to the Commissioners the first meeting in June – 2007

In favor: Houpt – aye McCown – aye Martin - aye

Fairboard Member Resolutions – Carolyn checked and the By Laws do reflect the same thing.

BUILDING AND PLANNING - RELEASE OF SECURITY TO DOLPHIN ENERGY – MIKE VANDERPOL

Mike Vanderpol submitted the Dolphin Energy Corporation release of security memorandum stating that satisfactory performance under the terms of our road use permit or overweight permit and the recommendation to release the “TDA” cash deposit of \$500,000.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to release the security of \$533,305.66

In favor: Houpt – aye McCown – aye Martin – aye

AIRPORT - SELECTION REPORT FOR AIRPORT ADMINISTRATION BUILDING – DALE HANCOCK

Dale submitted the background for the new Airport Administration Building stating a RFP was submitted and they received four (4) official proposals from Garner Assoc. & Gateway Construction, J. Dyer, White Construction, and CMC Group. The evaluation of proposals was completed by Dale, Brian Condie and Randy Withee using very specific criteria and a grading system. The four firms submitted responsive packages providing adequate competition and all four firms submitted cost proposals outside the stated budget range. There was a clear separation of the CMC proposal to the others and the recommendation to the Board is to authorize staff to proceed with price and scope negotiations with CMC.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize Staff to proceed with CMC Group in negotiations for the Airport Administrator.

In favor: Houpt – aye McCown – aye Martin - aye

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OIL AND GAS - REQUEST FOR EXECUTION OF 305/306 WAIVER LETTER – DEVER A WELL PAD – ANTERO RESOURCES

Carolyn submitted the request to execute the letter as a surface owner under the lands covered by the well pad and waive provisions of COGCC Rule 305 and Rule 306.

A motion was made by Commissioner McCown and seconded by Commissioner Hought to execute the 305/306 waiver letter.

In favor: Hought – aye McCown – aye Martin – aye

MAINTENANCE - APPROVAL FOR 3RD FLOOR COURTHOUSE BATHROOM REMODEL – RICHARD ALARY

Rich Alary and Tim Arnett were present.

The contractor's bids were submitted: Phil Vaughan - \$60,000 and John Groth \$49,995.

A motion was made by Commissioner McCown and seconded by Commissioner Hought to award the contract to Groth Construction in an amount not to exceed \$49,995.

In favor: Hought – aye McCown – aye Martin – aye

COUNTY SHERIFF – LOU VALLARIO

Lou Vallario, Principal Jeannie Humble and Scott Zelson, Dean of Students were present.

Lou submitted an organizational flow chart and a request for additional personnel for backfill and School Resource Officer for Coal Ridge High School.

School Resource Officer: This is for Coal Ridge High school and this position has been proposed but the funding was unavailable from the school district. They are ready to move forward and need an additional staff person to fill this position.

School District pays 70% – Sheriff pays for 30%. School District pays for the majority of expense.

Career Pathing: The 2008 Organizational Chart has been designed to give employees a path to follow for upward movement.

Jeannie Humblel – misses the security person and noticed it this year with more drivers on school grounds.

Next year grades 9–12 and enrollment of 375 students.

Scott added it is another level of education both during school and after school activities.

Commissioner Hought – supports this and says it shows a different face of law enforcement for the school children and youth. Supports the County being involved in this as well.

Lou – supports the need for reinvesting in these school security programs.

A motion was made by Commissioner Hought and seconded by Commissioner McCown to support an additional officer for the Resource Officer position at the Coal Ridge High School and leave it to the sheriff's discretion on how you negotiate the percentage of time that will be given to the school and to your department.

Chairman Martin – I'm sure we will have a little word about the percentage and negotiation.

Lou said there would be a contract and there's a lot of details to work out.

In favor: Hought – aye McCown – aye Martin – aye

Organization Chart – Sheriff's Office

There are 130 full and part time employees in the Sheriff's office and over time it has been determined that the need to establish a Professional Standards Division aka an internal affairs division.

Over hiring: Lou said he would like to propose over-hiring in next year's budget in order to cover the eligibility list for the next CLETA academy in August and have those candidates available much sooner in 2008 rather than wait until May ending up in the same shortage of staff situation. The salary budget should cover these two over-hire personnel.

Incident – citizens or jail regarding criminal behavior – any violation and any complaint is investigated. Some inconsistencies and delays that generate a lot of internal investigations. Lou would like to create a new position – one person – to focus on internal issues and also do a more thorough background check on people we hire which was another thing that was lacking. The average background check for law enforcement takes about 40 hours of somebody's time and as we hire people and even with our turnover that could be a full time position. A complete background check includes financial investigations, knocking on people's doors, talking to families, and finding out how everybody feels about the position and that in the long run will save us money and means less turnovers and have better employees.

Bill Middleton has been assigned to this and he's been doing a voice stress analysis but he is also responsible for criminal investigations. This will bring some upward movement as well. Investigations on personnel may not be reduced. If we set up Bill as the new professional Standards Investigator/commander then that will open up a sergeant position in investigations. Lou indicated this may involve some travel to do investigations. Chairman Martin – this drives the physical space and equipment – what does this do.

Lou – it has but we've negotiated with the DA's to borrow some of their storage space downstairs and put in a wall and created a make-shift office. Next year if we look at what I'm proposing adding a patrol commander we'll actually end up taking one of the larger offices upstairs where the IT person is currently located, splitting that into two offices.

Chairman Martin – asked about consideration for space allocation for Community Corrections moving out and remodeling of that area.

Lou – that will be used for jail functions and some space changes are being looked into – move the reclassification into that old area and freeing that up for more medical space and moving around some of the offices.

Chairman Martin mentioned the walkway the pathway underneath and the expansion of your administration going out to the east and going up a floor, actually two stories, that's what it was designed for, administration expansion.

Lou – this is a great idea and when he first became Sheriff he honestly wasn't aware of this but that would be excellent space and easy to transition.

Ed – recognizes the training aspect and this makes sense to over hire.

Lou – 3 patrol positions were open until they moved the detention personnel into CLETA.

Also FTE positions are not filled. 4 additional patrol positions approved in 2007. Two are non-productive being in CLETA and will not be on the patrol division until January 2008.

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Ed – vacancy issues and the budget is not a problem. When we budget we presume the new personnel will begin January 1 but they do not. Over hiring has never been a problem because of attrition.

Lou – has been involved and working on having career pathing in the Department with Phyllis Lundy – it would have requirements and criteria and training for advancement consisting of oral boards for supervisors. Outline the foundation similar to other jobs – what is needed to become a higher level – puts it on the employees – know what the organization expects from them.

He is working on getting a plan in place for advancement to Patrol 1 to Patrol 2 to Corporal and Patrol Sergeant etc. This is a plan for 2007 and what he is looking at in 2008. Attended some fabulous training – see the future and plan for today.

Commissioner McCown – the School Resource Officer will need to be trained and in the field in August 2007.

SHERIFF - BACKFILL POSITION – REQUEST FOR PATROL

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to authorize the new Professional Standards Commander.

In favor: Houpt – aye McCown – aye Martin – aye.

COUNTY ATTORNEY UPDATE – CAROLYN DAHLGREN

EXECUTIVE SESSION: LITIGATION UPDATE - LEGAL ADVICE

Items listed for Executive Session included: Two personnel issues – one in Human Resources and one in Community Corrections claims for legal action; need direction on contract negotiations for non-profits and legal clarification request for legal advice regarding the Sunshine Law. Expansion of contract negotiations. Carolyn – also, a legal issue in Human Services.

Lynn and Dale were requested to attend portions of the Ex Session.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

CONSENT AGENDA

- a. Approve Bills
- b. Changes to Prior Warrant Lists
- c. Authorize the Chairman to sign the Amended Final Plat of Lots 4 & 5, Ranch at the Roaring Fork, Filing No. 1. Applicant: Fritz and Vanessa Anthes – Fred Jarman
- d. Authorize the Chairman to sign the Resolution of Approval for a Text Amendment to Applicant: Garfield County – David Pesnichak
- e. Authorize the Chairman to sign the Resolution of approval for a Zone District Amendment for an approximately 77 acre parcel described as Parcel Number 2409-273-114 from Agricultural/Residential/Rural Density (ARRD) to Resource Lands (RL) – Gentle Slopes and Lower Valley Floor (GSLVF). Applicant: Frac Tech Services, LLC. David Pesnichak

Item c. is a plat map needs the applicant's signatures before recording.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a -e; carried.

HUMAN SERVICES COMMISSION:

HOUSING PRESENTATION/DISCUSSION

McCalia Johns – Salvation Army and 10 other agencies present. Here today to give the Board information and opinions about affordable housing and how it is affecting their clients. Their goal is to seek cooperation between counties, cities, agencies and the businesses. Work together to accomplish affordable housing. Glenwood Meadows failed; all of us didn't do enough. How can the agencies help the government? They would like to open up the discussion as to what they can give the Commissioners to help in the battle of affordable housing.

Chairman Martin – we've combined housing authorities, planning, approval of projects, those are the issues and growth need to takes place in the cities where there's infrastructure; we need to be partners and everyone needs to bite the bullet. A right of passage – growth is affecting – on the eastern slope there is an abundance of housing. A lot of folks can't afford to live here. It's a complex issue and not an easy one to solve.

McCalia – we need education for the public on some of these issues.

Commissioner Houpt – we need statistics and put together some stories. All types of housing – professional, temporary, workers – a broad range – counties haven't been involved in these discussions. It's not just the government's responsibility. School Districts coming in and saying we need to do something about this – have to have everybody at the table – put seed money in, umbrella of all housing authorities – need private sector involved also.

Chairman Martin recognizes that self-sufficiency has been left out of the picture, it shouldn't be an entitlement issues. That has left our community. Need to be self-sufficient and take on some hardship – someone is not going to take care of me. These are some questions that you need to ask yourselves. What are we going to do about housing – using the term we instead of us and you. We have to get outside funds beyond ad valorem taxes.

Commissioner Houpt – reiterated we have this meeting coming up and need to make it a productive meeting. People are working in Glenwood Spgs because that's where the jobs are; they are driving down valley to Parachute to live and the parents are unable to be part of the school experience. Family structure is deteriorating because there's not any time for family. This is not helping the towns they work in; also the cost of transportation. All of this to be considered.

Chairman Martin – in 1997 the County put in Affordable Housing requirements.

Commissioner Houpt – we need larger plans for affordability. Areas in the community that were sold as affordable housing are now far too expensive for teachers, nurses, law enforcement – a lot of commuting going on; she suggested to be reorganized and encourage those opportunities to go forward.

Chairman Martin - Government housing – by statutes we can't take taxpayers money to buy and build housing.

Martha Freydesdale, Jennie Lindsay and Sam Robinson also provided input into this discussion.

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Affordable Housing Meeting - May 24th at 7 pm – Glenwood Springs High School.

BOARD OF HUMAN SERVICES:

APPROVAL OF EBT/EFT DISBURSEMENTS FOR APRIL 2007

Lynn Renick presented the client and provider disbursements for the allocated programs including food assistance and Leap for a total for April of \$426,503.47. She requested the Board approve the expenditures and requested approval.

Commissioner Houpt so moved. Commissioner McCown seconded.

In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL – OUT OF HOME PLACEMENT CONTRACTS

Lynn submitted the following:

- 1) Client I.D. G092565 at Griffith Center for Children not to exceed amount of \$10866.03.
- 2) Client I.D. S498120 at Griffith Center for Children in the not to exceed amount of \$13,812.75.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the contracts for Client I.D. G092565 at Griffith Center for Children not to exceed amount of \$10866.03 and Client I.D. S498120 at Griffith Center for Children in the not to exceed amount of \$13,812.75.

In favor: Houpt – aye McCown – aye Martin - aye

COMMUNITY PREVENTION PARTNERS UPDATE – SHELLEY EVANS

Shelly Evans and Lynn Renick presented an update on the Strategic Plan that the Prevention Policy Board has approved. The State’s Alcohol and Drug Division has also provided Garfield County with an additional \$30,000 to expend on prevention planning in the current fiscal year.

Shelly gave a brief update and a power point.

SINGLE ENTRY POINT CONTRACT APPROVAL - AUTHORIZATION FOR SIGNATURE

Lynn submitted the SFY 08 Single Entry Point Contract Amendment for approval when the contract is received.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the contract that includes a new set of provisions from the Attorney General regarding HIPPA.

In favor: Houpt – aye McCown – aye Martin - aye

PROGRAM UPDATES

The Department is still finalizing a few Colorado Works policies with input from the Colorado Department of Human Services Colorado Works Division. These policies will be provided to the Board in June or July.

Garfield County foster family, Jill and Richard Roper, will be receiving Colorado’s Foster Parents of the year award. This will be presented on May 19th at the Colorado Department of Human Services Foster Care celebration in Littleton, Colorado.

A brief verbal update on the Garfield County HB1451/Collaborative Management meeting held on Friday, May 18th was given.

The Department will be mitigating for approximately \$100,000 Child Welfare funds. The Block grant net allocation totaled \$2,782.326 for state fiscal year 2007.

BOARD OF HEALTH

PUBLIC HEALTH -CDPHE PUBLIC HEALTH NURSING CONTRACT

Jim Rada filled in for Mary Meisner. This is a renewal contract goes from July 1, 2007 through June 30, 2008 for a contract price of \$77,764.00.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the general nursing contract with the state.

In favor: Houpt – aye McCown – aye Martin - aye

PUBLIC HEALTH - CDPHE TOBACCO PREVENTION CONTRACT

This task order is from July 1, 2007 through July June 30, 2010 for a total price not to exceed \$72,049.00.

Carolyn reviewed some of the provisions with Jim.

A motion was made by Commissioner Houpt and seconded by Commissioner Martin to approve the contract as presented.

In favor: Houpt – aye McCown – aye Martin - aye

PUBLIC HEALTH - CDPHE T. B. CONTRACT PROGRAM UPDATES

This contract is from July 1, 2004 and the State promises to pay \$2,000 to the Public Health to continue to provide tuberculosis prevention and control activities in Garfield County.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the amendment to the TB contract.

In favor: Houpt – aye McCown – aye Martin - aye

Good News – Storm Water Hearings – no recommendations for change. Permit for General extraction will be revised and the next review will be in five years. \$107,000 to support the quality management and will help define monitoring on oil and gas operations and emissions inventory. Jesse will be putting this on the consent agenda.

FAIR BOARD MEMBER – Housekeeping Item from earlier in the agenda – Jackie Murr

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to appoint Jackie Murr to the Fairboard.

In favor: Houpt – aye McCown – aye Martin - aye

PUBLIC MEETINGS

PROCLAMATION - GARFIELD COUNTY VOLUNTEER PROCLAMATION – CHERYL CAIN

A Proclamation was submitted recognizing volunteers as a part of our country’s tradition and recognizing RSVP volunteers in the highest esteem. June is Garfield County’s volunteer’s appreciation month.

An invitation for the June 2nd Banquet – noon to 2 pm at Hotel Colorado was given to the Board.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the signature of the Commissioners on the Proclamation of the Garfield County Volunteer Proclamation.

In favor: Houpt – aye McCown – aye Martin - aye

TRAILS AND TRANSPORTATION - CDOT UPDATE – WELDON ALLEN AND MARK ROGERS

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Doug Aden, David Eller, James Nall, Joe Elsen, Kandace Lukow, Del French, Tammie Smith, Weldon Allen, Dwight Burgess, Sean Yates and Mark Rogers with several other CDOT staff provided the Commissioners with an updated report on all the projects slated for this area.

Region 3 is the largest CDOT region consisting of 30,000 square miles and covering 14 counties and over 50 municipalities. Staffing levels are 485 full time employees. There are 659 bridges, 11 mountain passes, 7 tunnels, 11 rest areas and 5,822 lane miles of State Highway.

A review of the 2035 Plan was given stating the 2030 plan was adopted in January 2005 and the update is the 2035 plan. This is to go to the Transportation Commission for adoption in early 2008. The update is being done under a new federal authorization law called SAFETEA-LU (Safe, Accountable, Flexible, Efficient Transportation Equity Act: A legacy for Users). This will include environmental considerations, such as possible mitigation activities to protect natural or manmade resources, coordination of a public transit-human services plan in each TPR with the statewide transportation planning process and security of the system.

To have a 2035 plan ready for adoption certain specifics will need to have taken place. The upcoming 2035 plan milestones for 2007 include TRP meeting to discuss corridor vision, modifications, prioritization and implement strategies, regionally constrained plans, draft plan to TPR's for review, a statewide draft plan for public review, public meetings in each TRP to discuss joint TRP and statewide plan and to review the regional and statewide plans for consistency and SAFETEA-LU compliance.

A list of Intermountain TPR construction projects were reviewed including in this area the I-70 Glenwood Canyon Concrete pavement, the I-70 culvert repairs, the I-70 HLT ceiling slab repair and the rehab on the No Name Tunnel, the US 6 Rifle East project and State Highway 133 in Carbondale for reconstruction. In Pitkin County the State Highway 82 Maroon Creek bridge replacement, I-70 Edwards east for wildlife fence project, and US 24 Tennessee Pass.

Weldon mentioned the significant accomplishments over the past two years including the replacement of all of the modular joints throughout the Glenwood Canyon, a park and ride in Silt, weed spraying project to get noxious weeds under control, working with the Division of Wildlife building 4 elk ramps at Aspen Glen to try and reduce the road kill; fog detection and message signs at Canyon Creek and New Castle and chip seal between Rifle and West Rifle on Highway 6.

There is a TRP meeting in Meeker on June 29, 2007 and they encouraged the BOCC to stay involved.

BUILDING AND PLANNING - CONSIDER A REVIEW OF THE PROPOSED RESOLUTION AND MINUTES FOR THE SPECIAL USE PERMIT FOR EXTRACTION, PROCESSING AND STORAGE OF NATURAL RESOURCES – APPLICANT: GYPSUM RANCH, LLC - FRED JARMAN

Fred Jarman provided the Board with the Resolution and Minutes of this public hearing.

Tim Thulson and Bill Roberts and Sean Miller were present to clarify the position on this matter. They submitted a letter dated May 16th and had a meeting with Fred Jarman and after the meeting on Friday they realized they're not that far apart as far as we were interpreting the condition of approval at issue regarding hours of operation. Our position is outlined in Tim's letter. Specifically is that the proposed condition No. 21. When we first read the condition as presently drafted we interpreted that as limited gate opening at 7 am and our understanding and review of the minutes confirms in our mind that the 7 am start date was for the heavy operations referenced by Mr. McCown in his motion and that was the crushing and hauling of gravel. So what we need to clarify is what we mean by operation hours with the 7 am start. We were of the understanding that we'd be able to go on the site, queue up trucks, warm up trucks and do work preparatory beginning at 6 am for crushing, mining and hauling but those heavy operations would be limited from 7am to 6pm and again with a two hour period at the end for maintenance and office work, etc. Commissioner McCown put in his motion that between 6 p.m. to 8:00 p.m. bookkeeping, etc., the light activities and we've asked for clarification on that issue. And in discussing this with staff again, I believe there is a ramp up opportunity allowed from 6 to 7 but we would like to clarify this with the board.

Fred – that was our understanding from the discussion, and through Larry's motion was clear, page 15, of the minutes, all leading up in the motion there is discussion about what you can and can't do through the discussion but that's what we took away from this; the whole intent of the early hours starting at 7 a.m was specifically provided by things that are allowed, crushing, hauling and digging. That's what we took from it and if there's a change, we would like to know.

Commissioner McCown – that was certainly the intent of his motion; I anticipated that there may be someone from the company on site prior to 7 am and those folks may in fact be starting the diesel engine to allow for an adequate warm up period. They may be turning on the lights, bringing the scale out, whatever those ancillary things are but clearly I think if you read back through the motion, you will find that the major activities – the crushing, the loading the whatever starting at 7 am. You can certainly warm up a piece of equipment without moving it, it can set there and idle and bring the oil up to temperature so that at 7 o'clock when the whistle blows, you can go to work. Now when you start tracking those pieces of equipment on the surface in and around the area and causing a disturbance before 7 o'clock you're going to get calls. If you're down in the pit where nobody can hear then I don't think you're going to have a problem but that's got to be a judgment call, but that's what I anticipated. I anticipated a warm up period prior to being able to go to work at 7 a.m. that would allow folks on site to do whatever those things are and the full operations, the crushing, the hauling, the loading the trucks that you would let in the gate at 7 o'clock you could start loading and back out the gate – that was the intent of my motion.

Commissioner Hought – well and you know what the intent of my second was because I argued this issue and we negotiated a lot and I thought we'd gotten to 6 o'clock but I quietly celebrated when we go to 7 o'clock in the morning. My interpretation was different and I thought somehow Larry had actually gotten to 7 o'clock instead of 6 o'clock for a start up time and I will tell you that my concern with starting a diesel engine at 6 in the morning is completely dependent on where it's parked and what proximity to any of the homes nearby or which way the wind is shifting because we do get calls across the county with complaints about trucks being started up early in the morning and creating not only noise but air pollution issues for them as they're starting their day. So my interpretation was different so I don't know how or what we do about that. I really thought that Larry had said 7 to 6.

Commissioner McCown – I did say 7 to 6 for those operations of crushing, hauling, loading, whatever and 6 to 8 was going to allow the secretary to stay there and close out the days books and do whatever and I'm just

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thinking people will be there at 6:30 whatever, we're saying 6 o'clock, it doesn't have to be an hour to warm up an engine but it could be 6:30 or whatever and you would not be penalized because of that, that's what I anticipated. But again it doesn't matter if you start one at five to seven and you don't meet the noise requirements you're going to get busted. So whether it's 6:30 or 7:30 you still have to stay within the noise guidelines on this project.

Tim – absolutely.

Commissioner Houpt asked John how he interpreted it, because I could have just been far off on that.

Chairman Martin – I think it's up to me to make the compromise here and what it amounts to is if you place the equipment that going to make the loudest noise, the most intrusive into personal space, you stage it properly you're fine. I would not want to flip on the light that says I am open at 7 am and my employees are waiting outside the gate so that you can open it. I want an employee that's there that is safety oriented, that has everything checked out, I want scales in the right spot, I want everything working before 7 o'clock when I switch that on, so I was under the same impression, 6 o'clock is when you folks start showing up, or 6:30 whatever it's going to be Bill, however you're going to run that but you're not going to power up that crusher and you're not going to use those loaders with the beep up noise at 6 o'clock either, you're going to wait to 7 to do that, so your staging is most important and your consideration for your neighbors and whatever it's the other one. And you want to deal with the Sheriff, you want to deal with Mr. Rada in reference to pollution and all that kind of stuff, you'll have to deal with that – that's a different venue, get those folks there at 6 o'clock, flip the switch that says you're open at 7 a.m. but then I don't want to see 50 trucks lined up at 6:45 with their diesels running and what have outside there because that's another issue that we had at a different pit and that would cause a problem. So you need to stage that so they can get in and get going and your equipment's safe and operational, so that's where I'm at – same as Larry.

Bill Roberts – that's very reasonable and I know talking to Fred and throw another thing in this mix, we deal with this issue in the Carbondale pit, I cannot control the outside trucks that are coming here....

Chairman Martin – but we can – the sheriff can.

Bill Roberts - if they are stacked up out on the county roads, waiting to come in there, I guess that's hard.

Chairman Martin – but I think that once we get them trained, it's just like in Carbondale, they stop doing that because they knew they couldn't – the same way as up Cattle Creek, they can't line up there because it becomes a safety issue on the size of the road and the amount of the traffic. So we have remedies for that, but I just figured you would be a partner with us and stage it right so we don't have this problem.

Bill Roberts – absolutely.

Chairman Martin – and you're closed on Sundays.

Tim Thulson –we have been talking to our neighbors all along this time period, Valley Farms is the largest property holder, that's the Stillwater Ranch development and we have been discussing that with them and would introduce into the record a letter of support from Valley Farms agreeing to the hours of operation from 6 to 8 provided that heavy operations are limited from 7 am to 6 p.m..

Chairman Martin – as long as this is just clarification and not introducing new testimony, as long as they are saying they have no disagreement with our clarification.

Tim – I'm introducing it into today's meeting.

Chairman Martin – today's meeting for clarification, so noted. It doesn't go into the overall public record.

This is not an exhibit to the prior hearing. There is still a motion pending, we extended this till today for clarification, it was again a consent agenda item that was pulled.

Fred – no this was originally on your consent agenda asking you to render your authority to sign the Resolution and that's when it was continued.

A motion was made by Commissioner McCown and seconded by Commissioner that the chair be authorized to sign the resolution concerned with the approval of a special use permit application for extraction, processing, storage of material handling and natural resources for a property owned by Gypsum Ranch LLC.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER AN AMENDMENT TO CONTRACT FOR PROFESSIONAL SERVICES FOR MARK BEAN – FRED JARMAN

Mark Bean and Fred Jarman were present.

Fred Jarman presented the amendment of the professional services contract for Mark Bean stating there is a significant increase in land use applications requiring additional staff to review these and goes beyond the capacity of current staffing levels. The B & P is advertising for a full-time position but until the person is hired and trained there needs to be some relief to offset the current workload.

A Scope of Work regarding land use code and current planning was submitted that addressed the work involved.

Fred explained there is money in the budget.

Mark – looked at the workload and agrees with Fred.

Carolyn – sole source and professional services.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to amend the scope of service to extend to \$20,000 not to exceed.

In favor: Houpt – aye McCown – aye Martin - aye

TRAILS AND TRANSPORTATION - SOUTH CANYON TRAIL OPTIONS – JEFF NELSON AND LARRY DRAGON

Jeff Nelson and Larry Dragon presented.

Economic realities –we do not even come close to having the money for the full section.

As the Commissioners are likely aware, Garfield County and LoVA recently received a bid to construct a trail from West Glenwood Springs to the South Canyon Interchange. This bid, from Kiewit Corporation, came back at \$ 3,900,000. This amount is substantially higher than the original project costs estimated by LoVA, the construction estimates prepared by the project engineer Schmueser Gordon Meyer (SGM), and is substantially more money than is currently budgeted for the project. Currently, there is between \$2,000,000 and \$2,300,000 available for construction. This obviously leaves a substantial shortfall.

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Kiewit has conceptually agreed to a reduced trail project of 1 mile in length (starting in West Glenwood Springs and terminating at a wide area between the River and the Interstate). Kiewit will construct this reduced trail project for approximately \$2,600,000.

This memorandum is designed to give the Commissioners an outline of events pertaining to the trail project and to outline various options that LOVA believes are available to the project partners.

HISTORY OF PROJECT EVENTS

2004 estimates for phase 1 of the South Canyon Trail was approximately \$1,500,000, and was based on estimates made by 2 former CDOT engineers. The design would be a 2.3 mile, 10' wide, concrete path, located entirely within the CDOT ROW.

In early 2005, the selection process for professional engineering services began. Schmueser, Gordon, Meyer (SGM) was selected in December, 2005. At the time of their interview, they thought the cost estimates were low.

West Glenwood Sanitation District (WGSD) offered an easement to locate the east end of the trail on the south edge of their property, rather than just outside of the I-70 guard rail to the north of the WGSD property. This would result in a more aesthetically pleasing trail next to the river for about the first 1,000 feet.

However, the terrain proved to be significantly steeper than the original plans and would require significantly more and larger retaining walls. CDOT will not allow the trail to be placed in the Interstate right of way at this location because CDOT now has plans to double lane the exit ramp at I-70 exit 114. Therefore, the more expensive route on the WGSD property was required.

The easement donation process with WGSD began and took 6 months to complete. As some of this land was within the corporate boundaries of the City of Glenwood Springs and some within Garfield County, two easements had to be executed.

The original timeline developed by SGM put the date for construction bids to be awarded at October 2, 2006 (an optimal time frame to get contractors bidding on 2007 work and maximize our ability to get the most favorable bids during the off-season).

In April, 2006, FIR design (30%) was complete. The first engineered estimates were \$3,800,000 for construction. Value engineering began in earnest. The least expensive design option was chosen, which included scaling back to an 8' wide, asphalt path, which resulted in a revised estimate of \$2,600,000.

LoVa, Garfield County, and CDOT begin the process of developing a contract and a License Agreement (LA). The LA process could not begin until all of the environmental clearances were completed, some of which were CDOT's responsibility.

LoVa intensified fund-raising efforts with GOCO. GOCO responded that there were no additional funds were available, but that there was an understanding of the dramatically rising costs of construction, locally and state-wide, and that the contract could be amended as to scope of work.

LoVa continued to work to hold the coalition together and was successful in raising an additional \$500,000, \$250,000 from Glenwood Springs and \$250,000 from Garfield County. (The County contribution would come from their general fund, the first time that the County spent general funds for trails or recreational amenities.)

In May, 2006, LoVa is successful in being awarded \$182,000 from the State Trails program for this project, with \$153,000 coming from Land and Water Conservation Fund funds through the National Park Service. However, the competing requirements of 2 federal agencies (National Parks and Federal Highways) put this money in jeopardy. We are still working with State Trails to find a way to meet LWCF requirements and receive these needed funds. Though this problem has been stressful and time-consuming, it causes no delays to the project.

In October, 2006, FOR (90%) design estimates rise to \$2,900,000.

Garfield County works hard to iron out conflicts with CDOT over the language in the LA. Finally, in August, 2006, these conflicts are resolved, and the LA is circulated through CDOT's departments for comment. This process should have taken about 3-4 weeks, but took over 3 months. The next step was to have Federal Highways approve the LA. Again, this should have taken about 3-4 weeks, but took 3-4 months. Bids could not be solicited until a "Notice to Proceed" was received from CDOT. Due to these delays, this "Notice" wasn't received until March, 2007. At this time, we had lost the advantage of soliciting bids during the construction industry's off-season.

Bids were advertised immediately. One bid was received, from Kiewit, for \$3,900,000.

CDOT and local governments in western Colorado are all facing dramatically escalating costs for construction projects. Some of the causes for these dramatic increases include:

- Rising fuel costs
- Concrete shortages
- Hurricane Katrina
- Dramatic labor shortages and salary increases in Garfield County due in part to competition with oil and gas exploration and development.
- Local contractors shied away from bidding on this difficult and complicated project that required contractors to have special CDOT approval.

In addition to the South Canyon Trail project, below are a few other examples of construction projects plagued by the same difficulties caused by the local construction market:

- Garfield County recently bid a 10-mile road project north of DeBeque. It was estimated at about \$1 million per mile, \$9-10 million. One bid was received for \$25,000,000.
- Rifle has attempted to build a series of roundabouts at their I-70 interchange. Their initial estimate was \$2.5 million. The low bid was \$3.4 million. They reduced the scope of the project and re-bid it 6 months later. The lowest bid increased to \$3.6 million.
- SGM is involved in trail design in Eagle County. Actual bids have been 30-50% higher than estimated.

OPTIONS

- A. Build trail from West Glenwood to South Canyon Interchange. Accept Kiewit bid of \$3,900,000. This option would require an additional \$1,600,000 to \$1,900,000 in 15 to 30 days.

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- B. Seek an extension from GOCO of 1 year with expectation that the additional \$1,600,000 to \$1,900,000 could be raised and that construction costs would not further increase. GOCO may grant an extension in their discretion.
- C. Build approximately 1 mile of the trail project from West Glenwood. Accept Kiewit's latest offer for construction of about \$2,600,000. This option would require an additional \$300,000 to \$600,000 in 15 to 30 days. There may be a savings of \$50,000 to \$100,000 if we cut out the asphalt surface.
- D. Re-bid the project and relax bidding constraints (i.e. not require "prime" CDOT contractors).
- E. Build only the eastern end of the trail from Mitchell Creek to the west end of the WGSD property along the River. This would connect to the City's trail in West Glenwood via a bridge over Mitchell Creek, which the City has committed to building. This trail project would cost approximately \$800,000 and could be accomplished using non-GOCO monies already committed to the project from Garfield County, City of Glenwood Springs, and CDOT Enhancement Funds. The GOCO large scale project grant would need to be forfeited. This new project would have to be bid, but the completion date required for GOCO of December 31, 2007 could be relaxed.

Commissioner Houpt – any negotiation with Kiewit?

Jeff – they met the requirements.

Nick – We only had one bidder and that hurt us.

Dean Gordon with SGM and Casey Peters were present.

Larry Dragon stated that Option C is the option to keep the GoCo funds. He explained the conflict from the state trails funds.

Jeff – for clarification, we need \$600,000.

Commissioner Houpt – so this is in the works for so long and then its required negotiations.

A motion was made by Commissioner Houpt to that we commit up to \$600,000 to complete 1 mile of the trail as proposed in Letter C option so we can get this money in use. Chairman Martin seconded for discussion.

Discussion was held with varying opinions on trails.

Commissioner McCown voiced a concern for spending funds on trails over and beyond what was already designated for the LoVa Trail especially when affordable housing, transportation, and other social needs are prevalent in this area.

Commissioner Houpt supports trails and sees this as a link into other trail segments and wants the focus to go elsewhere until we finish this trail – don't forget it is a trail in progress.

Chairman Martin – this is the nature of trails and feels we need to have other partners; we're willing to contribute some but not all of it. This is his challenge to find another partner to help secure between \$300,000 and \$600,000.

In favor: Houpt – aye Opposed: McCown – aye Martin – aye

Chairman Martin said he would like to go forward with us contributing \$300,000 and to seek out another partner up to the \$600,000 contingent on that.

Commissioner Houpt – what if you came up with an amount that would be the \$600,000 minus the \$153,000.

Chairman Martin – no I'm saying I would contribute up to \$300,000 if we had a partner that would come up with the other \$300,000 or the amount that is needed to finish the project. This is well over \$1 million dollars that we don't have a direct source of funding for but if we're willing to commit it, those that are fully committed and have funds that are coming to it and saying that is it fully economic gains and what have you, what economic gains are there with the commercial aspect of South Canyon right now for Garfield County. That economic gain/economic development is within the borders of Glenwood Springs, New Castle, we need to have that partnership. This is an overall community project and it runs from border to border. We don't have direct funding but others do and if they have some money they are willing to throw ahead on this project then invest in this particular portion. If not then we've got to find another way to do it.

Commissioner Houpt – so you're putting \$300,000 on the table.

Chairman Martin – if we have a partner to match the rest to get it done.

Larry Dragon said they are in a real crunch right now. GoCo funds, the way it stands right now must be spent by December 31, 2007. We could ask for an extension but it doesn't mean we will get it and he doesn't recommend doing it. In addition the bid with Kiewit is up is around June 30. They are willing to talk to us and we could have another 30-days. State trails have funds allocated to this project but it has to be approved by the National Park Service.

Commissioner Houpt seconded. We also have a responsibility to help these guys.

Discussion:

Casey Peter, local coordinator for Region 3, CDOT, one thing that may be a possibility, the Enhancement Grant is coming up the next cycle which would be 2009-2010-2011 and we could possibly get some additional funding through that – the problem is you would have to put it out for re-advertisement.

Chairman Martin – this wouldn't help us out. This is the kind of thinking we need – those who have sources and ideas to come forward between now and before June 30 which is not too long away.

Commissioner McCown said folks, just stop and use a little common sense; \$2.6 million dollars for the world's longest bicycle cul-de-sac; 5,000 foot of bicycle turn around is not what you're looking for on this trail program. To me this is not money not well spent. I'm sorry that GoCo entangles it with these strings that drive you to do this project or not use their money at all, but this could have been applied to other sections of the trail that could have been developed and you could have developed 10 miles for what you're spending on this 1 mile of trail, but no we're so centrally focused on this east end of the trail and that's the only place that this money can be spent, we're throwing out the baby with the bath water and not having any trail. It's a shame that GoCo through their wisdom strangles you on these projects on where you can use this money because there are sections between Rifle, Silt and New Castle that that trail could have virtually almost been completed through there and people could have been using it. How do you get from Glenwood to there, I guess you load your bike, I don't know but at \$2.6 million for less than a mile, that cost more than highway costs. It's just not a good investment at this time.

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Larry – it’s not GoCo tying up this, we wrote the grant to GoCo for this project and through their competitive process with these grants they granted for this project.

Commissioner McCown – I just envisioned this LoVA trail being more than this section between Glenwood Springs and South Canyon.

Larry – it is absolutely – it’s just that we wrote the grant to get this first section where there’s no alternative route.

Commissioner McCown – in communications with GoCo have we asked them if they will consider funding another portion of the trail.

Larry – absolutely.

Commissioner McCown – that’s the strings I’m talking about. If we want the LoVA Trail, it’s the section between Glenwood Springs and South Canyon. That’s all they’re seeing, they’re not seeing the LoVA Trail, nor tying it to Mesa County.

Larry – we’ll have to write another grant for those monies.

In favor: Martin - aye Opposed: McCown Hought - aye

Commissioner Hought put a new motion that we support \$450,000 toward the trail get this contract moving and get this project started and realize this vision that LoVa’s had for the past several years.

Chairman Martin – second for discussion.

Chairman Martin – this still doesn’t get to my point of getting those others involved.

In favor – Hought – aye Opposed: McCown – aye Martin – aye.

Commissioner Hought asked John to restate his earlier motion for \$300,000 if we have a partner that would come up with the other \$300,000 or the amount that is needed to finish the project.

Chairman Martin so moved; Commissioner Hought seconded.

In favor – Hought aye Martin – aye Opposed: McCown - aye

AIRPORT - FIRST AMENDMENT, RIFLE AIR LLC. FBO AGREEMENT – DISCUSSION AND AUTHORITY FOR CHAIR TO EXECUTE WITH ADDITION OF SECTION C. 2.C. (-.5) – BRAIN CONDIE AND CAROLYN DAHLGREN

Carolyn Dahlgren, Justin Carver and Brian Condie presented the first amendment stating

This was approved and there are three substantive changes. Carolyn went over the changes.

A motion was made by Commissioner McCown and seconded by Commissioner Hought to approve with the changes noted by staff and the Chairman to execute this upon signatures from Rifle Air.

In favor: Hought – aye McCown – aye Martin – aye

PUBLIC HEARINGS:

ASSESSOR - ABATEMENT FOR NEW CASTLE HOUSING CORPORATION *07-139) AND RIFLE AIR LLC (07-170) – LISA WARDER

Removed by the Assessor.

PUBLIC HEARINGS:

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT EAST OF THE TOWN OF CARBONDALE ON OLD HIGHWAY 82.

APPLICANT: RANCHO TRIO – EL JEBEL, LLC – DAVID PESNICHAK

David Pesnichak, Carolyn Dahlgren and Michael Hassenbaugh were present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

David submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff Memorandum; Exhibit E - Application materials; Exhibit F – Memo from Bill Gavette of the Carbondale and Rural Fire Protection District dated 4-26-2007; Exhibit G – Memo from Jake Mall of the Garfield County Road and Bridge Department dated 4-3-2007; and Exhibit H – Email from Jena Skinner-Markowitz of the Eagle County Planning Department dated 5-14-2008.

Chairman Martin entered Exhibits A – H into the record.

DESCRIPTION OF THE PROPOSAL:

The applicant requests the Board of County Commissioners grant a Special Use Permit (SUP) for an Accessory Dwelling Unit (ADU) located on a 4.75 Acre parcel, described as 17527 Old Highway 82 and located east of the Town of Carbondale. The proposed ADU is to be converted from an existing 1480 square foot home. The Applicant requests approval to permit the existing 1480 square foot residential unit as an ADU in order to proceed to “design and construct a new primary residence, in addition to the ADU.” The existing driveway is off Old Highway 82 and will be used as access to the proposed ADU.

RECOMMENDATION

Staff recommends **APPROVAL**, with the following conditions:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
2. All lighting associated with the ADU shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
3. The applicant shall obtain any applicable Garfield County grading permits and Colorado Department of Transportation access permits.
4. The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended, and shall meet all building code requirements.
5. The gross floor area of the accessory dwelling unit shall not exceed 1,500 square feet.
6. The accessory dwelling unit shall not be conveyed as a separate interest but may be leased.
7. Prior to issuance of the building permit for the primary dwelling unit, the Applicant shall obtain a well permit with sufficient rights and quantity to provide for the new unit.
8. At the time of building permit for the primary dwelling unit, the Applicant shall obtain an ISDS permit from Garfield County capacity to provide for the new unit.

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A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown made a motion to approve the Special Use Permit request for an Accessory Dwelling Unit for a property located at 17527 Highway 82 with the conditions proposed by Staff with the conditions adding No. 9 – a noxious weed inventory and mitigation to be submitted to staff.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION TO CREATE A TOTAL OF 2 PARCELS ON COUNTY ROAD 151 IN SWEETWATER. APPLICANT: MARY JO JACOBS AND CHARLES VAN DEVANDER – DAVID PESNICHAK

David Pesnichak, Patty Jackson-Hood, Kelly Cave of Dan Kerst, P.C. representing the land owners and Carolyn Dahlgren were present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

David submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Subdivision Regulations of 1984 as amended; Exhibit E - Application materials; Exhibit F – Staff Memorandum; Exhibit G – Staff Presentation; and Exhibit H – Email from Dave Vroman of the Gypsum Fire Protection District dated 2-12-2007; Exhibit I – letter from Elcorder Circle Ranch dated 5-15-07; and Exhibit J – letter from Mark Scott Shelton received 5-21-2007.

Chairman Martin entered Exhibits A – J into the record.

DESCRIPTION OF THE PROPOSAL

The owners of the subject 36.98-acre property request approval from the Board of County Commissioners to split the tract into 2 parcels by way of the County’s Subdivision Exemption process. The proposed lots are contemplated as the following sizes:

Lot B-1 20.783 Acres

Lot B-2 16.196 Acres

Each new tract will have direct public access from County Road 151. Water to each lot will be provided by individual wells and wastewater is to be handled by Individual Sewage Disposal Systems (ISDS).

BACKGROUND & ELIGIBILITY

As of 1973, the subject 36.98-acre tract existed as a part of a larger 2,100 acre parcel. It is presumable that the original 2,100 acre parcel has been split to its maximum 4 parcels per Section 8:52(A) of the Garfield County Subdivision Regulations of 1984. The Applicant has represented that “the subject property is split by a public right-of-way, County Road 151, preventing joint use of the property. At the discretion of the Board, these parcels may not be considered to have been created by exemption with regard to the four (4) lots, parcel, interest or dwelling unit limitation otherwise applicable.” It is Staff’s opinion that the proposed exemption from the definition of subdivision application is eligible per Section 8:52(A) of the Garfield County Subdivision Regulations of 1984.

Staff finds that this application meets the acreage requirement spelled out in Section 8:52(A) of the Subdivision Regulations of 1984.

The Applicant is requesting a total of 2 lots from the existing 36.98 acre property. As noted in Section 8:52, *“any parcel to be divided by exemption that is split by a public right-of-way (State or Federal highway, County road or railroad), preventing joint use of the proposed tracts, and the division occurs along the public right-of-way, such parcels thereby created may, at the discretion of the Board, not be considered to have been created by exemption with regard to the four (4) lot, parcel, interest or dwelling unit limitation otherwise applicable.”*

The Applicant explains that:

Traffic on County Road 151 prevents joint use of the two (2) proposed parcels. The subject property is split by a public right-of-way, County Road 151, which is a primary access route to National Forest land and receives traffic from hunters, snowmobiles, etc. There is a guest ranch and motorcycle track above the property which has regular traffic to and from it. The motorcycle track is used by the owners’ sons who are very big in Dirt Track Racing circuit. They bring a lot of guests, and trainers on the road, and they haul large trailers full of dirt bikes. The road is showing wear and tear from the increased traffic in the first two years.

New development or proposed development in the area include the Wind Dance subdivision, possible expansion of Sweetwater Resort, and 7-W Ranch has just completed a Lodge Renovation to accommodate large group activities such as weddings, etc. All of these projects will further increase traffic on the public right-of-way.

In addition, the topography of the property prevents joint use since the land on the north side of the road is mostly flat with little vegetation while the land on the south side is steep and covered with trees.

Staff finds that the proposed Lot B-1 and Lot B-2 are currently both vacant. As both Lot B-1 and B-2 are vacant, there is no evidence that these proposed parcels have been used jointly in the past. Per Section 8:52(A) of the Subdivision Regulations, it is up to the Board of County Commissioners to make the determination as to whether County Road 151 prevents joint use of these parcels. It is Staff’s opinion that although County Road 151 splits the property, it is not obvious that the County road has historically prevented joint use nor has an attempt been made to use the full 36.98 acre property jointly. For practical purposes, however, it appears that the road prevents joint use of the parcel under the proposed residential scenario.

Legal Access

Both lots being created front directly on County Road 151 and as such have access to a public right-of-way. This requirement has been met.

STAFF RECOMMENDATION

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If the board finds that County Road 151 prevents joint use of the subject 36.98 acre parcel, Staff recommends the Board approve the request for an Exemption from the Definition of Subdivision for Mary Jo Jacobs and Charles Van Devander as joint tenants finding the proposal does meet the requirements of Section 8:00 of the County's Subdivision Regulations of 1984, as amended. Should the Board approve the request for an Exemption, Staff suggests the following conditions of approval.

5. That all representations made by the Applicant in a public hearing before the Board of County Commissioners shall be considered conditions of approval unless otherwise amended or changed by the Board.
6. The Applicant shall include the following text as plat notes on the final exemption plat:
 - a. *"Control of noxious weeds is the responsibility of the property owner."*
 - b. *"One (1) dog will be allowed for each residential unit within a subdivision exemption and the dog shall be required to be confined within the owner's property boundaries."*
 - c. *"No open hearth solid-fuel fireplaces will be allowed anywhere within an exemption. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. seq., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances".*
 - d. *"All exterior lighting shall be the minimum amount necessary and that all exterior lighting be directed inward and downward, towards the interior of the subdivision exemption, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries".*
 - e. *"Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. Those with an urban sensitivity may perceive such activities, sights, sounds and smells only as inconvenience, eyesore, noise and odor. However, State law and County policy provide that ranching, farming or other agricultural activities and operations within Garfield County shall not be considered to be nuisances so long as operated in conformance with the law and in a non-negligent manner. Therefore, all must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.*
 - f. *"All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County."*
 - g. *"All new foundations and septic systems shall be designed by a professional engineer licensed to practice in Colorado.*
 - h. *"No further divisions by exemption from the rules of subdivision will be permitted."*
7. Because Lots B-1 and B-2 are proposed to share a well for their domestic water supply, the Applicant shall execute a well sharing agreement in order to manage the shared components of the shared water system as well as the water rights which include the ownership of the well. This agreement shall determine how physical elements and associated rights of the shared water system (well, water lines, easements, maintenance and repair obligations) are to be owned and managed for each future owner of Lots B-1 and B-2. This document shall be provided to the County for review as part of the final exemption plat submittal.
8. All construction shall require compliance with NFPA 1144 Standard for Protection of Life and Property from Wildfire recommendations.
9. Prior to signing of a plat, all physical water supplies shall demonstrate the following:
 - A. That a four (4) hour pump test be performed on the well to be used;
 - B. A well completion report demonstrating the depth of the well, the characteristics of the aquifer and the static water level;
 - C. The results of the four (4) hour pump test indicating the pumping rate in gallons per minute and information showing drawdown and recharge;
 - D. A written opinion of the person conducting the well test that this well should be adequate to supply water to the number of proposed lots;
 - E. An assumption of an average of no less than 3.5 people per dwelling unit, using 100 gallons of water per person, per day;
 - F. The water quality be tested by an independent testing laboratory and meet State guidelines concerning bacteria and nitrates.

Commissioner Houpt – a question is whether the road prohibits the joint use of the property – asked David to elaborate.

David - Section 8 of the Subdivision Regulations was referenced. The traffic explanation was referenced of the Sweetwater Ranch.

Applicant:

Kelly Cave – David summarized most of it and I haven't been up there personally and brought Ms. Hood here, she lives up there now and we actually have several people in the audience who live up there. Another issue, David mentioned everything that we had in our testimony or what we submitted but the topography is another issue – it's flat on the north side and steeper on the south side and you can tell from the trees that there's a difference in vegetation.

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Patti Jackson-Hood– I lived on 151 for 2 years and moved about 5 months ago and during that 2 year period I have watched the increase in traffic specifically because of several issues – Windance Ranch has been subdivided and will be selling off, you may be aware of Windance – a fairly large parcel of land that has been subdivision that creates a lot of lookers for property in the area. Sweetwater Resort has been sold to some very large developers who will begin that process and I know there’s a lot of things on the table with what they’re going to do. Additionally 7W Ranch has finished a large lodge renovation to accommodate large weddings, family reunions, things of that nature. I walk that road and did so for 2 years and you can see the wear and tear of the additional traffic. I’ve noticed that because I live at the very bottom of the road; walk up to the 2 mile mark which is just above where this particular piece of property sets. It is certainly used a lot and we did trash clean up Saturday.

Jerry Simrod – I live at the very end of Sweetwater Road, the Lake Resort so I’m not on this particular road, however I have had quite a bit of experience on this road.

Chairman Martin – you’re talking 151 road and you live on 150.

Jerry - when Patti Jackson and Alan Hood lived at the bottom of that road, we spent a lot of time socializing, sitting out on the front patio and have seen with our own eyes a great deal of traffic going back and forth, we’ve seen snowmobile traffic in the wintertime and we’ve also seen a great deal of kids sledding on that road in the wintertime. It is a very favorite place for a lot of the kids and the adults in the Sweetwater community to go up there past where their property is and sled all the way back down to close to the junction of Sweetwater Road which is CR 150. As a neighbor and a member of the Sweetwater community we’re totally in support of this resolution.

Susan Simrod – Jerry’s wife, we live at the end of Sweetwater road, I want to say in additional to it our property is divided with the County Road going right through it and it does impact what we do on a daily basis because there’s horse back riders and ATV riders and everybody else that’s constantly going through our property and it does have a big impact so I think with the road splitting it and having the property split is a good thing by the CR 151 – big impact.

Hope Kapsner - our property actually borders the property that they want to subdivide. I wouldn’t want my kids to walk alone on that road – that’s for sure.

Chairman Martin – we shouldn’t have improved it that much then.

Hope – I’m against all improvement of roads on Sweetwater for that reason. There’s not only the 7W but there’s also a fair amount of second homeowners up there and it gets a lot of traffic even in the wintertime I’m surprised when we sled we meet people at the bottom stopping cars. If it’s a question of how much traffic that road gets, it’s a lot. I just want to say we’re all for this and we usually aren’t all for this kind of stuff but you have two people here who want to be part of our community who have been part of our community who have this opportunity to buy a piece of property and live there and be involved in it and that’s a really special and wonderful thing and I think we need to make that happen. That is very important.

Kelly Cave – the only issue to bring up is the well sharing, David and I went around on this one and right now we have one well permit on the property and we do have a proposed well sharing agreement and the reason we’re going to go with that path is so they can have a little bit of irrigation water on each of the properties but we’d like to leave it open and not require it that they have to do that avenue, the other avenue would be to apply for their own well on their own property – the proposed future owners so we’d like it to be an either or situation. Right now we’re going down the road of well sharing agreement but at some time in the future they future owner of the north lot may want to do their own well and in that instance we wouldn’t need a well sharing agreement.

Commissioner McCown – Kelly, do you see a reason if you move forward with the well sharing agreement and later another well was drilled that it would impede that well sharing agreement at all – it would just go away wouldn’t it.

Kelly – they could agree not to do it, I just want to leave the option open for the future owner to go and do that and not have any impediments. I think they could get rid of it.

Chairman Martin – and the cost of boring underneath that roadway.

Kelly – that’s the other issue absolutely.

Chairman Martin – I don’t think we’re going to let you cut a big trench across there.

Kelly – I talked to Road and Bridge and we could go through that process but it is an option.

Carolyn – I think a well sharing declaration would go away if it wasn’t needed but it’s also possible to write in a paragraph that says and if.... Then this agreement goes away and everybody’s protected.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing;

In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner to approve the exemption from a subdivision by granting the two parcels because of the road splitting the property with the 5 conditions shown by staff leaving in the one about the well sharing agreement and noting in the record the applicant’s attorney statement should a second well be drilled there would not be a need for the well sharing agreement.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR AN INDUSTRIAL SUPPORT FACILITY WHICH WOULD INCLUDE MATERIAL HANDLING AND PUMPING FACILITIES LOCATED ON COUNTY ROAD 215 NORTH OF THE TOWN OF PARACHUTE AND WITHIN THE NORTH PARACHUTE RANCH. APPLICANT: ENCANA – DAVID PESNICHAK

David Pesnichak, Chris Nelson, Brad Ackerman, Tom Vondette and Carolyn Dahlgren were present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

David submitted the following exhibits: Exhibit A –Proof of Publication; Exhibit B – Mail Receipts; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Special Use Permit Application; Exhibit E – Letter from the Town of Parachute dated 4-16-2007;Exhibit F –Resolution No. 2005-85; Exhibit G – Email from Mark Kadnuck of Colorado Department of Public Health and Environment dated 4-12-2007;

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Exhibit H – Staff Memorandum; and Exhibit I – Email of Steve Anthony of Garfield County Vegetation Management dated 5-1-2007 and Exhibit J - staff presentation.
Chairman Martin entered Exhibits A – J into the record.

DESCRIPTION OF THE PROPOSAL

The Building and Planning Department received a Special Use Permit (SUP) application for “Processing and Material Handling of Natural Resource” for expansion of an existing natural gas compressor station on a 27,000-acre property owned by Encana Oil & Gas USA, Inc. The site is located at the end of County Road 215, approximately 10 miles north of Parachute and is also formerly known as the old UNOCAL property where oil shale processing once occurred. The location of the 9-acre compressor facility is just beyond the private gate at the end of CR 215.

More specifically, the Applicant requests approval from the Board for expansion of an existing natural gas compressor station. This compressor station currently serves as a collector point where gathered natural gas is sent for dehydration and compression of gas collected in the North Parachute Ranch. The request is to expand the existing facility by adding four electric-driven compressors (three electric compressors and six natural gas compressors currently exist on the site), one slug catcher, one JTZ skid (liquids condenser and separator) and removal of one natural gas compressor.

BACKGROUND

The current facility is permitted under Resolution 2005-85 (See Exhibit F). This Resolution identifies the compressor station facility to be a 3-acre tract. The Applicant is requesting that the permitted facility area be increased to 9-acres in order to bring the current facilities into conformance. It is the Applicant’s opinion that the 3-acre identification was an error within the approved Resolution 2005-85. The requested expansion is not expected to increase the impact area beyond the 9-acres currently impacted.

Referral to Planning Commission

In light of the above, Staff brought the application to your attention so that you could determine if a referral to the Planning Commission was necessary. The BOCC did not refer the application to the Planning Commission due to 1) the limited nature of potential impacts to surrounding properties, 2) the remote location of the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic, 3) the fact that the site itself will be situated in an industrial area already characterized by intense industrial activity from the oil shale exploration / gas processing activities, and 4) the site has previously been permitted for use as a compressor facility and the area of impact will not increase above the current 9-acres.

SITE DESCRIPTION

The proposed site where the Compressor is located is situated on flat river basin land that is situated at the general confluence of the West, East, and Middle Forks of Parachute Creek. The Compressor is located on approximately 9 acres of the total 27,000 acre parcel owned by EnCana. The area where the Compressors are located is surrounded by steep slopes and canyons forming the general confluence of the three creeks. Much of the area near the Compressor has been denuded by the former oil shale operations and continues to be a location which contains staging areas for heavy machinery, large water hauling trucks, drilling rigs, and pipes associated with natural gas exploration. Dense mature riparian vegetation exists along the creeks as they pass through the area.

The subject property is zoned Resource Lands (Gentle Slopes and Lower Valley Floor). The type of use requested falls under the definition of “Processing and Material Handling of Natural Resources” which are contemplated as special uses in the Resource Lands (Gentle Slopes and Lower Valley Floor) zone district.

The property is also now known as the North Parachute Ranch which was the area where a majority of the oil shale exploration and development occurred. The compressors are currently located on approximately 9 acres of a 27,000 acre property which is surrounded by properties also owned and utilized by the energy industry such as Chevron, Exxon/Mobile, Williams Production RMT, American Soda, etc. Neighboring uses on those lands include rangeland grazing, farming, and resource extraction (natural gas drilling).

Proposed Conditions

The compressor station is described as an unmanned facility. The traffic impact section of the application, states that “no full-time employees are located on-site. The compressors are monitored remotely from EnCana’s Parachute office.” For this reason, no water or sanitation services are necessary for the proposed facility.

The application states that the Compressor, once constructed, is expected to generate an average of 6-12 automobile trips and 1-2 tractor trailer trips per day into and out of the facility. Most of this truck travel will be coming from and going back to drilling sites on the North Parachute Ranch property on private roads constructed by the industry or from Parachute on CR 215.

The road to the Compressor site is an existing road that meets the County’s standards and the County does not foresee a major increase in traffic flow after the construction period and the Compressor is online. No improvements to CR 215 are necessary as a result of this Compressor expansion.

The property is located in an extremely secluded portion of the property which is practically screened by adjacent steep topography and is located approximately 3 miles from the nearest residence. It cannot be seen from CR 215. As noted earlier, the proposed use will have relatively limited impact to surrounding properties. It is situated in a remote private location on the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic. Further, the site itself is situated in an industrial area already characterized by intense industrial activity from the oil shale exploration / processing activities. No screening is necessary as it is already screened by steep topography. While no lighting is proposed, any future lighting shall be directed inward and downward. The Applicant plans to paint all the equipment beige in order to better blend in with the surrounding environment.

The facility site has been designed to insure protection of ground water and nearby streams through the development and implementation of a Storm Water Management Plan specific to the area which is contained at the rear of the application. Staff notes that while this plan is specific to the Compressor site, Encana has also submitted a larger Storm Water Management Plan for the general area. Further, containment facilities are designed into the facility for any hazardous material stored or used during operations.

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Compressors produce considerable volumes of noise and vibration but whose acceptable levels are regulated by the Colorado Revised Statutes. The site currently has three electric compressors which are housed and seven natural gas compressors which are not housed. The Applicant is proposing to expand the housing facility for the electric compressors from its current 64' X 57' 8" to 165' 4" X 57' 8". This increased housing space will allow for a total build out of seven electric compressors and reduce the number of natural gas compressors to six.

The Applicant has supplied a noise study conducted by HFP Acoustical Consultants, Inc. The study has concluded that the sound levels generated by the compressor station are and will be in conformance with the state guidelines.

Noise generated will have very little impact on adjacent properties since the compressor is located in a canyon-like area that will prevent any sound from traveling as well as being located well within the boundaries of the subject property far from adjacent properties. In any event, EnCana shall adhere to the noise standards specified by the Colorado Revised Statutes and the Colorado Oil and Gas Conservation Commission rules. Given the remote location of the new facility, Staff agrees that noise will not be a nuisance to area residents.

The site is located within winter rangeland for mule deer, elk, and turkey as identified on the Division of Wildlife's wildlife distribution maps. The 9-acre site is currently disturbed and provides little habitat for wildlife or vegetation. The Applicant has fenced the entire site to minimize conflicts with wildlife.

As noted earlier, the compressor facility, once fully operational, is expected to generate 7-14 vehicle trips per day into and out of the facility because most of the monitoring of the Compressor's performance will be done remotely. Also as mentioned above, most of this truck travel will be coming from Parachute on CR 215 which is capable of handling the additional trips.

The road to the new compressor site is an existing road that meets the County's standards and does not foresee a major increase in traffic flow after the construction period and the additional compressors are online. No improvements to CR 215 are necessary as a result of this compressor station.

The operations at the facility will not involve any abutting property. The proposed facility will not encroach upon existing setbacks or reduce current separation distances to abutting properties. Staff agrees that the existing facility is located well within required setbacks and is sufficiently separated from adjacent properties in all directions.

The application includes a reclamation plan that would govern treatment of the site once the useful life of the facility (20+ years) has expired which includes:

- 1) Removal of all surface equipment;
- 2) Restoration and re-contouring of grade to approximate original conditions;
- 3) Replacement of stockpiled topsoil; and
- 4) Compliance with all prevailing Colorado Oil and Gas Conservation Commission and Garfield County regulations governing final reclamation.

The Applicant has provided the Garfield County Treasurers Office with a Permit Bond for \$36,000 (\$4,000 per acre). The Garfield County Vegetation Manager has determined this amount to be sufficient (see Exhibit I). The security shall be held by Garfield County until vegetation has been successfully reestablished according to the Reclamation Standards in the Garfield County Weed Management Plan. It is the responsibility of the Applicant to contact the County, upon successful revegetation establishment, to request an inspection for bond release consideration.

In the past, the Board has required, as a condition of approval that *"A sufficient monetary security, determined by the Board of County Commissioners, to ensure rehabilitation of the site once operation has ceased shall be provided by the Applicant."*

The Applicant has provided the Garfield County Treasurers Office with a Permit Bond for \$36,000 (\$4,000 per acre). The Garfield County Vegetation Manager has determined this amount to be sufficient (see Exhibit I). The security shall be held by Garfield County until vegetation has been successfully reestablished according to the Reclamation Standards in the Garfield County Weed Management Plan. It is the responsibility of the Applicant to contact the County, upon successful revegetation establishment, to request an inspection for bond release consideration.

Should the Board approve the request for the Compressor Station, Staff suggests the industrial performance standards be considered conditions of approval as they are specifically intended to ensure that any industrial use such as the proposed Compressor function in accordance with the proper best management practices and within the parameters of the State Statutes.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) the remote location of the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic, 3) and the fact that the site itself will be situated in an industrial area already characterized by intense industrial activity from the oil shale exploration / processing activities, 4) the proposed expansion is to an existing compressor facility, Staff recommends the Board approve the request for a Special Use Permit for Processing and Material Handling of Natural Resources for a Compressor on the North Parachute Ranch with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. That the Applicant shall comply with the fire protection provisions included in the rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC) and the International Fire Code as the Code pertains to the operation of this facility.
4. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.
5. Vibration generated: the Compressor shall be so operated that the ground vibration inherently

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- and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
6. Emissions of smoke and particulate matter: the Compressor shall be so operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
 7. Emission of heat, glare, radiation and fumes: the Compressor shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
 8. Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size.
 9. Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
 10. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.
 11. That all proper building permits are obtained for the structures associated with the operation of the Compressor prior to the issuance of a Special Use Permit.

Applicant:

This is expanding the facility as presented.

Commissioner Houpt noted that Parachute has a concern of traffic impacts.

Brad Ackerman – the only additional traffic is during the construction – same level of traffic after the facility is expanded. These are electrical units.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing:

In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown made a motion to approve a Special Use Permit for a Natural Gas Compressor Station for Encana Oil and Gas USA, Inc with the 11 conditions provided by Staff. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER APPROVAL OF AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION. APPLICANT: UPPER DIVIDE, LLC. – CRAIG RICHARDSON

Craig Richardson, Scott Gross, John Martin, Carolyn Dahlgren and William Rice were present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. Carolyn raised the concern that the public notice was taken down this morning and it should have been up during the hearing. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Craig submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E - Garfield County Comprehensive Plan of 2000; Exhibit F - Application materials; Exhibit G – Staff Memorandum; Exhibit H – Email from the County Road and Bridge Department dated 4-3-2007; and Exhibit I – Email from Jim Rada, Environmental Health Manager, Garfield County. Exhibit J – Power point.

Chairman Martin entered Exhibits A – J into the record.

PROPOSAL

The Applicant, Upper Divide, LLC is requesting approval from the Board of County Commissioners (the Board) for an Exemption from the Definition of Subdivision (Exemption). If approved, the Exemption will create four lots from a 45.442 acre parcel.

In order to determine the property’s eligibility to qualify for an exemption, the Applicant commissioned Land Title Guarantee Company to review Garfield County Clerk and Recorder records. The subject parcel was created on September 11th, 1991 from a contiguous parcel that existed in its configuration on this date prior to January 1st, 1973. The remainder of the contiguous parcel has not created additional exemption lots. The subject parcel is eligible for three (3) additional exempted lots. The subject parcel is divided by County Road 313 (East Divide Creek) right-of-way. The application includes a request to allow one (1) additional lot due to this split. The request is consistent with the Exemption for the Definition of Subdivision requirement identified in §8:52 of the Subdivision Regulations.

The application proposes to provide domestic water to Lots 1-3 from an existing well. A copy of the well permit issued by the State of Colorado Division of Water Resources (Permit No. 272647) allows for the use of ground water inside three single family dwellings, the irrigation of one acre and the watering of domestic animals.

The Applicant is in the process of obtaining an exempted well from Colorado Division of Water Resources. In the application it is represented that the proposed Lot 4 will be served by water rights from Peterson Spring No. 2 and 3 (The Applicant owns 50% of the water rights for these wells). The current rights to this spring only allow for watering of livestock. Utilization of the proposed well will require a separate well sharing agreement with the owner/s of the remaining Peterson Spring No. 2 and 3 water rights.

A pump test demonstrating the ability of the existing and proposed wells to provide an adequate supply of water has not been provided by the Applicant. A water quality analysis demonstrating that the water is satisfactory by the State’s guidelines for Nitrates and Bacteria for the two wells is also needed. Staff recommends the Board require that a pump test and water quality analysis be conducted for both wells before authorizing the Chairman of the Board to sign the final exemption plat.

Garfield County Attorney’s office will need to review and approve all Well Sharing Agreement declarations.

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The subject property is located within the Agricultural/Residential/Rural Density (ARRD) Zone District. As required by § 8.52 of the Subdivision Regulations of Garfield County of 1984, the Applicant's proposal as represented conforms to all County zoning requirements.

The four proposed lots will have fee-simple access to County Road 237 (Harvey Gap Road). Garfield County Road and Bridge Department provided the following comments:

- A 30-foot easement from the center line of the existing road surface the entire length of the property bordering CR. 313 (East Divide) shall be deeded to Garfield County for future road improvements;
- All existing fences encumbering the new ROW shall be moved back to the new ROW at the owner's expense prior to issuing driveway access permits;
- Any structures encumbering the new ROW will need to have an encroachment agreement with Garfield County or be moved back inside the new ROW line;
- Property owners will be required to have an onsite visit to determine location of driveway access/s;
- Driveway access permits will be issued by Garfield County Road and Bridge Department with conditions specific to the driveway locations;

The Applicant proposes that wastewater will be managed on each parcel by Individual Sewage Disposal Systems (ISDS). As the parcels are improved with residences each property owner will be responsible for installing their own ISDS.

Staff referred the application to the Garfield County Environmental Health Department for review. The Department indicated that the provided soils information and lot sizes indicate that the utilization of ISDS is appropriate for this site although engineered systems may be required. Staff generally recommends that all foundations and septic systems be engineered by an engineer licensed to practice in the State of Colorado. Placement of ISDS shall also consider ISDS setbacks for wells, springs and irrigation ditches. Should the Board approve the Exemption; Staff suggests the following plat note be placed on the plat:

The subject property is located within the Burning Mountain Fire Protection District (the District). The District has reviewed the proposal providing no specific conditions.

All existing and proposed easements shall be conveyed in a manner acceptable to the County Attorney's Office.

The Applicant owns title to 100% of all mineral interests.

STAFF RECOMMENDATION

Staff finds, the proposed Exemption complies with §8:00 of Garfield County Subdivision Regulations of 1984, as amended and recommends the Board of County Commissioners approve the request for an Exemption from the Definition of Subdivision for parcel number 239924300098, with the following conditions of approval.

1. That all representations made by the Applicant in a public hearing before the Board of County Commissioners shall be considered conditions of approval unless otherwise amended or changed by the Board.
2. The Applicant shall include the following text as plat notes on the final exemption plat:
 - a. *Control of noxious weeds is the responsibility of the property owner.*
 - b. *One (1) dog will be allowed for each residential unit within a subdivision exemption and the dog shall be required to be confined within the owner's property boundaries.*
 - c. *No open hearth solid-fuel fireplaces will be allowed anywhere within an exemption. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. seq., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.*
 - d. *All exterior lighting shall be the minimum amount necessary and that all exterior lighting be directed inward and downward, towards the interior of the subdivision exemption, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.*
 - e. *Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. Those with an urban sensitivity may perceive such activities, sights, sounds and smells only as inconvenience, eyesore, noise and odor. However, State law and County policy provide that ranching, farming or other agricultural activities and operations within Garfield County shall not be considered to be nuisances so long as operated in conformance with the law and in a non-negligent manner. Therefore, all must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.*
 - f. *All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source*

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for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.

- g. All new septic systems and residential foundations shall be designed by a professional engineer licensed to practice in Colorado.*
- h. Addresses are to be posted where the driveway intersects the County road. If a shared driveway is used, the address for each home should be posted to clearly identify each address. Letters are to be a minimum of 4 inches in height, ½ inch in width and contrast with background color.*
- i. Driveways should be constructed to accommodate the weights and turning radius of emergency apparatus in adverse weather condition.*
- j. Combustible materials should be thinned from around structures so as to provide a defensible space in the event of a wild land fire; and*
- k. "The mineral rights associated with this property (also known as Parcels 1, 2, 3, and 4 of the Upper Divide Subdivision Exemption) will not be transferred with the surface estate therefore allowing the potential for natural resource extraction on the property by the mineral estate owner(s) or lessee(s)."*
- 3. Prior to the signing of the plat the Applicant shall provide the following:
 - a) The water quality analysis conducted by an approved testing laboratory demonstrating both well meet State guidelines concerning bacteria and nitrates;
 - b) A water sharing agreement approved by Garfield County Attorney's Office for both the existing and proposed well to be filed with the exemption plat that defines the rights of the property owners to water from the;
 - 4. The property is located in the RE-2 School District. As such, the Applicant shall be required to pay \$200 each for Parcels 1, 2, 3 and 4. This fee shall be paid at the time of final plat.
 - 5. All Parcels are subject to the following Garfield County Road and Bridge Department requirements:
 - o A 30-foot easement from the center line of the existing road surface the entire length of the property bordering CR. 313 (East Divide) shall be deeded to Garfield County for future road improvements;
 - o All existing fences encumbering the new ROW shall be moved back to the new ROW at the owner's expense prior to issuing driveway access permits;
 - o Any structures encumbering the new ROW will need to have an encroachment agreement with Garfield County or be moved back inside the new ROW line;
 - o Property owners will be required to have an onsite visit to determine location of driveway access/s;
 - o Driveway access permits will be issued by Garfield County Road and Bridge Department with conditions specific to the driveway locations;

Applicant: Reviewed the staff report and agree with the conditions.

Activity on the Road – John Martin – 3601 CR 108 – CR 313 traffic has been very minimal. The snowmobile turn around is just above

John – the road definitely splits off Lot 4.

Gary Eisman – up there yesterday – been there several times, not much activity on the road – 20 to 30 vehicles – enough activity that you needed to watch the kids.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing:

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the exemption from the definition of subdivision with the 6 conditions recommended by staff, the 6th one being the 4-hour pump test being required on all wells prior to being put into service.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER APPROVAL OF A SPECIAL USE PERMIT TO ALLOW A "COMMUNICATION FACILITY" APPLICANT: CHEVRON USA, INC. – CRAIG RICHARDSON

Carolyn Dahlgren, Craig Richardson, Sean Norris from Chevron USA, Inc. 115,000 acres.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. Posted at the end of CR 211 where both the big piece and the little piece access. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Craig submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Application materials; Exhibit E – Staff Memorandum; Exhibit F – Memo from Garfield County Road and Bridge Department, dated May 11, 2007; Exhibit G – Email from the Garfield County Vegetation Management, dated May 11, 2007; Exhibit H – letter from Kirk and Trina Swallow, dated May 14, 2007; Exhibit I – Letter from Judy and James Meyer, dated May 11, 2007; and Exhibit J – Letter from Shirley Donaghue, dated May 14,2007 and Exhibit K – Memo from Mountain Cross Engineering, Inc.

Chairman Martin entered Exhibits A – K into the record.

REQUEST

Chevron USA, Inc. requests that the Board of County Commissioners (the BOCC) approve a Special Use Permit (SUP) to allow a "Communications Facility" on a property located on County Road 211, north of DeBeque, Colorado. The Applicant is proposing to construct one (1) 30 foot-tall communication tower for voice and data transfer.

SITE INFORMATION

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The proposed communication tower will be constructed on 10’X10’ concrete or compacted gravel base. The facility will be unmanned and have a self contained electrical supply utilizing solar panels and ground mounted batteries.

Water and sanitation services will not be utilized at the proposed facility.

The only traffic volume generated as a result of the proposed facility will be limited to periodic maintenance and repair. Current street improvements are adequate to accommodate the traffic generated by the operation of a communication facility on the subject property.

The proposed facility will be located approximately two miles from the end of County Road 211. As represented, the proposed use will not impact adjacent uses.

Pursuant to Section 5.03.13 of the Zoning Resolution, a permit for Communication Facilities requires that such facilities be approved by the Federal Communication Commission and the Federal Aviation Administration, where appropriate. In addition the following standards will be used in the review of application for a communication facility:

The applicant states that “the transmission and receiving equipment and antennas for the proposed use will comply with the Federal Communication Commission regulations for the class of equipment and frequency emissions.” The Applicant has provided FCC notification.

The applicant states that “whenever possible, Chevron will co-locate communications facilities at existing sites. However, for the proposed use there are no other suitable facilities that would provide the service that Chevron needs for its operations.” Staff recommends that the Board require this facility be available for co-location as a condition of approval.

The height of the proposed tower will be 30 feet. Structural height limits are not identified within the Resource Lands Zone District. No other communication facilities are currently located on the proposed site.

STAFF RECOMMENDATION

Due to the limited nature of potential impacts to surrounding properties, Staff recommends the Board approve the request for a Special Use Permit to allow a “Communication Facility” on parcel no. 2137-320-00-008 tract 104 with the following conditions:

- (1) That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
- (2) That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
- (3) That all proper building permits are obtained for the structures associated with the operation of the Communication Facilities.
- (4) The communication facilities must be available for future co-location and the denial of a landowner/lessor co-location on a site shall be based on technical reasons, not on competitive interests.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing;

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit for a Communication Facility for Chevron with the

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER APPROVAL OF A SPECIAL USE PERMIT TO ALLOW “STORAGE OF OIL AND GAS EQUIPMENT”. APPLICANT: DOUGLAS MCLEOD – CRAIG RICHARDSON

Craig Richardson, Jimmy Smith Wagon Wheel Consulting, and Carolyn Dahlgren were present.

Carolyn reviewed the noticing requirements for the public hearing.

Max Hall – 9460 CR 320 - challenge to the notification – properties within 200 feet – he is within 200 feet; the County Road separates him from this property.

Jimmy Smith said the Assessor has your address in Erie, Colorado.

Russell Marsh – brought the attention to the fact that he lives on CR 321, ½ mile to the west. He had a previous driveway on this property entered on CR 321 – no notice on that driveway.

Jimmy Smith – the access belongs to Mr. Swallow, it’s the only legal entrance into the property and is off CR 320.

Russell Marsh – it may not be a legal access but it is open and is the original driveway – Petro Gulf owns the property.

Carolyn reviewed the Regulations and said the posting is to be on a public right of way and it doesn’t require more than one posting.

Jimmy the access mentioned only allows entrance and is not an entrance to the other property, the only public access is 320.

Commissioner Houpt is comfortable with notice.

The Board accepted the notice.

Chairman Martin swore in the speakers.

Craig submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Application materials; Exhibit E – Staff Memorandum; Exhibit F – Memo from Garfield County Road and Bridge Department, dated May 11, 2007 ; Exhibit G – Email from Garfield County Vegetation Management dated May 11, 2007; Exhibit H – letter from Kirk and Trina Swallow dated May 14, 2007; Exhibit I – Letter from Judy and James Meyer dated May 11, 2007; Exhibit J – Letter from Shirley Donaghue dated May 14, 2007; and Exhibit K – Memo from Mountain Cross Engineering, Inc.; and Exhibit L – Jim and Sheila Estes; Exhibit M – Nate and Joy Lynn Luellen – dated May 20 and Exhibit N – Staff presentation.

Chairman Martin entered Exhibits A – M into the record.

REQUEST

The Applicant requests that the Board of County Commissioners (the BOCC) approve a Special Use Permit (SUP) to allow “Storage of Oil and Gas Drilling Equipment” on a property owned by Douglas McLeod.

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The subject property is located on County Road 320 near the City of Rifle, CO, zoned Agricultural/Residential/Rural Density. Specifacally, the Applicant intends to allow Petrogulf Corporation to construct and operate a “lay down yard”. Which will include storage of pipe, valves, fittings and other equipment.

SITE INFORMATION

The proposed “lay down yard” will consist of approximatly 2.01 acres situated near the northwest corner of the subject property. Pipe racks and storage bins will be utilized for the on-site storage of equipment. Storage of heavy equipment is not represented in the application.

This facility will be a transient operation and will not accomdate fulltime on-site employees. Water and sanitation services will not be required at this facility.

The application included a traffic analysis conducted by Kimley-Horn and Associates, Inc. The analysis and application represents a maximum of 3 trips per day. As represented current street improvements are adequate to accommodate the total traffic volume that will be generated from the centralized operation of receiving and distributating equipment that is to be stored on-site.

Garfield County Road and Bridge reviewed the application. As condtion of the existing driveway access permit, the Applicant is required to complete a driveway access apron (paved or concrete). Staff recomends the Board require completion of this requirement prior to the issuance of the Special Use Permit.

The Applicant has proposed the utilization of slated fencing should the Board determine that screening is neccassary. Staff recomends the Board require the Applicant to construct an 8 foot slated fence to mitigate the visual impacts created by the proposed use.

Lighting will not be utilized on-site.

Water will not be utilized as part of the proposed operation. A drainage plan demonstrating the change in topography (on-site grading – property is Agricultural Exempt) and the effect it will have on historic on-site drainage patterns. The drainage plan will need to demonstrate the ability to manage run-off during a storm event, so that adjacent properties are not impacted by this change in topography.

Dust will mitigated by periodic application of water or magnisium chloride to the existing road and storage site. The required driveway access apron will reduce fugitive dust emissions at the entrance of the subjct property and County Road 320.

Production fluids or other harzardous materials will not be stored on-site. Operation of the proposed facility is not expected to generate vapor emissions.

The application included a Wildlife Impact Report conducted by O&G Environmental Consulting. The report concluded that the proposed facility will not adversaly impact wildlife. Utilizing Colorado Department of Wildlife (CDOW) data and conducting an on-site survey the report considered the following CDOW identified habitats and migration corridors know to exist in the area:

- **Elk** – The report identified the presence of Elk on an adjacent property during the on-site survey. It is represented that no evidence of elk activity within the proposed boundary was observed with the proposed boundry.
- **Mule Deer** – The report stated no evidence of mule deer activity was observed within the proposed boundary.
- **Bald Eagle** – The proposed site does not fall within an identified Bald Eagle habbitat range, and none were observed during the on-site survey.
- **Raptors** – No nest or raptors were observed on-site

Staff finds that the Wildlife Impact Report conducted by O&G Environmental Consulting, represents that the proposed use will not adversely impact the identified wildlife known to be present in the area.

The application and traffic analysis represent a total of 2-3 daily trips generated by this use. If this representation is accurate for the total trips generated by the proposed use, including delivery and distribution of equipment /material to and from this location, the traffic generated will not adversaly impact the area.

The proposed location for this facility is located in close proximity (approximatly 50 feet) of two adjacent parcels. It is represented that the proposed location was chosen to accomadate the request of an adjacent property owner. Staff finds that the proposed location will create possible impacts to adjacent property owners by placing the storage facility close to adjacent property boundary lines. However, the proposed locatioin is not situated near an off-site residence, the Board should determine if 50 feet is a sufficient distance to separate the proposed use from the abutting properties.

Staff recomends that the Board require a \$4,000 reclamation security, to be released after abadonment and full reclamation of the proposed facility.

Sound measurements were conducted by Wagon Wheel Consulting at an existing “pipe yard” to demonstrate the sound levels expected at the proposed location. The measurements taken represent noise levels that exceed the maximum acceptable levels identified in by the Colorado State Statute. It must be demonstrated that the proposed use will comply with the residential standards demonstrated below at the time of application. If the proposed storage facility exceeds 55 dB(A) during the hours of 7 am to 7 pm or 50 dB(A) from 7 pm to 7 am, it will be operating out of compliance with State Statute or Garfield County Zoning Resolution of 1978, as amended §5.03.08 (1). Staff finds that the proposed use as represented does not comply with this standard.

<i>Zone</i>	<i>7 am to 7 pm</i>	<i>7 pm to 7 am</i>
<i>Residential</i>	<i>55 dB(A)</i>	<i>50 dB(A)</i>
<i>Commercial</i>	<i>60 dB(A)</i>	<i>55 dB(A)</i>
<i>Light Industrial</i>	<i>65 dB(A)</i>	<i>70 dB(A)</i>
<i>Industrial</i>	<i>80 dB(A)</i>	<i>75 dB(A)</i>

The Applicant has suggested a condition of approval requiring the submittal of a sound analysis taken on-site after the construction of the storage facility. If the sound analysis demonstrates non-compliance on-site operation will cease until the use is in compliance with State Statute. Berming or relocation of the proposed storage site on the subject property could mitigate noise generated by the use.

The Applicant did not address this issue in the required impact statement. Staff recommends that as a condition the Board require compliance with all industrial performance standards identified in §5.03.08. The

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proposed operation shall not generate ground vibration, perceptible without instruments at any point of any boundary line of the subject property.

Again, this standard was not addressed in the submitted impact statement. The proposed operation could potentially generate smoke and particulate matter. Staff recommends that the Board require all loading and unloading of equipment on-site to comply with Federal, State and County air quality laws, regulations and standards as a condition of approval.

Since this item was not addressed as part of the required impact statement, Staff suggests that as a condition of approval the Board require compliance of this standard to insure adjacent agricultural land will not be effected by the proposed use.

The proposed use will not be utilized to store flammable or combustible material.

Staff recommends that Board require an 8 foot slated fence to reduce the visual impacts the proposed use will have on adjacent properties.

All material stored on-site will be placed securely on racks or within storage bins.

The application does not represent storage of Heavy Equipment on-site.

The subject property is approximately 51 acres in size and is not located within a platted subdivision.

The proposed location does not appear to be located within 300 ft. from any residential dwellings.

It is the recommendation of Staff that screening of the proposed use be required.

Repair and maintenance of equipment is not represented in the application. Staff recommends that this standard be included as a condition of approval to accommodate the possible need of on-site repair and maintenance.

Staff is suggests this standard be included as a condition of approval.

The proposed use is in compliance with this standard.

Lighting will not be utilized at this storage facility. If lighting is added at a later date it shall be directed inward to the property center.

The Applicant has proposed the construction of a retention pond to mitigate run-off from the proposed site.

Staff recommends that the Board require the Applicant to submit a drainage plan demonstrating the ability to manage run-off, so that adjacent properties are not impacted by this change in topography.

STAFF RECOMMENDATION

As represented the proposed does not comply with Colorado State Noise Statute (CRS §25-12-101) or Garfield County Zoning Resolution of 1978, as amended §5.03.08 (1). Staff can not recommend approval of the Special Use Permit request to allow "Storage of Oil and Gas Drilling Equipment" as represented. The Applicant should consider additional mitigation to reduce volume of sound generated by this use and demonstrate the ability to operate in conformance with State Statute.

Should the Board move to approve this request Staff suggest the following recommendations:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board;
2. The Applicant shall provide Garfield County with a revegetation security in the amount of \$4,000;
3. Volume and Sound generated shall comply with the standards set forth in the Colorado Revised Statute at all times;
4. A sound analysis demonstrating the proposed use is in compliance with Colorado State Noise Statute shall be submitted within thirty (30) days from the construction of the proposed storage site, if the operation is found to be noncompliant all operations must cease until the facility can demonstrate compliance;
5. The proposed storage facility may be relocated on the subject parcel to increase distances separating the use from abutting property lines, the facility must be constructed and operate as represented in the application;
6. The Applicant shall comply with all performance standards identified in §5.03.08 of the Garfield County Zoning Resolution as amended.
7. The Applicant shall construct a driveway access apron (concrete or paved) prior to the issuance of the Special Use Permit;
8. The Applicant shall submit a drainage plan demonstrating the ability to manage run-off, so that adjacent properties are not impacted by the change in topography as a result of the grading required to construct the proposed storage site prior to the issuance of the Special Use Permit;
9. The proposed facility will be limited to 3 daily trips for all vehicles as represented in the application and traffic analysis;
10. The Applicant shall construct an 8 foot slated fence encompassing the entire proposed storage area prior to the issuance of the Special Use Permit;
11. Any repair and maintenance activity requiring the use of equipment that will generate noise, odors or glare beyond the property boundaries will be conducted within a building or outdoors during the hours of 8 a.m. to 6 p.m., Mon.-Fri.
12. The Applicant shall submit an inventory and map of all listed Garfield County Noxious weeds found on-site;

Applicant:

Jimmy Smith – this facility is proposed by Petrogulf on the property owned by the CEO of Petrogulf Mr. Douglas McCloud. The purpose is to use for a temporary facility for storage of pipes valves and fittings only on a 2.01 acre facility. The pipes, valves and fittings currently are stored on different location around the general area where drill sites are located. This is an attempt to 1) allow them to clean up those sites by moving the pipe valves and fittings to a central location on a property owned by them and to stop the practice of delivering from town or off site facilities to those drill locations and to minimize the traffic to and from the Taughenbaugh Mesa area and limit it to the storage lay down yard. The pipe valves and fittings to be stored there have no contamination assumed there's no type of chemicals, tanks or other waste products that will be stored on the facility it would be limited to drilling operations pipe valves and filling and included in the pipe would be drill stems etc. that are typically moved from site to site. This would give them the opportunity to move that through a centralized facility and then subsequently move out to the next site when needed and not left on the initial locations. There are multiple sites in the area, many if not all of them have pipe valves fittings stored on them. That is the intent of Petrogulf in creating this yard.

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Addressing the staff findings on the noise generation, we did take a base level of sound at the property, there's nothing there now, no construction has happened, staff recommended we try to find a like facility as nearly as possible to conduct the other sound survey. There is limited storage yards of this size and nature used in this particular area. The one closest is the facility at the West Rifle where similar type materials are stored – we were not granted access by that operator to conduct that study on this site as suggested by staff. The only one we were given permission to conduct the study was Aztec Pipe, which is a commercial operation at the West Rifle directly below Taughenbaugh Mesa. The sounds surveyed there were definitely impacted by road noise other trucking companies immediately adjacent to the property, train, etc. which drove that decibel level up.

The McCloud property and Petrogulf use of that facility is for owner/operation only. There's no intended commercial use of that and there will be no leasing to other companies to store materials on that site - it's not large enough to become commercial operations. Once the facility is built and under operation there should be a sound study then to give a comparable of what was before and what will be actual. Petrogulf understands they are regulated by law to meet these.

The noxious weed survey when this application was submitted, there was still 8 – 10 inches of snow – concurred the survey should be completed on approval.

Trip generation – is the absolute maximum – understand the lay down yard – 3 trips would be a maximum and usually in the stocking of the yard. It would only be an as needed trip to the site and the absolutely minimum is 2 – 3 trips on any given day.

The 8 foot fence – mitigates the visual impacts – welcome both the county and residents as to the color of those slats. Flat yard – highest thing would be the shipping containers– 8 x 10 x 40. Pipes 4' off the ground on racks – fence would also allow sound mitigation.

Petrogulf has a new manager as of Friday – wants to be a good neighbor – be a minimal impact and have approved planning trees to aid in this visual impact.

Commissioner McCown – No. 11 on the conditions – 8 am – 6 pm Monday through Friday.

Jimmy – centralization mitigates any emergency situation. Hours suggested, usually its 7 am but will honor the trips in the facility.

Craig – hours of operation – not included.

Commissioner McCown – can make it a part of the conditions.

Max Hall – 9460 CR 320 – concerns – consider that the construction operation will impact all the homes – adverse the first day for construction – may include all of the following: content that in the oil and gas industry the times are not consistent. Truck traffic will increase on CR 320 Road. No hazardous material – contention – any equipment is contaminated with hydro carbons. They would have to steam clean and sterilize the pipes and fitting. Storage – original request – didn't limit it to fittings, pipes and original requests was to store oil and gas equipment. Dispute – wildlife – heard of 250 elk range there – there is an impact. Contention – BOCC has done relatively well – expansion to localize areas – reduces heavy use and this is not the property for a lay down yard – departure from their previous actions. Concern for pollution for ground water – most use ground water for domestic use – nothing stated the life span of this facility – he considers it to be an eye sour. Will Petrogulf lease this to other companies? Reiterated the equipment will have hydro-carbons – how separate and not become an issue of ground water pollution – odors not only with existing sites. He read in the record a letter from John and Mickey Neal who are opposed; they live directly across from the proposed site. This area is zoned Residential/Agricultural – busy noisy and dusty.

Letter from Shirley Donaghue – next door to the proposed facility. Area is zoned ARRD – moved there in 1999 for the rural nature – fencing doesn't help. The application is to reduce oil field storage; there are several locations along 6 & 24 for this type of activity. If granted this Petrogulf SUP runs with the land – no assurance of McCloud – he could lease land to another owner – SUP is discretionary – please deny.

Max Hall is in the industry and understands the need for this type of facility – this is not the place to put it.

Exhibit J – was what he read.

John Neiley – lives close to this property – CR 320 Road and borders us. Porch and driveway look directly at it. Elk herd there every year - also deer and wild turkeys – bear and had coyotes, fox and bobcats. Water comes down in torrents – we had 2 days of 24 hour rain flooded – torrents of rain – any contamination on the lay down yard will come on his property. Places for industry and places for residential – these do not mix.

Linda and Gale Upton – CR 320 – position – this is rural agricultural – shouldn't have mixed uses.

Russell Marsh – supports what Max and Linda has said – impacts on road, wildlife, decrease property values – he has been run off from the switch backs many times – road isn't adequate to handle this purpose.

Paul McKee – CR 320 – agrees with the neighbors – Petrogulf should have bought in the commercial area and shouldn't force impacts on Taughenbaugh. Elk on the property – major winter grounds – opposes it.

Terry Broughton – 320 roads– asked Luellen if he could put up barbed wire, no this is elk migration route through their property – must have smooth wire fences.

Arnold Pressler – CR 320 – bottom line Petrogulf lied to us – we're mad.

Laurie Pressler – agrees and questions for Petrogulf – heard they sold to Williams and what will happen if Williams takes over?

Joe Oley – CR320 –children issue – son age 12 – kids will be kids and they will get out on a summer day – kids can get hurt in this type of operation – fences will not stop them.

Craig Brunner – 944 CR 321 – agrees with everyone – attest to elk herds – he's seen 50 to 75 himself – sound mitigation – slat fence – mitigate the sound – ¼ mile from the Johnson pad and he hears all the noise. Last winter he complained and they put up a large hay bale stacks – residence is above the pad – sound rose above – an 8 foot fence will not mitigate the noise – this area is not an industrial – don't want that door open – this will be used as an example for other sites – he values our quality of life – 2 small daughters – negative impact on property values – Johnson pad - smell so bad – complained and neighbor called 911 about the odors.

Bob Hooker – 8902 CR320 – same as the others – supports the denial 100%. BLM does not allow lay down yards except under certain – temporary staging area – not allowed – federal government. Unlike the previous EnCana request prior to this hearing – this is residential and not a site for industrial – last week he approached some residents in South Rifle – some have an irrigation ditch and little kids plays in – surface related from irrigations up above. It will contaminate water – opposed to this project.

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Tom Vondette – farm on Johnson’s property – mag chloride – killed the grass. Petrogulf – road ordinance – oil and gas – ignored that – subcontractors – not a good neighbor – need to clean up their act.

Joe Gottschalk – 320 Road – had to move from Rulison because of the oil and gas – they want to put a pond down here to catch the debris off this yard and that’s going to be toxic, stinking crap – shouldn’t have to put up with anything like this.

Julie Worsen – CR 320 – ditto to what everyone said. In November 2004 she moved from Cattle Creek - saw the precedent set in that area with one business being started and now they are over there and going up the road and would hate to see it in this area.

Tom Vondette – asked for clarification regarding the 3 trips total.

Applicant response:

Jimmy Smith - not sure that anyone could answer these concerns to the satisfaction of the residents – the concerns my general gut feeling is that they are not so much totally against this particular project but against the industry as a whole as it relates to the activity of industry and sites, sound and activities associated with that. The industry is here – my self as well as other residents have to contend with that and I definitely as the owner of Wagon Wheel Consulting respect the concerns and issues of those speaking here today. The visual impacts that continually come up in the residents discussion, the impacts of any facility whether it be an oil and gas related facility or someone building a residence next to your property, there’s going to be visual impacts and can not be 100% mitigated. Understanding the nature of this facility and my discussions as early as this morning with Petrogulf and the new management, I had suggested before that the fence would not totally obscure this site from the residents and previously my recommendation of planting trees around the facility has been approved as of this morning that we would plant trees. There maybe other mitigation measures that both the residents and myself could come up with to improve the visual impact of this facility – Petrogulf has assured me that within reason they are willing to do that. The trees were not a part of the original application but on record today they have become a part of Petrogulf’s willingness to do that. The mention of the Petrogulf trading or selling to some operator, I have no knowledge of this – my conversation with Petrogulf this morning leads me to believe that this is not something in the plans and if it is it’s not under the control of myself or any resident in this room – but I can safely say from my discussions this morning and what they are willing to do on this site does not lead me to believe they would sell to Williams and if so the conditions put forth by the Commissioners if the project were to be approved would apply not only to Petrogulf but its successors.

There were many issues brought up by the residents – the truck traffic associated with the oil and gas industry will occur – Petrogulf as far as monetary gain has no initiative whatsoever in putting in this facility. The facility shortens time of delivery to any particular well site but that can be handled by advanced planning or specified to a vendor to have it at this date and time and that truck is still going to come up the road and will still impact the area. Their intent is to provide this facility in central locations so that those truck trips up onto Taughenbaugh Mesa can be limited and the locations people addressed today as far as site sight and smell can be cleaned up and those materials put in a safe and secure location. Again all the comments from the residents are duly noted and my feeling and am willing to go on record in stating what Petrogulf told me today, that they are concerned with the visual impacts, the sound impact and the living conditions of the residents and they are willing to mitigate to a feasible and practical amount anyway they can.

Craig – the stormwater discharge is one acre and if the Board approves this might want to be a condition.

Asked Jimmy to respond to the useful life of the facility

Jimmy – the useful life of the facility and other oil and gas facilities is the oil and leases around them – should Petrogulf not operate – life is associated with the production ability of the wells and leases around them. Should Petrogulf no longer operate wells in that area this pipe yard would serve no purpose unless it could be changed to some other type of facility. The life of the facility is directly associated with the activity level in that area.

Carolyn asked if Petrogulf would accept it as a personal permit and one that would not run with the land.

Jimmy Smith – absolutely. The CEO of Petrogulf Corporation is the owner of the land and has stated before and I’ll reiterate it is not an industrial commercial site – it is a privately owned storage facility for wells which they drill and operate.

Carolyn – he owns it as his personal property, it’s not Petrogulf.

Jimmy – I would assume that, yes.

Commissioner McCown – what would be the difference?

Carolyn – more than likely not for business purposes, it’s personally owned.

Jimmy - I would say the intended use and intended purpose of the land by Mr. McCloud is without question associated with his personal gain of land but it is with the site being on the location the intent is there that it is for oil and gas operation.

Commissioner Houpt clarified the intent was for oil and gas use, not for a home.

Max Hall – CR 320 –he’s indicated he wants this for an industrial site; once it is classified as an industrial site he can sell it as an industrial, he can continue as an industrial site and my contention here is that if you agree with this you are in fact creating an industrial site in perpetuity.

Chairman Martin – that was the clarification that Jimmy agreed to that it was personal site only going with the present day owner and if it were to be sold or lose that it would go away, that is what he agreed to, under the same circumstances, rules and regulations say that the SUP does go with the land, not with the owner unless specified in the SUP.

Commissioner McCown – one sentence can clear that up.

Ron Pressler – forgot the wildlife that’s a migration route for that herd forever and we know on Hwy 82 what’s going on there.

Chairman Martin – that’s one of the considerations and one of the review processes that we had on comment.

Jimmy – that is for one reason to put the fence around the property is to prevent those animals and wildlife from entering that facility – that’s the other purpose and the intent of Garfield County in requiring the fence is to not allow them to enter that 2.1 acres.

Shirley Donaghue – 9420 CR 320- I have been taking care of 100 elk every winter since the day I moved on that property they are right below my house and they love it there.

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John Neal – CR 321 – the other issue – weed situation – even today along that fence line that borders across the road from them, this house that the owner owns if full of weeds that blow into his yard - do not take care of the weeds.

Commissioner Houpt moved to close the public hearing. Commissioner McCown seconded. Motion carried. A motion was made by Commissioner Houpt that we deny this application, it's quite apparent to me that the proposed use is not consistent with the character of the neighborhood.

Commissioner McCown – second for discussion. This may not a consistent use of the neighborhood, but 40 years ago all those homes on that Mesa wasn't a consistent use on that property either. Everything has changed,

Ron Pressler – put this in your front yard.

Commissioner McCown - I hear concerns about the elk herd – I've seen that elk herd every since I've lived here; there was a fear that the drilling on that Mesa would ruin the elk herds and the elk herds would no longer live on that Mesa, they come down every winter. This is a 2 acre parcel that we're talking about with a fence around it that does not join any other fences so I don't know how that would inhibit migration. A 2-acre parcel on the scheme of things is not very big, there's fences around every parcel up there along the road and that doesn't inhibit the elk migration so I don't understand those fears and I'm very sincere with that because I've seen that elk herd up there and I love to go up and see them. The public hearing is closed. I don't know fenced – doesn't inhibit the – doesn't understand the fears. I don't know about the carbon products that might be on a valve or on a piece of drill pipe that comes into an area, there could be and I have no reason to question Mr. Hall on that, but it is going to be in a confined area with a pond that will catch any water or anything that runs off of that area. Truck traffic, I don't know 3 trucks a day maximum – I don't know how many come up and down that road now, its more than that now, I guarantee you. I don't know if those three are going to have any significant impact on the road or not. I don't like to see industrial uses taking place in residential areas; but as long as we have provisions in our land use codes for these kinds of activities to occur with Special Use Permits I'm not going to vote for or against something just because I don't like it. If they meet the letter of the law and the mitigations have been put in place that will allow something to happen I have to support it. I can't just be a NIMBY and say I don't want something in my neighborhood so I'm going to vote against it – I can't do that – I don't think I'm doing any one here justice if that's the kind of leadership you want on this Board of County Commissioners if you operate from the hip like that and don't follow your own rules and regulations which allow this very activity to take place. That may be wrong, I'm not saying it is but it does allow it to happen, the applicant has come in and has applied through the proper process and has laid out what they're going to do and how they are going to do it and it meets, the only question that staff had was on the sound and there was not a sound test done at the location where this was going to be built and I don't know those of you who are familiar with that pipe yard down along Interstate 70 in West Rifle, the Interstate along would flunk that test as far as 55 decibels. 55 decibels is about like a normal conversation that we're having here right now. So I have a lot of trouble with this application and I'm not saying that's it's the greatest thing that ever happened but I'm saying that our land use codes do allow for it to occur. And they allow for other uses –to occur not just a pipe lay down yard, they're any number of things that you can get special and conditional use permits to occur in your ARRD zoning – you are not living in a bubble that is protected by Agricultural Rural Residency Density zoning, there are other land uses that are allowed there folks and I'm sorry if you bought your land thinking that you were going to spend the rest of your life surrounded by small Harvey ranches that nobody is really making a living off of. Nobody's income is derived from those ranches, we all love them but it's real hard to make a living on 40 acres on Taughenbaugh Mesa.

Commissioner Houpt – our Code does allow the use and also allows us not to approve the use and you live in a rural residential area and you purchased your property and built your home with the thought of living in a certain area there is some reliance you should be able to rely on. Now we're seeing a lot of oil and gas development and Jimmy I'm sorry I don't agree with you that the concerns I heard today are a blanket concern about the industry because I heard people talk about a recognition that there are wells being drilled and that's okay, what I'm hearing today is that this use is simply not compatible with the neighborhood that's its being proposed to be built in and I have to agree with that and as a Commissioner I think it's very important that we look at the big picture and we look at how we want to approach planning and zoning and what we want our County to look like in 5 to 10 to 20 years and we make decisions that not only enhance our economic stability in our county but protect those natural values that drew many of us here and that we're so special that made many of us stay here once they were born in this county. I can't support this use I think we all recognize that there's a great deal of energy development that will continue to grow throughout our county but in terms of industrial facilities and industrial park use, I think we need to find appropriate areas for that and I think I heard it stated several times this afternoon that there are appropriate areas for that and I agree. We see industrial parks growing in various different places around our communities so I do not believe that is a use that's compatible in this area and even with the mitigation I'm afraid it would be very intrusive to the area.

Chairman Martin – I'm always pleased to see Wagon Wheel Consulting put an application together, it's very sound and its straight forward and it's good investigation. This is not a use by right, it is allowed by special use and it's up this board to allow to allow that special use, you're correct and the times are changing and we got some input and impact – this is one that of course the neighbors are very upset with, it doesn't comply with the existing live styles, etc. we know that oil and gas is going to be here, the other one is that this is not the most essential outright needed location for Petrogulf, that's true, there are other locations that can be used, etc. that's demonstrated by the conversation it's not always a economic gain but it is a convenience and would help in transportation, there are benefits and negative impacts as well. We have to look at all of these items. You heard both sides and we'll have to see how the votes come out. Whatever happens, I respect all of you and appreciate your testimony.

In favor: Houpt – aye Martin – aye McCown – aye

Chairman Martin – it is denied.

ADJOURNMENT

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Minutes

ATTEST:

CHAIRMAN OF THE BOARD

JUNE 4, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, June 4, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

COUNTY MANAGER UPDATE – ED GREEN

PUBLIC HEALTH - EAB RESOLUTION ON AIR QUALITY – JIM RADA

Jesse Smith and Jim Rada submitted the Resolution of the Garfield County Energy Advisory Board to promote continued Air Quality Monitoring in Garfield County stating the EAB encourages the Commissioners to continue the monitoring for the 2008 calendar year and evaluate annually the results of current testing. Alan Lambert, EAB Chairman signed the document.

The first thing that the committee discussed was continuing on with the air quality monitoring. They support funding continue at the same level working with appropriate groups such industry and municipalities as well as look at gravel, asphalt and concrete – the major sources of pollution. A complete plan may not be available until fall. Seven (7) locations are being monitoring and they are using volunteers to do the samples. The plan will be worked on as a team effort, technical and experts along with folks from the energy companies and the state; after evaluation on the last two years they will come up with something.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to support the Resolution of the Garfield County Energy Advisory Board to promote continued air quality monitoring in Garfield County.

In favor: Houpt – aye McCown – aye Martin – aye

OIL AND GAS - NEW STAFF - JUDY JORDAN – OIL AND GAS LIAISON WAS INTRODUCED.

EAB BROCHURE – JESSE SMITH

Jesse handed out a “Community Guide on Understanding Natural Gas Development” for comment. This was a result of a discussion in the EAB – some type of a primer for i.e. gas development for new people coming into the County; or for folks passing through and seeing things they did not understand. A sub-committee made up of Terry Dobkins – Antero; Donna Gray – Post Independent and Peggy Utesch were on the committee.

The Commissioners asked about the distribution plan of this document.

Jesse said it will go to real estate brokers, title companies, visitor’s bureaus and other interested parties.

Commissioner Houpt commented that it was very comprehensive and she would like to see it go to the broader community because other areas are seeing a lot of activity and this is a presentation that brings the technical side to the lay person. It is valuable for anyone living in oil and gas impacted area.

Jesse stated it will be on the website and they could put these in the mailbox in specific locations.

Commissioner McCown said he doesn’t want to see the citizens being inundated with excessive mail. He suggested county offices and the library as places to have the literature but wasn’t sure of a county wide mail system.

Commissioner Houpt liked Jesse’s suggestion of putting it in the mail boxes of impacted areas. There’s a great deal about the changes in technology and gives residents a better understanding of the language and the kind of impacts. She wants it to go from New Castle to this side of DeBeque.

A motion was made by Commissioner Houpt to accept this document formally. Commissioner McCown – seconded.

In favor: Houpt – aye McCown – aye Martin – aye

COMMUNITY CORRECTIONS - C. P + PARTNERS SOFTWARE CONTRACT – GUY MEYER

Guy submitted the contract for software license and professional services for an amount of \$37,900 for data site sites and database logins (users). This is associated with the new community correction facility.

Two different software packages are being used in the corrections program and this will allow us to merge both and assist staff. It tracks card readers, scans and dumps the data in and provides security functions. It also tracks the movement of inmates.

Carolyn –the contract is different that the standard form of contract. The vendor owns the software and not the Board. We will keep all kinds of information confidentially. The County operates on an open records act. She explained fully the problems the legal staff determined. This contract goes on forever. The cost of the support is \$4,400 and payable in each calendar year. We need to designate someone to be a contract person and the BOCC is binding themselves to Maryland law not Colorado law. It is binding arbitration – you are indemnifying them totally.

Carolyn will work with them on the contract if the Board gives her that direction.

Guy said that Mesa and San Louis Valley have this kind of software.

Guy and Carolyn will work together on this contract.

COMMUNITY CORRECTIONS - UPDATE ON THE NEW CORRECTIONAL FACILITY IN RIFLE

Guy gave an updated report saying they moved into the facility on Friday and the food system worked smoothly.

Chairman Martin added that Ari Zavaras, Department of Corrections Director was pleased.

The Board stated this item can be placed on the consent agenda if the legal department works successfully with them.

HUMAN RESOURCES - 2007 WELLNESS PROGRAM CONTRACT WITH RELAY FOR LIFE

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This is a contract with the American Cancer Society for the 2007 Relay for Life to be held at the Coal Ridge High School where team members will experience health-benefits specific to their individual wellness goals by walking or running the relay. The money raised will go towards research, education, and advocacy at the national level toward the goals of advancements in cancer treatments.

Ed stated that this event will be held Friday night.

Carolyn reminded the Board of the discussion about this type of donation and the Board said go forth and do well. The local entity was able to get approval to enter into a contract. There will be two teams and a \$2,000 contract. 65% of the funds raised will stay in the local community. 20 folks will participate.

Brenda Slappey and Patsy Hernandez worked with the regional staff.

Estimated to be 300 laps per team; the Board agreed with \$1.00 a lap for an estimated cost of about \$2600, which includes \$1,000 per team entry fee.

Carolyn explained that this is a grant for a not for profit entity that is a benefit to the citizens of Garfield County as well as to your employees.

Commissioner McCown – what will prohibit other teams throughout Garfield County putting teams together and ending up with 30 teams expecting this same sponsorship that we are doing for our own teams?

Carolyn – this is the bigger issue and we left that undecided. Whether or not there was going to be some sort of administrative apparatus for approving contracts with not for profit entities outside of your Human Services Commission or if this was going to be the last year that Garfield County granted money to not for profit entities outside of the Human Services Commission approval route needs to be decided.

Commissioner Houpt – these are the questions that need to be answered. This is just a tool to live up to the commitment that we had previously made to this particular event but didn't see this going any further until a decision is made on how we are going to fund it.

Ed – the EPIC Committee has sent out a questionnaire to all employees if they would like to expand the donation program to include things like this; we are waiting for a response. We already do this for United Fund.

Commissioner McCown – who will keep the money and how will it be kept.

Don – the Treasurer's statutory duty is to keep and hold money belonging to the County and it's doubtful that this is money belonging to the County.

Ed – this would be employee money and we would set up a Committee made up of employees to decide how the money would be spent.

Don – that Committee would probably have to control the funds.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Garfield County Wellness Program Contract for the calendar year 2007 for an amount not to exceed \$2600 and that the term of the contract will be from June 1st until June 30th.

Ed or Jesse can sign the contract.

In favor: Houpt – aye McCown – aye Martin – aye

ROAD AND BRIDGE - APPLYING HOT BITUMINOUS ASPHALT TO VARIOUS COUNTY ROADS – MARVIN STEPHENS

Marvin Stephens and Tim Arnett presented the bid for asphaltting various County roads and the bid for paving the fairgrounds parking lot.

District 1 – County Road 100 – Catherine Store Road – Frontier Paving \$580,972.50

District 1 – Asphalt Patch – Frontier Paving - \$340,359.75 – Silt - \$52.75

District 2 – County Road 235 – Davis Point Road – Frontier Paving - \$187,081.75

District 2 – Asphalt Patch - \$104,793.75

District 3 – County Road 320 – Rulison Road – Frontier Paving - \$466,687.50

District 3 – County Road 311 – Divide Creek Road – Frontier Paving - \$283,406.00

District 3 – County Road 324 – Mayfield Road – Frontier Paving - \$567,562.65

District 3 – Asphalt Patch – Frontier Paving - \$104,793.75

*Fairgrounds – 1001 Railroad Avenue Rifle Parking Lot #1 & #2 and fence parking
(3"overlay) – Frontier Paving - \$114,992.50 option or

*Fairgrounds – 1001 Railroad Avenue Rifle (4" overlay) – Frontier Paving - \$155,650.00

Recommended Board Action:

Award District 1, District 2, District 3 and Option (2) – 4"overlay at the fairgrounds to Frontier Paving, Inc. for a not to exceed price of \$2,241,360.40;

Award District 1 – Asphalt Patch to Frontier Paving, Inc for a not to exceed price of \$340,359.75;

Award District 2 – Asphalt Patch to Frontier Paving, Inc. for a not to exceed price of \$104,793.75;

Award District 3 – Asphalt Patch to Frontier Paving, Inc for a not to exceed price of \$104,793.75.

A motion was made by Commissioner McCown for the total amount submitted - Award District 1, District 2, District 3 and Option (2) – 4"overlay at the fairgrounds to Frontier Paving, Inc. for a not to exceed price of \$2,241,360.40; Award District 1 – Asphalt Patch to Frontier Paving, Inc for a not to exceed price of \$340,359.75; Award District 2 – Asphalt Patch to Frontier Paving, Inc. for a not to exceed price of \$104,793.75; Award District 3 – Asphalt Patch to Frontier Paving, Inc for a not to exceed price of \$104,793.75.

Commissioner Houpt seconded.

Discussion:

Bruce Christensen – comments go beyond this bid. He addressed the condition of the roads in the County stating that things have changed in Garfield County and since we passed the 1 cent sales tax, just in Glenwood Springs over \$1 million has been allocated to Road and Bridge. Bicycling is an important function in the County and the County roads are less than friendly; the size of the rock for chip and seal pose a dangerously and unpleasant situation. Glenwood Chamber did a survey and skiing was first and bicycling was second. This is becoming an important source of income. Ride Colorado Rockies is coming to the area and we would like these people to come back. It produces a great deal of money into the communities and it helps support the Road and Bridge. Therefore, he would like the County to adopt a policy that when the roads are resurfaced that you use smaller rock; smoother roads would be better for someone. 3rd time the Ride to Rockies has been in this county.

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Commissioner McCown noted that it takes \$30 million for all the roads in Garfield County and we can only do 30 miles of road in a year.

Chris Harrison – Parks and Recreation – same type of comments – the current size of rock used in the chip and seal process is un-rideable and he referenced especially Spring Gulch – coming down that road is dangerous. Larger rocks put down on Cattle Creek Road is another very dangerous road and he encouraged the board to re-think the size of gravel. We have in Garfield County excellent land and resources and if global warming is as bad as is being said, we need to develop resources so we can cut down on fuel consumption. The ski season may shorten and therefore roads for bicycles are necessary.

Jackie Whitsitt from Basalt – want to thank the Board of their generosity for regional trails; the road issues and tourism are very important and encouraged the Board to reconsider the roads and use smaller rock.

\$2,197,000.00 is the difference for smaller rock.

Commissioner Houpt said we have some bids for the smaller rock; we’re paying attention to this and encouraged the citizens to stay in touch with us.

Commissioner McCown – it’s important to note that the roads in Garfield County have been and are continuing to be maintained for automobile traffic and safety. No, bicyclists have not been our priority because the bicyclists are fair weather riders and then in the winter we’re faced with winter maintenance. The smoother the surface on the roads and the areas that have been eluded to this morning, the more treacherous they are in the winter when it comes to traction. There is a significant traction coefficient to those bumpy roads that you’re speaking of that create that vibration coming down a hill at a speed that is apparently faster than going up the hill because you didn’t complain about the vibration going up the hill, so at some point in time we as citizens of Garfield County truly have to realize that there is multiple use on these roads but by the same token going to the more expensive system of maintenance on these roads is going to cut down the number of miles we improve every year. So if we don’t keep up with our maintenance program the increase in the number of miles that go un-repaired is going to go up and the continued deterioration of those is going to get more severe and some of them may even go back to gravel and mag chloride that are not chip seal so it’s something that the citizens have to look at and the future Boards of Commissioners will have to look at is a prioritization. There’s a difference between a bike trail and a county road. Bicyclist can use them, motorized traffic can not use bike trails.

In favor: Houpt – aye McCown – aye Martin – aye

MAINTENANCE - AIR CONDITIONING FOR IT ROOM – COURTHOUSE – BRYAN SHOLTEN

Tim Arnett and Bryan Sholten submitted the request to award the bid to Mountain Air Mechanical for

\$21,473.00. Brian stressed the necessity of having this work for the protection of the equipment.

This is between the Clerk and Assessor’s office; there are 15 servers along with tapes for disaster recovery.

This is a pro-active measure.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the bid to Mountain Air Mechanical for \$21,473.00.

In favor: Houpt – aye McCown – aye Martin - aye

Ed identified the items for Ex Session:

Findings and determinations regarding additional facility at Justice Center for legal guidance and contract negotiations associated with the White Construction project at 18th and Railroad. Contract negotiations associated with CMC project at the Airport and also legal guidance regarding the 18th street issue and the IGA with Rifle.

COUNTY SHERIFF UPDATE – LOU VALLARIO

Update: - Ed will mention in Green Acres for the June issue that Adam Ford, who is a Civil Deputy in the Sheriff’s Office was selected by the Battlement Sun as “Citizen of the Year” for 2006. Adam is also a member of the Battlement Mesa Sheriff’s Auxiliary and is a volunteer Victim Advocate. Bob Pendergrass was second.

Update on the 800 MHE trucking video radio system – we’ve accelerated the implementation for this system; because of the WIN grants through the DOLA and homeland security funds we’re able to get the infrastructure up that we wanted and we’re able to purchase radios for every law enforcement agency vehicle and police office deputy in the County and those are being programmed and distributed and ready to go.

We’ll be reviewing the status at the June Com Board meeting and hopefully go live sometime in July. It’s still partial, all law enforcement will go forward and there are a couple of agencies that may have to stay on VHF – particularly New Castle and then we’ll bring fire and public works and everyone else migrate to that. We’re ahead of schedule and moving toward it. Lou has been monitoring it on his hand set and it’s incredible. In Grand Junction and Montrose over the weekend and able to talk to Garfield County deputies like we’re talking here today. It’s a much improved system and a statewide system.

SHERIFF - COUNTY FIRE PLAN DISCUSSION

Jim Sears and Lou Vallario were present. This was discussed before the Board a year ago but the plan was never officially accepted by the Board.

A grant through BLM to provide us with this plan and they have worked with all the fire services in the area. This is a plan that can be used by the P & Z folks; it’s good information for individuals on mitigating their property. There’s a list of 10 action items the County and interagency must accomplish. No additional monies are required but we’ll bring all the plans into it. Once approved it will be on website and the plan to give it to Building & Planning to work with citizens.

Commissioner McCown asked about the involvement of the Planning Department and how it will interface with the new re-write.

Jim Sears – maps came from the GIS Rob Hykys and this has been incorporated.

A motion was made by Commissioner McCown seconded by Commissioner Houpt to adopt the Community Wildfire Protection Plan and the Chair authorized to sign.

In favor: Houpt – aye McCown – aye Martin – aye

SHERIFF - HOMELAND SECURITY PLAN – COOP PLAN

Jim Sears – The Northwest Region for the homeland security, one of the things that the 10 emergency managers wanted to look at for all of the 10 counties is a continuity of operations plan. How do we identify what’s essential functions and who the essential people are and if something happens how do we keep the

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operations of each County government going. Part of the Homeland Security grant we put in money for, there's a continuity of operations plan that would be done for each of the 10 counties individually. We put out an RFP and had 3 companies respond. Ed has the documentation from those three companies that provided how they would do a plan and what they would do. Ed gave a recommendation on one of the companies and that's the one we actually chose. This is grant funded and no outlay on our part, the only thing that will have some effect is that part of this plan that includes when the company comes out to talk with each department head for an hour or less to find out the essential function of the departments (there will be the cost of time for the department head to talk to this company) but once that's done they will provide us with an actual plan. This is one plan for Garfield County and different than for the other counties. They have done this for the north central region which includes Larimer County and they did bring a copy of their plan and we reviewed it – it's simple but if something happens you know who to go to and what functions are essential and how that function can be handled someplace else.

Chairman Martin – this is what we wanted to do under our MAC Team and were able to run some exercises so hopefully things will be easy for everyone to understand and we should be ahead of the game if we have our plan in order.

Commissioner McCown – the 10 counties wanted this but it is an individual county plan.

Jim – the individuals will come here and spent time in Garfield County probably 1.5 weeks here and go back to Ft. Collins and sort the documentation and then provide us by March 2008 with 2 hard copies and flash cards of the plan – it will be Garfield County plan.

Lou – this is different than the emergency response plan; we have an emergency plan but there will some overlap and continuity here. How do we respond to the consequences of that emergency and our plan is compatible as a template overlay to a regional plan, a local plan, so it's a different document. Our emergency plan will draw in both Counties departments, outside agencies, to respond to the consequences of a disaster.

Chairman Martin – and the plan isn't that we'll call in the federal government and they'll come in and take care of it.

Jim – the federal government has determined that any emergency will be handled at the local level. This is a very important plan to have above and beyond the local emergency operations plan.

COUNTY ATTORNEY UPDATE – DON DEFORD

ASSESSOR - BOARD OF EQUALIZATION – DATES SET FOR HEARINGS

Lisa Warder and John Gorman were present.

The report on the number of protests was given and Lisa explained they are working with these individuals to reach a compromise.

Mary Lynn Stevens asked to schedule dates between appeals July 15th – August 5th.

We can handle 20 per day.

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE – DISCUSSION ON AN EOC CLAIM – RIVER VALLEY RANCH DETERMINATIONS – LEGAL ADVICE – CROUCH MATTER – LEGAL ON NOTHERWEST RETAC – JESSE – STAFF DELIBERATIVE PROCESS – PEIS – CAROLYN – RESULT OF BOA AND LITIGATION – TITLE 32 SPECIAL DISTRICT WITH BURNING MTNS AND DEBEQUE FIRE FOR NEXT WEEK

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken:

Don – discuss and give direction regarding contracting for expansion for administrative facilities in Rifle vicinity.

Ed – the alternative is to decide whether to proceed with a facility at 18th and Railroad or to expand the facility at the airport. This is administrative not court – deal with the need that will occur in 2008 and continue.

Chairman Martin – a direction to staff to negotiate and come up with final contract with CMC in reference to that facility at the Airport – it has been reviewed and this would be an expansion of that building.

Ed – a change or expansion in scope.

Don – asking direction for staff to change the scope of negotiations on a contract.

Commissioner McCown made a motion that the staff be authorized to do this. Commissioner Houpt seconded and pointed out that the option is less than 1/3 of the price of the other option that was brought forward to us for purposes of meeting some needs in the County.

In favor: Houpt – aye Martin – aye McCown - aye

CONSENT AGENDA

- a. Approve Bills
- b. Interfund Transfers
- c. Changes to Prior Warrant Lists
- d. Authorize the Chairman to sign a Resolution of approval and Special Use Permit for an Accessory Dwelling Unit located at 17527 Old Highway 82. Applicant: Rancho Trio-el Jebel, LLC. - David Pesnichak
- e. Authorize the Chairman to sign a Resolution of approval and Special Use Permit for expansion of the Middle Fork Natural Gas Compressor Station located at approximately 10 miles north of the Town of Parachute on County Road 215 and within the North Parachute Ranch. Applicant: EnCana Oil and Gas (USA) Inc. – David Pesnichak
- f. Authorize the Chairman to sign a Resolution of approval for a Zone District Amendment from ARRD (Agricultural/Residential/Rural Density) to RL – GSLVF (Resource Land – Gentle Slopes and Lower Valley Floor) for an approximately 77 acre parcel located 4.5 miles west of the Town of Parachute on Highway 6 & 24 – Applicant: Frac Tech Services, LLC – David Pesnichak
- g. Approval of a liquor license renewal for Aspen Glen Gold Club Management Company d/b/a/ Aspen Glen Club with Corporate report of changes – Jean Alberico

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A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a - g; carried.

REGULAR AGENDA PUBLIC MEETINGS:

CTSI UPDATE – Mark Wharton

Mark Wharton from County Technical Services provided the Board with some compensation statistics and health insurance pool data. These numbers are in line with what is happening in the state. There are 50 members in the pool – Garfield County is number 23. Mark explained the different charts showing the departments where losses occurred, law enforcement, administration, and social services and at the very last page all claims that occurred.

The Casualty loss ratio from 2001 – 2006 where Garfield finished up at 48% - (48 cents on each \$1.00). A 42% loss ratio.

On vehicle accidents –we are 35th out of 50%.

Garfield County is doing a decent job.

RETAC ISSUES – RETAC Representatives

Nancy Frizell and Carl Smith were present.

RETAC IGA – Don submitted a memo and asked about the next step.

Don said they are looking for direction on the various issues with the proposed IGA. Routt County Attorney – most of his concerns have been resolved and ready to go forward with the IGA.

Most contract language and provisions in the agreement and two are significant – the contract constrains literally – RETAC can perform emergency medical and trauma which are common in IGA’s but very broad – beyond that they’re statutory authority in the RETAC.

Medical services may be circumstances when placement for emergency care.

Overriding issues – RETAC created has been created by and for the benefit of State government and as it sits today is a State agency. With that said, Don recognizes that throughout the State, various counties have entered into IGA’s and have established separate legal entities and when that is done, that is a separate legal entity, not an arm of either the county or the state and operates independently under statutory authority.

Role for the RETAC and IGA direction

A motion was made by Commissioner Houpt that we support the IGA establishing the Northwest Regional Emergency Medical Services and Trauma Advisory Council and authorize the chair to sign the IGA.

Commissioner McCown seconded.

Chairman Martin thanked the RETAC for the many years – this has more pitfalls than rewards. State taking advantage of you and us.

Don asked for clarification on the motion, is this to move to support the IGA in concept.

Commissioner Houpt – amended her motion to include in concept.

Commissioner McCown – amended second.

Commissioner McCown stated he was struggling with this; aware it is an important entity but floundering and establishing another level of government – what will it change, there’s no advantage.

Nancy – said it is a clarification of what we are doing now.

Chairman Martin said we are losing the advisory power to this board. A different family member. Likes it the way you are.

In favor: Houpt – aye Opposed: Martin – aye McCown – aye.

We are not there yet.

Commissioner McCown promised to discuss this in the AGNC. RETAC is on the agenda – it needs to happen there.

Chairman Martin – take this to AGNC and give a recommendation back. We need to have a united front of all RETAC’s – give it to Danny to AGNC for a recommendation back to the Commissioners.

This diverse hearing time is on the AGNC agenda. They need to know what the RETACs are doing.

Execution of Annexation Plat for portion of CR 233 (Homestead North) – Carolyn Dahlgren

Carolyn Dahlgren said this is a Road and Bridge Issue.

This is a city annexed portion of the County road that’s surrounded by city and this makes it contiguous from the intersection of CR 294 through John Savage’s property.

Don asked if the County Surveyor has reviewed this for accuracy.

Carolyn – no, a private surveyor - Langhorne and the request is for the County to sign the plat and give up whatever ownership we have and pass it onto the city.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the chair to sign the plat.

In favor: Houpt – aye McCown – aye Martin – aye

CLERK & RECORDER - Resolution concerned with the approval of the Board of County

Commissioners for a mail ballot election – Jean Alberico

Jean presented the resolution and supporting documentation, Article 7.5 of the Colorado Revised Statutes and explained that in odd years the County has opted to have a mail ballot election.

Jean said she is asking the Board of County Commissioners to authorize the Chairman to sign this Resolution allowing my office to conduct the Coordinated 2007 Election as a Mail Ballot Election. We have been conducting the odd year elections in Garfield County since 1990 as Mail Ballot and this is just a formal approval for that. Over the time we have discovered a larger participation by the voters and a mail ballot normally costs about 30% less than a polling place election.

A motion was made by Commissioner Houpt that we authorize the Chair to sign the Resolution concerned with the approval of the Board of County Commissioners for a mail ballot election for November 2007.

Commissioner McCown seconded.

In favor: Houpt – aye McCown – aye Martin – aye

CROUCH PROPERTIES – MISSOURI HEIGHTS - Adrienne Crouch – Further Discussion

Don DeFord, Louis Beutner and Adrienne Crouch were present.

Don provided the Board with a quick update on where we are with this. On May 11, I wrote to the County Surveyor concerning a number of issues that were raised by Ms. Crouch and her representatives at the last

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meeting of the Board to see where the County Surveyor would be in terms of addressing some of these issues. We received a response to my inquiry dated June 3rd and just provided that to the Board this morning. Louis Beutner representing Ms. Crouch, 6 weeks ago we submitted to the Board a Boundary Line Agreement so as to correct one of the problems with the Crouch property. I haven't heard a thing from the Board for the last 6 weeks and in fact the member of the County staff that I was directed to contact hasn't even returned my call. We have had the boundary line agreement corrected and it is now in a final state. The correction consisted of a misspelled word, added a couple of s's and a comma and also added the acknowledgements page, the description of a roadway easement and a map as required by state statutes for a boundary line agreement. The Board's had 6 weeks to consider this; we have the finished document in front of you and asked to have them to revisit, look at and acknowledge a yes or no for that correction. The 2nd item to approach again is an item going for over 4 years and that is the encroachment on the road on the Crouch property. Four years ago the County Surveyor in response to Board's authorization investigated the encroachment and drew up a plat showing an encroachment. Since that nothing has been done. We would like to have some acknowledgement if the County is going to approach this problem. Recent, in the near future and correct that problem or shall we go ahead and take legal advice and start blocking the road? 3rd item is I would request an exemption from the land division code so as to have a freer hand to correct the problems that have been created on this property by both private sector and the government sector. I have an application here that I will hand out to you.

Adrienne - We want to be exempted from the regulation rules on my 35.6 acres.

Louis – the land investigated at least twice or more and all the questions in the Garfield's Code have been addressed and looked into. You will get a final plat to pursue and okay. Submittals were handed out. This removes us from having to submit a bunch of preliminary drawings to correct problems such as insufficiently described property transferred, vacated, etc. The last item to address is about 60 days ago Ms. Crouch inquired of the County by letter to acquire information pertaining to County Roads on Missouri Heights area. This is in regard to a legal matter that she has going against several parties and it would be very useful in the research that I have done pertaining to her property. There has been not response to that letter. 60-days something could be done.

Adrienne – Louis sized it up and not to re-boast, but one of the things is that I have been reviewing my 35.6 acres in the courthouse, what was recorded, was isn't recorded, what the title companies do and don't have, but a couple of years ago I actually asked the planning department, not my parents' three folders worth of exemptions, by mine, my Martha Adrienne Crouch exemption – I had them copy that, if there were duplicates I had them copy those etc. I have reviewed this again and in 1999 which Mr. McCown and Mr. Martin you've been Commissioners for a long time and you have seen some things before the Board but something that is from the planning department files, I would request that you guys review it, it tells a story, but the County Board in 1999 page 84 of the Minutes, on my 35 acres, "continued public meeting, vacation, dedication of County Road 162A – applicant: Adrienne Crouch", why this is interesting is because I've never seen it, didn't know about it, and it says Mark Bean and Don DeFord were present. Mark said Ms. Crouch is not available. The plat has been drawn up. Which plat, please? And they are in the process of the alignment; Kenny Gardner has gone up and verified the new road alignment. Mark said what was needed was a motion for placement of the appropriate items in the consent agenda for approval. Commissioner McCown moved to close the public meeting; Commissioner Stowe – carried. I have never been notified in the almost 16 years that I have personally owned the property of one exemption, public notice for subdivisions to my east or to my south, although in this document of when I have gone to what I thought was going to be Lot 1 and Lot 2, numerous times to the County I had to notify at least 6 neighbors. I would like to know where the notification are for my property when there have been subdivisions to the south, east, north and west so that I feel that I have complied with the statutes, the rules, hired people to represent me professionally, whether they did a good job or not I'm just shocked that I have had to spend so much money and time throughout the years and I need a resolution and what Mr. Beutner is working with a Resolution. The planning department personally asked me to come up with "what do I want", well what we want today is 1) Mr. Beutner has, because we haven't responded, gone ahead and done your homework, done the work for the Board – we've done it over and over again and I would like to just reemphasize that what Mr. Beutner is asking for is an exemption from the regulations and he would like the Commissioners after he, the first thing has to be a boundary line agreement between the County and myself that says, here's the road, that's what you have in front of you, all the work's been done, and at that point Mr. Beutner can come with a detailed plat that summarizes all of the boundary issues, the legal description of my property, whatever needs to be on that plat for signature for the Commissioners. So we want to directly have a line through you, because after years of mis-communication and last November we gave the Board and the County planning department a solution that basically Mr. Beutner keeps reiterating in different forms, doing more and more and more work to come up with the County planning department asked me directly, "what do you want?" and what we want is resolution in a timely and efficient manner and just cooperation that I get the same response that everybody else has to get with the statutes. I want a decision or we would appreciate a decision by next Monday or a signature on step one of our Boundary Line agreement. Is that possible? Don't the statutes say 15 days – what I requested from the Commissioners in my letter that's over 60 days was basically, show us the legal descriptions of the roads up there, it's really a separate issue than what Mr. Butter's doing, I have my title policy and I have the road and that's what he's addressing that the County doesn't know where it is on my property and that's what he's finalizing. I need sometime of a date.

Chairman Martin – agrees – but the issue is larger in reference to more than one road in Mr. Beutner's issue there was more than one road that needed to be addressed in one way or the other, either to vacate one or to establish a prescriptive use or a legal description and to allow access through agreement to one other parcel and adjoining subdivision – there's numerous issues out there.

Adrienne – what he did with the boundary line agreement today is not about encroachments or anything – it is specifically where my legal description is today with my 35.6 acres and that's what I keep trying to emphasis. If we bundled my families property, my neighbor's encroachments, subdivision issues, Missouri Heights overall, we could be here for years, and I don't think that this is fair for my personal 35.6 acres. It's very clear

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what Mr. Beutner wrote on his Exhibit B – he’s given every specific and it’s only on my 35.6 acres. It has nothing to do with that other road to the east of me.

Louis – the agreement uses that section corner monument – the one that is in existence, that we all should feel very shaky with. This agreement asked for the 1913 Road which is tied basically to an 1888 survey.
Chairman Martin – road reviewer report.

Louis – It is tied to section corner of the government corner of that time. Now if we try to correct the problems upon Missouri Heights pertaining to that section corner as Ms. Crouch says, it will take years. This boundary line agreement addressed the old right of way which was deeded to the County as an “as is road”. Ms. Crouch’s property was deeded from the 1963 county survey’s section corner. I used that in this action; I worked with evidence that is not conclusive so it is still unknown as to where this road that 1913 is. Under state statutes I could not find anything in the County statutes but under State statutes the Board and Ms. Crouch can come to an agreement as to where that road is. Walking the property I found an area that could have been considered a traveled way at that time, there are road cuts, flattening of the road, the slope, etc. It is a very old one; I can not find conclusive evidence to this because monumentation is such that in my estimation I cannot find that road, so we can agree to a location and as that road has not been used for many years I have pictures of sage bush at is 6” and 8 “in diameter in the middle of this road cut.

Chairman Martin – it is but the right of way, if it was public it doesn’t go away even if the sage brush grew up.

Louis – that is why I’m asking for the road to be abandoned.

Chairman Martin – that is what is referred to as a 1913 road dedication, etc. – I think we’ve considered that.

Don – especially I just pursued the agreement handed out today, the agreement is a boundary line adjustment and also an agreement that the road is abandoned. The County is not authorized to enter into agreements to abandon roads and to transfer title on roadways, what you are authorized to do is vacate a road under statutory authority and if it’s no longer needed and doesn’t deprive property access. Then the statutes take over and determine who takes title to the property, but you don’t do a separate conveyance. You have adopted your own vacation procedures in addition to state statutes that are very extensive and Mr. Jarman should have provided you with a copy of that Resolution so you would have an idea of the standards for vacation. It’s generally administered through his office. Those requirements today require that the applicant for a road vacation provide a survey of the right of way and the title opinion concerning the dedication of that right of way and other properties that might be affected. The roadway obviously in question would be very ancient in nature but it does appear that it would cross more properties than simply the Crouch property, so if the road is to be vacated then we need to know who owns it, particularly whether or not some point down the line whether or not there are in fact other property owners that would be affected or the public. Additionally, there is a current County road that crosses the Crouch property, CR 162 and the normal process for the Commissioners and directions to me in the past that when you vacate right of way we have to be assured that there is an existing public right of way in place and I haven’t seen agreement that would dedicate the existing portion of CR 162. Finally in regard to the corner, I think it was Mr. Beutner that raised this question, and it was many months ago about the location of the subject corner. As you can see and the response received from the County Surveyor and the verbal information I’ve received back, there is some question about the location of that corner. There is a specifically statutory process regulation that must be followed when you relocate. Commissioner Houpt said she would like the County Surveyor and BOCC to decide on having a surveyor - not receiving a document without a clear understanding of the implications. Need to decide if we as a county are going to move forward or what direction to go.

Adrienne – you can buy me out.

Louis – have County Surveyor contact Louis – don’t need to reinvent the wheel.

Chairman Martin – need an answer – can’t sign it today – bring it back – answer in strategy next Monday.

Advice in Ex Session – work with Don’s schedule.

Don – take action on the surveyor’s response as to when he can – take public notice.

Action to go to the Surveyor and give direction

162 and 162A – verify and give the direction to the County Surveyor.

Louis – County Surveyor will need the duties in 1963 pertaining to the monumentation. He can give them

Scope of work we are considering.

Adrienne – commission proceedings – given time in 2002 – stake 162A.

Louis – 162a has been mapped.

Adrienne – emphasis – please don’t bundle this up.

Don - driveway and easement.

ASSESSOR - ABATEMENTS FOR TOWN OF NEW CASTLE HOUSING CORPORATION – (07-139) AND RIFLE AIR LLC (07-170) – John Gorman and Lisa Warder

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

NEW CASTLE HOUSING CORPORATION – (07-139)

Tax year - \$13,128.64 – lower income housing

ASSESSOR - ABATEMENT - RIFLE AIR LLC (07-170)

2005 – 2006 hangars limited use –2005 - \$1,343.35 and 06 – 1,328.07

Value – looking a market value – 11-57-00

Just the metal – not the prosector land interest.

Lucrative land at the airport - \$660,000 value – lowered to \$557,000

A motion was made by Commissioner McCown to close the public hearing. Commissioner Houpt seconded.

McCown - Houpt

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the abatements for the Town of new Castle Housing Corporation and Rifle Air as presented.

In favor: Houpt – aye McCown – aye Martin – aye

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CLERK & RECORDER - BURNING MOUNTAINS FIRE PROTECTION DISTRICT

Jean Alberico, Carolyn Dahlgren, David McConahey, Brit McLin - Fire Chief, Ellen Pogue, Frank Breslin – Mayor of New Castle and John Pogue were present.

Proof of publication and notice given; published in newspapers on 11th May 2007.

Carolyn determined that proper notification was given; they noticed each property owner in the district – mailed to property owners in the district – property tax levied; the notice was mailed on 18th of May.

Affidavits – no certified notice given – Assessor’s records were used to give notice.

The service plan has been received. A resolution approving a material modification to the service plan for the Burning Mountains Fire Protection District was submitted. This adds ambulance service to the service plan however ambulance service is already being provided. Statutes require this modification filed with the County.

David McConahey – addressed to the New Castle Cemetery. Town of New Castle and accepts as adequate notice.

Chairman Martin swore in the speakers.

John Pogue – organized in 1976 Silt/New Castle changed to Burnings Mountain – modify the 1976 service plan to provide emergency medical services and clarify what is being done – EMS to the West Care Ambulance.

Letter in the packet from West Care.

David McConahey – New Castle – Mayor Frank Breslin and Bruce Leland – town council not for or against this amendment. Purpose for coming here today is to comment – ambulance service in general is in limbo and served by the Town of Silt in agreement with New Castle to fund the ambulance service – only concern is under the statutory – if the fire district provides service might prohibit the formation of an ambulance district – the town said a dialogue of the town, fire and ambulance – encourage the dialogue before or after the Board foreclose on this.

Frank Breslin – have met with Westcare ambulance and Mr. McLin – asked in the form of questions – concerns basically – West car – transport – and citizens – emergency care and trauma assistance – cardiac live support – how assigned and who accountable – will there be a chain of command – ammonia car on a train that overturned. Two district agencies – West Care has paid staff – won’t go back to volunteers.

Accountability of assignment of calls and how addressed the need for advanced life support with paramedics – if not expressed discussed with the dispatcher – need more medical care than what’s given by the.

Bruce Leland – town council – reiterated – Town Council no former action – private citizen – reiterated that the discussions – indicated they would be willing to enter into a bi-way discussion with the two towns and the counties – to talk about the best bureaucratic arrangement. McLin – fire and ambulance – two organization s-differences and New Castle very interested in solving those two organizations and their differences. Good care of ambulance service –

John Pogue – pointed out the intent – clarify a possible confusion fro the 1976 ambulance - more detailed Brit McLin – good news – who provide service - works well together – has been discussions – amendment - this is an ancillary service to West Care – not interested in competition. AOS and requiring EMS – nurses to provide care – advanced life support – assigned shifts – great success – not abandoned service – main concern – focus in on ambulance – portion of it – very large vacuum on service if we don’t – hazards, public outreach – EMS – trying to institutionalize so they can operate in the 21st century. Memos – conclusion – convince the fire department to provide the service.

Commissioner McCown – actually this type of organization – crossing the boundary lines with New Castle, Silt and the unincorporated County. This is bringing these guys to come into the 21st century.

No IGA in the unincorporated portions of the county. This will enhance the services.

Chairman Martin – good relations with all the ambulance services.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing;

In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the service plan and west care ambulance to be involved.

In favor: Houpt – aye McCown – aye Martin – aye

Public Comments from Citizens Not on the Agenda

OIL AND GAS - CHEVRON Michael from Chevron office in Grand Junction is scheduled later on in the agenda Building & Planning, there will be four Special Use Permits associated with Chevron in the Piceance Basin and throughout the year more are coming. Two are associated with temporary worker housing; an additional Special Use Permit for a field office and one fresh water storage for drilling activities. This is a great deal of activity for this end of the County and they have been speaking with stakeholders – Clear Creek, Roan Creek and DeBeque areas and they were telling us what they were most interested in. There are stakeholder meetings all this week and we are addressing concerns and mitigation ideas. This is important to Chevron. Thanks for the opportunity to meet here this afternoon and want to be actively engaged with the Board and the County.

PUBLIC MEETINGS

BUILDING & PLANNING - CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT

REQUEST FOR TEMPORARY EMPLOYEE HOUSING – CHEVRON USA INC. – FRED JARMAN

Fred submitted the memorandum stating the B & P Department has received a request for a SUP to house temporary employees on a 4678.26 acre property owned by Chevron USA located about 0.6 miles north of the intersection of CR’s 204 and 211 north of the Town of DeBeque. The location of these facilities is along the major roadways within the property. The request is to accommodate two drilling rig crews. Each crew consists of 5 people for each 12 hour shift. Except in an emergency situation there would be no more than 10 people at the site. The proposed facilities will all incorporate an individual sewage disposal system and provide domestic water via hauled potable water.

Staff recommendation: Staff finds that due to the 1) limited nature of potential impacts to surrounding properties, 2) the facilities are proposed to have ISDS and hauled potable water, 3) these facilities are going to

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be under a maximum of 20 individuals, Staff recommends the Board direct staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.

Fred handed out a map that has the four projects located.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to set this for a hearing before the BOCC.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT TO THE PLANNING COMMISSION FOR TEMPORARY EMPLOYEE HOUSING. APPLICANT: CHEVRON USA INC. – FRED JARMAN

Fred submitted the memorandum stating the B & P Department has received a request for a SUP to house temporary employees on an 115,000 acre property owned by Chevron USA located about 7.5 miles north of the intersection of CR's 204 and 211 north of the Town of DeBeque. The location of these facilities is along the major roadways within the property. The request is to accommodate drilling rig crews on an approved well site, SKR 598-26-AV. The site would accommodate up to 24 people in six buildings. The proposed facilities will all incorporate three (3) 2,000-gallon holding tanks for sewage disposal and provide potable water via hauled water to an 80 barrel storage tank and drinking water via 5 gallon sealed containers. Staff recommendation: Staff finds that due to the 1) limited nature of potential impacts to surrounding properties, 2) the remote location of the facilities such that they are to be situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic, 3) the facilities proposed to have vault-and-haul wastewater disposal and hauled potable water, 4) these facilities are going to be under a maximum of 24 individuals, 5) the facility is to be on location only during active drilling on the pad, 6) and the fact that the site will be situated on existing COGCC approved APD well pad. Staff recommends the Board direct staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to set this for a public hearing before the Board.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT TO THE PLANNING COMMISSION FOR AN INDUSTRIAL SUPPORT FACILITY – CHEVRON USA INC. – FRED JARMAN

Fred submitted the memorandum stating the B & P Department has received a request for a SUP for an industrial support facility, temporary office on a 2.19 acres of a 4311.49 acre property owned by Chevron USA located at the end of County Road 211 north of the Town of DeBeque. The location of the Temporary Office will be just inside a location known as the Hiner Gate.

The site will have four (4) manufactured office buildings anticipated to be 12' x 60' each. There will also be a 10' x 32' manufactured office by the gate which will serve as the security access facility for the site. All traffic passing through the Hiner Gate will check in and out of the facility. It is anticipated that there will be between 150 and 500 daily vehicle round trips per day going through the gate dealing with the operations on the property. Up to 20 vehicles will be directly associated with the supervisory personnel using the temporary office site. Activities associated with the temporary office facility are initially planned to be 7 days a week, 12 hours a day, with the possibility of expanding those hours of operation to 24 hours a day during critical operations and emergencies. Water will be provided by an on-site storage tank capable of providing 1,000 gallons per day to the facility. Sewage is proposed to be an on-site tank and portable toilets. The facilities are tentatively planned to be in place for a year, while a more permanent office facility is built on a nearby site. Staff recommendation: Staff finds that due to the 1) limited nature of potential impacts to surrounding properties, 2) the remote location of the facilities such that they are to be situated at the end of a dead-end county road which is used primarily for industrial facilities serving the existing industrial uses in the area with very limited general population traffic staff recommends the Board direct staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.

Commissioner Houpt – questions about the traffic of 150 and 500 daily vehicle round trips – does this beg the question of creating a necessary separated public hearing.

Fred – these strips are not tagged – these are trips for a variety of things not tied to a land use application. 20 trips on its own.

Houpt – refer things to ourselves and bypass the Planning Commission. Look at each one independently.

Fred – opportunity – there's a variety of land use permits we bring to you – a double public review. How many people in a particular land use application will be impacted?

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to set this for a public hearing before the BOCC.

Commissioner Houpt – things this, the numbers of vehicles shouldn't be referenced if it doesn't relate to a specific project.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT REQUEST TO THE PLANNING COMMISSION FOR MATERIAL HANDLING OF NATURAL RESOURCES – APPLICANT: CHEVRON USA, INC. – FRED JARMAN

Fred submitted the memorandum stating the B & P Department has received a request for a SUP for a material handling of natural resources, fresh water pond on 1.6 acres of a 4311.69 acre property owned by Chevron USA located at the end of County Road 211 north of the Town of DeBeque. The location of the fresh water pond will be inside of the gated property owned by the applicant. The pond is for the drilling operations of the applicant on the property and fire protection in an emergency. Water will be hauled to the site by tanker trucks initially, which will require 20 – 40 trips a day for one to two months. Once the pond is filled, water will be trucked to the drill sites on an "as needed basis". No additional facilities or structures are proposed as a part of this application, but the applicant is investigating the possibility of treating wastewater and possibly pumping water to drill site. These activities associated with the proposed fresh water pond are

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planned to be 7 days a week, 12 hours a day within the property boundaries. No personnel will be manning the facility.

Staff recommendation: Staff finds that due to the 1) limited nature of potential impacts to surrounding properties, 2) the remote location of the facilities such that they are to be situated at the end of a dead-end county road which is used primarily for industrial facilities serving the existing industrial uses in the area with very limited general population traffic staff recommends the Board direct staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to set this for a public hearing before the BOCC.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR A GUEST HOUSE LOCATED APPROXIMATELY 4 MILES EAST OF THE TOWN OF CARBONDALE AND DESCRIBED AS 12746 HIGHWAY 82. APPLICANT: DAVID EFFRESS - DAVID PESNICHAK

Carolyn Dahlgren, David Pesnichak, and David Effress were present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

David submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff Memorandum; Exhibit E - Application materials; Exhibit F – Memo from Jake Mall of the Garfield County Road and Bridge Department dated 5-14-2007.

Chairman Martin entered Exhibits A – F into the record.

David stated the Applicant requests a Special Use Permit for a Guest House on the subject property, which is defined in the Zoning Resolution as “an accessory, detached building, which is designed and used to house nonpaying visitors and guests of the occupants of the main building of the site.” A guest house is contemplated as a special use in the ARRD zone district.

The Applicant is requesting to build a 1,000 square foot guest home adjacent to the existing home on the 3.121-acre property.

Regarding domestic water, the property has a well permit from the Division of Water Resources augmented by a Basalt Water Conservancy District contract which is activated for two residential units.

Regarding wastewater, the Applicant is proposing to construct a separate ISDS to be utilized exclusively by the guest house. An investigation of the feasibility of the site for an additional ISDS was conducted by All Service Septic, LLC on March 5, 2007. The investigation found that the percolation rate on the site ranged from 20 to 40 minutes per inch. Based on this percolation rate, Staff recommends that the ISDS be designed by a Colorado certified engineer.

There appears to be ample area for parking on the property for a single-family dwelling and a guest house. The need for parking or improvements due to associated traffic generated from a guest house is typically much less than a single-family dwelling.

The guest house is to be located directly to the east of the existing residence on the property. No lighting was proposed as part of this review; however, Staff recommends that, should the Board approve the request, all lighting associated with this structure shall be the minimum amount necessary and all exterior lighting will be directed inward and downward, towards the interior of the lot.

The Applicant understands that per Section 5.03.025, the Guest House cannot be constructed larger than 1,000 square feet. This standard is met.

The property is located in the ARRD zone district which has a 2-acre minimum lot size. The subject property is 3.121 acres which is 56% larger than the 2-acre minimum lot size. This standard is met.

Should the Board grant this SUP, this standard shall be an on-going requirement of any special use permit and included as a condition of approval.

RECOMMENDATION

Staff recommends the Board of County Commissioners APPROVE the application for a guest house with the following conditions:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
2. All lighting associated with the guest house shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
3. The applicant shall obtain any applicable Garfield County building permits, grading permits and access permits.
4. The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended, and shall meet all building code requirements.
5. The gross floor area of the guest house shall not exceed 1,000 square feet.
6. The guest house shall not be conveyed as a separate interest or be leased to a third-party. The length of stay of a guest shall be limited to thirty (30) days, unless said guests are the grandparents, parents, siblings or children of the occupants of the primary structure.
7. At the time of building permit for the guest house, the Applicant shall obtain an ISDS permit from Garfield County capacity to provide for the new unit.
8. The ISDS for the proposed guest house shall be designed by a Colorado certified engineer.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing;

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit for a guest house with the 8 conditions of staff.

In favor: Houpt – aye McCown – aye Martin - aye

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CONSIDER A SPECIAL USE PERMIT FOR STORAGE AND MATERIAL HANDLING OF NATURAL RESOURCES FOR SEMCRUDE, LP – APPLICANT: ESTATE OF WILLIAM F. CLOUGH – FRED JARMAN

Fred Jarman, Carolyn Dahlgren, Baron Noble, David Clemons, and Representative Phil Vaughan with PVCMI were present.

The disturbed area is 2.177 acres on this large parcel.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff Memorandum; Exhibit E - Application materials; Exhibit F – Memo from the County Road and Bridge Department dated 5-21-2007; and Exhibit G – Letter from the Oil and Gas Department dated 5-30-2007.

Chairman Martin entered Exhibits A – G into the record.

GENERAL PROJECT DESCRIPTION

Semcrude LLC is a company, which currently works in Garfield County transferring condensate as a marketable commodity from Williams Production RMT (Williams) natural gas wells to processing facilities outside Garfield County. As you know, condensate is comprised of hydrocarbons that are naturally produced as a part of the natural gas drilling operation as a by-product. Semcrude is commonly hired by natural gas drilling companies to purchase this commodity and take it to market. In this case, during the summer months Semcrude currently uses 80,000 lb. tanker trucks to visit each well pad to collect condensate and then trucks it out of the County. Due to adverse weather conditions in the spring and winter months, a smaller 50,000 lb. “bobtail” truck is used to go to well pads due to varying road conditions and remote locations.

Semcrude wishes to construct ten (10) 400 barrel tanks (which would hold a maximum of 168,000 gallons) to serve as an unmanned centralized collection / storage facility where the larger 80,000 lb. tankers will haul condensate from the facility to destinations out of the County and only the smaller bobtail trucks will collect condensate from the well pads. This facility would operate 24 / 7 year round.

The Application states that this facility will result in the following benefits to Garfield County than their current operations:

- 1) Decreases large tanker traffic on smaller county roadways resulting in increased safety and reduction in road damage;
- 2) Allows for limited storage of condensate which results in a 30% decrease in tanker trips;
- 3) Decreases impact on county roads by eliminating 80,000 lb. tanker trips by replacing them with 50,000 lb. trucks.

The operation envisions a maximum of 8 bobtail trips per day and 4 tanker trips per day. The application states that these trips are planned to double within the next 2 years to 16 bobtail trips per day and 8 tanker trips per day. The graphic to the right shows a reduced site plan showing the access from CR 246, internal circulation, tank battery, and support building.

The process for production and handling of condensate is complicated but Staff thought it would be helpful for background so that general process is provided here:

The raw natural gas feedstock from a gas well or a group of wells is cooled to lower the gas temperature to below its [hydrocarbon dew point](#) at the feedstock pressure and that condenses a good part of the gas condensate hydrocarbons. The feedstock mixture of gas, liquid condensate and water is then routed to a high pressure separator vessel where the water and the raw natural gas are separated and removed. The raw natural gas from the high pressure separator is sent to the main [gas compressor](#).

The gas condensate from the high pressure separator flows through a throttling control valve to a low pressure separator. The reduction in pressure across the control valve causes the condensate to undergo a partial vaporization referred to as a [flash vaporization](#). The raw natural gas from the low pressure separator is sent to a "booster" compressor which raises the gas pressure and sends it through a cooler and on to the main gas compressor. The main gas compressor raises the pressure of the gases from the high and low pressure separators to whatever pressure is required for the [pipeline transportation](#) of the gas to the raw [natural gas processing](#) plant. The main gas compressor discharge pressure will depend upon the distance to the raw natural gas processing plant and it may require that a multi-stage compressor be used.

At the raw natural gas processing plant, the gas will be [dehydrated](#) and [acid gases](#) and other impurities will be removed from the gas. Then the [ethane](#) (C₂), propane (C₃), butanes (C₄) and C₅ plus higher [molecular weight](#) hydrocarbons (referred to as C₅+) will also be removed and recovered as byproducts. The water removed from both the high and low pressure separators will probably need to be processed to remove hydrogen sulfide before the water can be disposed of or reused in some fashion. Some of the raw natural gas may be re-injected into the gas wells to help maintain the gas reservoir pressures. The subject property is zoned Resource Lands and is more specifically located in the Gentle Slopes / Lower Valley Floor sub zone. Additionally, the areas surrounding the site are also zoned RL. Storage and Material Handling of Natural Resources are allowed in this zone district as special uses requiring the approval of the Board of County Commissioners. The uses that surround the site include the County Landfill to the north, interstate and state highway system to the south, and open range land to the east and west that have significant oil and gas related activities on them including active drilling, compression and pipeline activity. The property is located in Study Area 3 and has been designated as “Outlying Residential” and is also located with the acre designated as a “Visual Corridor”. The Applicant has proposed a use that is industrial in nature which conflicts with the present designation. Consider the following Goals, Objectives, and policies that apply to the proposal: The subject property is

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located approximately 0.7 miles north of I-70 and Highway 6. The nearest I-70 interchange from the subject property is approximately 2 miles away at Rulison. Locating industrial development in this area is consistent with the Plan. The proposed use is a support business to the oil / gas exploration industry which is centered in the same area of the county as the proposed use. Again, as mentioned above, surrounding uses in the general area include the County Landfill to the north, major interstate and state highway to the south and open rangeland that has significant oil and gas exploration and production facilities to the east and west. The subject property is located in a rural, increasingly industrial area adjacent to natural gas well drilling activity, I-70 and SH 6 & 24, and the County landfill to the north. Due to these activities, Staff is reluctant to suggest that this area is ideal for residential development in the near future and it will most likely continue to be characterized as open range with some form of activity resultant from the oil and gas industry. It should be noted that this is also the main gateway to the Naval Oil Shale reserve area. The proposed use will be screened significantly decreasing its impact to the surrounding area. The proposed use will be visually detrimental to the surrounding natural environment seen from I-70. The Comprehensive Plan identifies the property as lying within the Visual Corridor, which is based on *significant view-sheds or natural features, distance from a major travel corridor, and topographic conditions that define sight distance from a major roadway*. In this way (and as recognized by the Plan by placing land use value on visual corridors), I-70 serves as a linear gateway to the rest of the County and it provides visitors to Garfield County with their first impression. This impression also assumes the rest of the County is treated in the same manner regarding appropriate land use or associated mitigation of land uses. An unmitigated or inappropriate land use only detracts from the natural assets / resources of the County. The Applicant proposes to install an 8-foot chain link fence with desert tan vertical slats along the perimeter of the property, which will significantly reduce the visual impact of the industrial nature of the tanks and associated tankers on site. As the property is located on all sides by uses industrial in nature, Staff feels this is an appropriate area in terms of noise. In addition, as this property has easy access to I-70 and Highway 6, the location is appropriate in terms of infrastructure impact and air quality. The Plan's proposed land use map identifies this property as Outlying Residential rather than Light Industrial, which would be a more appropriate designation. However, one of the goals in the plan is to locate the proposed use near or at interchanges in the western part of the County. Based on this, it appears, with proper mitigation, the use could be consistent with the Plan. The site plan represents an 8-foot privacy fence around the perimeter pf the 4.3 acres site for the purpose of screening the use from this public right-of-way. However, due to the topography of the area, I-70 sits slightly above the subject property and will have an aerial view of the proposed facilities. The Plan identifies the property as lying within the Visual Corridor which is based on *significant view-sheds or natural features, distance from a major travel corridor, and topographic conditions that define sight distance from a major roadway*. Staff finds that the Applicant has attempted to reduce the visual impacts along Highway 6 from this use although the topography of the area makes screening from I-70 difficult. Staff suggests that the applicant paint buildings, rooftop equipment and associated infrastructure in a manner that is consistent with the surrounding landscape in order to better disguise the facility and reduce its visual impacts. The application does propose such coloring schemes that, with the fencing, will significant reduce the visual impact and meets the intent of this policy. The application states that the facility will allow for fewer large tanker trucks on the County's road system resulting in increased safety and reduced road impacts. The subject property has good access to both I-70 and Highway 6 & 24. However, the vehicles will utilize county roads and are subject to overweight and size permits and should utilize the County Road Departments suggested haul routes. The proposed use is an unmanned facility requiring no on-site employees. Because it serves as a centralized facility where trucks come in, potentially from a long haul route, the Applicant proposes to install a portable toilet on site that can serve the limited sanitation needs of drivers while on site. Staff suggests this method is preferred over requiring the installation of a permanent ISDS as it can be located within the proposed sight obscuring fencing and will be screened and serves a very limited need. No water service is needed or required for this operation. Staff finds this standard has been met. The operation envisions a maximum of 8 bobtail trips per day and 4 tanker trips per day. The application states that these trips are planned to double within the next 2 years to 16 bobtail trips per day and 8 tanker trips per day. The proposed use has a direct access point onto CR 246 (Anvil Points Road) which is a dead-end County Road that serves as the primary access to the County Landfill, the Naval Oil Shale Reserve area, and existing Williams Production RMT natural gas activities on the Bill Clough property and serve as the main access to one residence that is located approximately 0.75 miles from the subject facility to the west. The location of the access point onto CR 246 has very good visibility to the north and south. The Application states that one of the primary objectives of the facility is to reduce the use of large 80,000 lb multi-axel trucks on the County's road system, which will reduce impact to the physical roadway as well as increase safety on the road system. As stated earlier, this facility will result in the following benefits to Garfield County than their current operations:

- 1) Decreases large tanker traffic on smaller county roadways resulting in increased safety and reduction in road damage. (Decreases impact on county roads by eliminating 80,000 lb. tanker trips by replacing them with 50,000 lb. trucks.)
- 2) Allows for limited storage of condensate which results in a 30% decrease in tanker trips;

The County Road and Bridge Department conducted a site visit with the Applicant and has no objections to this application with the following comments:

- A. Road and Bridge will issue a driveway access permit upon final approval by the BOCC with conditions specific to the driveway location. The conditions will include the width of the driveway access, a paved apron and a stop sign at the entrance to Cr. 246. The stop sign and installation shall be as required by the MUTCD (The Manual on Uniform Traffic Control Devices).
- B. This facility fits in with other operations in the surrounding area and is away from a residential area. The reduction in truck traffic on CR 246 is a benefit to the County Road system and the location of this proposed facility uses a limited distance of CR 246 from the intersection of Highway 6 & 24 to the proposed facility.
- C. As tanker transport vehicles are mandated under the divisible load standards they cannot haul more than

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the weight limit on CR 246. The weight limit on CR 246 is 80,000 pounds for 5 axel vehicles and 54,000 pounds for 5 axel vehicles.

- D. All vehicles hauling equipment and building materials for the proposed facility will abide by Garfield County's oversize/overweight permit system.

Staff finds that the proposed project will not adversely affect the County's road system and that the specific requirements from the Road and Bridge Department shall be conditions of approval. Staff finds this standard to be met.

The project is proposed to be located on the I-70 valley floor below the Roan Cliffs in Sherrod Park and is generally characterized as sparse open range with sage cover. The neighborhood character has been largely dominated by natural gas exploration facilities, the County Landfill at Anvil Points, the Naval Oil Shale Reserve, and State Highway 6 & 24 and I-70 to the south. The proposed location of the project encompassing 4.13 acres is approximately 0.75 miles north of State Highway 6 & 24 and I-70.

The project facilities include ten 400 bbl. tanks which are 12 feet in diameter and 20 feet tall, storage of two 80,000 tanker trucks, a small 10 x 10 storage shed, and a portable toilet. Due to the low ground cover and elevation gain of the ground as seen from State Highway 6 & 24 and I-70 to the south, these facilities will be visible.

Additionally, the Comprehensive Plan identifies the property as lying within the Visual Corridor, which is based on *significant view-sheds or natural features, distance from a major travel corridor, and topographic conditions that define sight distance from a major roadway*. In this way (and as recognized by the Plan by placing land use value on visual corridors), I-70 serves as a linear gateway to the rest of the County and it provides visitors to Garfield County with their first impression. This impression also assumes the rest of the County is treated in the same manner regarding appropriate land use or associated mitigation of land uses. An unmitigated or inappropriate land use only detracts from the natural assets / resources of the County.

Applicant proposes to minimize the visual impact of the facility by installing an 8-foot chain link fence around the facility with desert tan colored slats which will help to lessen the industrial visual impact the site. Additionally, the structures and tanks will also be painted a desert tan so as to better blend with the surrounding area. Staff finds the Applicant's proposal to install an 8-foot chain link fence around the facility with desert tan colored slats will aid in the screening of the facility but will not totally screen the facility as the tanks are approximately 20 feet tall. (Staff notes that a building permit is needed for fencing taller than 6 feet.) This portable toilet needs to be located within the 8-foot enclosure to be adequately screened from view. The project's sole purpose is the transfer and storage of condensate as a marketable by-product of the natural gas drilling operation and generally contains the following constituents:

- *Hydrogen sulfide, mercaptans, Carbon dioxide, Straight-chain alkanes, Cyclohexane, and perhaps other **naphthenes**, and Aromatics (benzene, toluene, **xlenes** and **ethylbenzene**)*
- *The natural gas condensate is also referred to as simply **condensate**, or **gas condensate**, or sometimes **natural gasoline** because it contains hydrocarbons within the gasoline boiling range. A natural gas liquid with a vapor pressure intermediate between natural gas condensate and liquefied petroleum gas and has a boiling point within the range of gasoline. This hydrocarbon mixture is liquid at ambient pressure and temperature. It is volatile and unstable but can be blended with other hydrocarbons to produce commercial gasoline.*

The 400 barrel tanks would look like the tanks on the right but would be painted desert tan.

The application contains both a Storm Water Management Plan (SWMP) and a Spill Prevention Countermeasure and Control Plan (SPCC) that provide details as to how the facility is lined and bermed in order to contain a spill and prevent contamination of ground or surface water from runoff in a large drainage event. (Note, the SPCC plan is for another similar Semcrude facility called an "Oil Spill Prevention and Response Plan for Shipments of Oil in Cargo Tank Trailers."; however, the Applicant intends to submit a site specific SPCC plan for this facility once the facility improvements are completed so that the plan can pertain specifically to how this facility was constructed so that spill prevention can be tailored accordingly.

Staff finds that both documents provide minimal detail as to how to adequately contain condensate on the ground should there be a serious leak. The SPCC plan states for petroleum products, "Containers used for Petroleum storage shall be tightly sealed and clearly labeled. On-site fuel tanks will be protected with at least a two-foot, plastic lined dirt berm completely surrounding the tank in case of a leak or spill." At maximum capacity, the site could spill 168,000 gallons of condensate onto the ground. The Application narrative discusses a berm to be constructed to contain 1.5 times the maximum storage capacity, but does not mention any type of liner to protect groundwater from contamination. Staff finds this need to be better explored by the Applicant.

The County Oil and Gas Department reviewed the Application and also pointed out that there appears to be a deficient design in containing contaminants from migrating to ground water and that the silt fencing would only serve as a stormwater / silt detention measure during construction and would be removed once construction is complete. Additionally, the SPCC plan submitted in the Application is based on a project in Texas and need to have all the emergency and corporate contacts updated for Colorado and the local region. A new SPCC plan needs to be submitted that reflects Colorado regulations and local emergency contacts.

As mentioned above, condensate has a significant bad odor resultant from vapor naturally produced from the condensate. Not only does condensate smell bad, but is also releases certain Volatile Organic Compounds (VOC) into the atmosphere. The County does not specifically regulate these emissions; however, the State Department of Public Health and Environment does regulate those requiring venting permits.

The only significant dust generation will occur during construction of the site. The Applicant has provided a Storm Water Management Plan that calls for Best Management Practices in dealing with erosion control measures and the Applicant also states they intend to keep moisture in the soil to keep dust down by using water or dust suppressant when necessary.

Regarding noise, the land use code requires that a project demonstrate that it can meet the state's noise guidelines at the time the Application is made. To this end, the state statute states "*Sound levels of noise*

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radiating from a property line at a distance of 25 feet or more there from in excess of the dB(A) established for the following time periods and zones shall constitute (prema facia) evidence that such noise is a public nuisance.” The table below shows the zones and dB(A) acceptable for each zone and particular time.

To address this criterion, the Applicant commissioned a noise study from Hankard Environmental, Inc. which ultimately stated that the noise generated from the site (primarily consisting of the pumps on the trucks and the trucks themselves) is well below the state guidelines. This standard is met.

Regarding glare, the Applicant intends to paint the tanks a desert tan color as well as insert PVC slat inserts into the 8-foot chain link fencing that will surround the facility to eliminate glare.

The Application was referred to the Colorado Division of Wildlife and the Applicant made several attempts to obtain a review by CDOW; however, the CDOW did not provide comment. The Application does contain a Wildlife Resource Information System map that is complied by the CDOW and reproduced by Garfield County that identifies wildlife concentrations in the area. In this case, the site is located in Mule Deer area (Severe Winter Range / Winter Range – Winter Concentration Area), Elk overall range, and black bear overall range.

The total site is 4.13 acres and is intended to be enclosed within an 8-foot tall fence that Staff finds will 1) prevent wildlife and grazing livestock to enter the site but 2) will not block any migration through the area. The majority of the immediate surrounding area provides ample area for wildlife to forage and Staff can see no detriment to Elk, Mule Deer, or Black Bear by the installation of this project.

The County Oil and Gas Department reviewed the Application and points out that the project proposes a barbed-wire perimeter fencing around the entire facility. This may be problematic for wildlife. Staff suggests that any perimeter fencing should be consistent with what the CDOW generally recommends for wildlife-friendly fencing.

The operation envisions a maximum of 8 bobtail trips per day and 4 tanker trips per day. The application states that these trips are planned to double within the next 2 years to 16 bobtail trips per day and 8 tanker trips per day. The proposed use has a direct access point onto CR 246 (Anvil Points Road) which is a dead-end County Road that serves as the primary access to the County Landfill, the Naval Oil Shale Reserve area, and existing Williams Production RMT natural gas activities on the Bill Clough property and serve as the main access to one residence that is located approximately 0.75 miles from the subject facility to the west. The location of the access point onto CR 246 has very good visibility to the north and south.

The Application states that one of the primary objectives of the facility is to reduce the use of large 80,000 lb multi-axel trucks on the County’s road system which will reduce impact to the physical roadway as well as increase safety on the road system. As stated earlier, this facility will result in the following benefits to Garfield County than their current operations:

- 1) Decreases large tanker traffic on smaller county roadways resulting in increased safety and reduction in road damage. (Decreases impact on county roads by eliminating 80,000 lb. tanker trips by replacing them with 50,000 lb. trucks.)
- 2) Allows for limited storage of condensate which results in a 30% decrease in tanker trips;

The County Road and Bridge Department conducted a site visit with the Applicant and has no objections to this application with the following comments:

- A. Road and Bridge will issue a driveway access permit upon final approval by the BOCC with conditions specific to the driveway location. The conditions will include the width of the driveway access, a paved apron and a stop sign at the entrance to Cr. 246. The stop sign and installation shall be as required by the MUTCD (The Manual on Uniform Traffic Control Devices).
- B. This facility fits in with other operations in the surrounding area and is away from a residential area. The reduction in truck traffic on CR 246 is a benefit to the County Road system and the location of this proposed facility uses a limited distance of CR 246 from the intersection of Highway 6 & 24 to the proposed facility.
- C. As tanker transport vehicles are mandated under the divisible load standards they cannot haul more than the weight limit on CR 246. The weight limit on CR 246 is 80,000 pounds for 5 axel vehicles and 54,000 pounds for 5 axel vehicles.
- D. All vehicles hauling equipment and building materials for the proposed facility will abide by Garfield County’s oversize/overweight permit system.

Staff finds that the proposed project will not adversely affect the County’s road system and that the specific requirements from the Road and Bridge Department shall be conditions of approval. Staff finds this standard to be met.

The project is approximately 0.7 miles from the nearest residential property and 0.7 miles from State Highway 6 & 24 and I-70 and is located within an area that is largely dominated by industrial oil and gas exploration activity. Staff finds there is sufficient distance from any use that might be damaged by the operation of the proposed use. This standard is met.

Applicant proposes to minimize the visual impact of the facility by installing an 8-foot chain link fence around the facility with desert tan colored slats which will help to lessen the industrial visual impact the site. Additionally, the structures and tanks will also be painted a desert tan so as to better blend with the surrounding area. Staff finds the Applicant’s proposal to install an 8-foot chain link fence around the facility with desert tan colored slats will aid in the screening of the facility but will not totally screen the facility as the tanks are approximately 20 feet tall. (Staff notes that a building permit is needed for fencing taller than 6 feet.)

The Application contains a rehabilitation plan that essentially describes removal of all improvements and returning the grade of the 4.13-acre site to its previous contours as well as using a planting scheme and weed management plan that shall need to be approved by the County Vegetation Manager. The Applicant has discussed the project with the County Vegetation Manager and has indicated that total disturbance for the purposes of calculating a reclamation bond is 2.177 acres. Staff suggests the Board require a bond to be held by the County for the reclamation of the site in an amount to be calculated by the Vegetation Manager prior to issuance of a SUP.

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Staff recommends the Board approve the request for a Special Use Permit for “Storage and Material Handling of Natural Resources” for the temporary storage of natural gas condensate by Semcrude, LP as the project 1) will result in very minimal impact to County Road 246; 2) is located in an area south of the County Landfill and surrounded by existing gas production infrastructure; 3) will not require water / wastewater; will reduce physical and safety impacts to County Roads by removing large tanker truck traffic; and 4) does not create a significant visual impact in the County’s visual corridor. Staff recommends approval with the following findings of fact and conditions:

Conditions of Approval

1. That all representations of the Applicant, either in testimony or the submitted application materials, shall be considered conditions of approval unless specifically altered by the Board of County Commissioners.
2. Prior to the issuance of a Special Use Permit, the Applicant shall furnish the County Building and Planning Department with a plan that shows how the area to contain the tank battery is lined and what type of liner is used.
3. The Applicant shall submit a revised SPCC plan specific to this project once project construction has been completed demonstrating that the liner has been put in place as well as an updated contact list that reflects local emergency / spill response numbers.
4. That all vehicles used in the operation of this Special Use Permit be registered in the State of Colorado.
5. That the Applicant meet with the County Vegetation Manager to determine a final reclamation bond amount and an approval of the reclamation and weed management plan prior to the issuance of the SUP.
6. That a reclamation bond be submitted to the County prior to the issuance of the SUP.
7. That the Applicant comply with the following conditions as proposed by the County Road and Bridge Department including:
 - a. Road and Bridge will issue a driveway access permit upon final approval by the BOCC with conditions specific to the driveway location. The conditions will include the width of the driveway access, a paved apron and a stop sign at the entrance to Cr. 246. The stop sign and installation shall be as required by the MUTCD (The Manual on Uniform Traffic Control Devices).
 - b. This facility fits in with other operations in the surrounding area and is away from a residential area. The reduction in truck traffic on CR 246 is a benefit to the County Road system and the location of this proposed facility uses a limited distance of CR 246 from the intersection of Highway 6 & 24 to the proposed facility.
 - c. As tanker transport vehicles are mandated under the divisible load standards they cannot haul more than the weight limit on CR 246. The weight limit on CR 246 is 80,000 pounds for 5 axle vehicles and 54,000 pounds for 3 axle vehicles.
 - d. All vehicles hauling equipment and building materials for the proposed facility will abide by Garfield County’s oversize/overweight permit system.
8. All project activities shall be required to comply with the following performance standards:
 - (1) Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes at the time any new application is made.
 - (2) Vibration generated: every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
 - (3) Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
 - (4) Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
- (5) Storage area, salvage yard, sanitary landfill and mineral waste disposal areas:
 - (A) Storage of flammable or explosive solids or gases shall be in accordance with accepted standards and laws and shall comply with the national, state and local fire codes and written recommendations / comments from the appropriate local protection district regarding compliance with the appropriate codes;
 - (B) At the discretion of the County Commissioners, all outdoor storage facilities may be required to be enclosed by fence, landscaping or wall adequate to conceal such facilities from adjacent property;
 - (C) No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by any reasonably foreseeable natural causes or forces;
 - (D) Storage of Heavy Equipment will only be allowed subject to (A) and (C) above and the following standards:
 1. The minimum lot size is five (5) acres and is not a platted subdivision.
 2. The equipment storage area is not placed any closer than 300 ft. from any existing residential dwelling.
 3. All equipment storage will be enclosed in an area with screening at least eight (8) feet in height and obscured from view at the same elevation or lower. Screening may include berming, landscaping, sight obscuring fencing or a combination of any of these methods.
 4. Any repair and maintenance activity requiring the use of equipment that will generate noise, odors or glare beyond the property boundaries will be conducted within a building or outdoors during the hours of 8 a.m. to 6 p.m., Mon.-Fri.
 5. Loading and unloading of vehicles shall be conducted on private property and may not be conducted on any public right-of-way.

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(E) Any storage area for uses not associated with natural resources, shall not exceed ten (10) acres in size.

(F) Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.

(6) Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.

Phil Vaughan – met with all referral agencies and had meetings prior to application. He had one clarification on Condition No. 4 – vehicles – these are proportioned vehicles and are registered in other states and will be proportioned in the State of Colorado.

The Noise Report – details out the measurements – 57 decibels is well below the state statute.

Applicant agrees with all the recommendations.

Chairman Martin – why is it an unmanned facility; what about emergency process; there’s no on site as an inspector? What is the inspection process and what happens if there is a wreck? Who will be the one in charge of the facility?

Mr. Clemmons – this is in the Rulison area and there will be someone overseeing the site; the drivers have cell phones and all drivers are trained in emergency response.

Commissioner Houpt – this is the gateway to our town and this is located in the middle of the view shed.

Why did you plan this to be so close to the major corridor? Why is it located where it is?

Phil – this came as a request; actually Mr. Cough recommended the location; also for the well program this made the better site. The screening issue has gone back and forth and they looked at the facilities throughout this area and there is no fencing. They were given a lease location to work with and we were looking at it from a safety standpoint so it made sense to come off a County Road. Also there’s a 24” pipeline coming to an adjacent property and it wouldn’t mess with a well.

Chairman Martin – lighting will these be on all night or will be they be motion sensors.

Phil – motion sensors.

Chairman Martin – control gates?

Phil gates manually controlled and they have a double drive gate.

Public Comment:

Todd Peters – lives 7/10th of a mile away. Showed a map of his house. Major point and concern are the odors from the condensates. Dealt with the evaporation pond – concerns about these things growing and also disgruntled employees. There was a compressor station that blew and rattled my house. Winds during the morning are east to west and normally come midnight to morning; some days they take my breath away and I smell this stuff all the time. Object: the security is unmanned and they should have a minimum of 24 hour security. A person involved in an explosion wouldn’t allow someone time to push a button.

Exhibit H – map submitted by Todd Peters.

Todd Peters – explain the cancerous factors of the condensate.

Phil – asked Mr. Clemmons to speak on the odors.

Mr. Clemmons – there is a minimum amount of condensate – these will have sealed hatches and a little emission only when the trucks are unloading. Not much different from tank batteries – an open pit has continually emissions.

Commissioner Houpt – how can you regulate the odor problems from human errors – broken latch or one that is left open?

Mr. Clemmons – drivers do an inspection daily and supervisors check weekly. Require the drivers to check all the hatches, latches.

Chairman Martin – has a concern regarding the lack of security and asked if a security camera could be installed to protect against competition or sabotage.

Phil – there is a locked gate at the facility. Disgruntled employees can not get in the area.

Mr. Clemmons – values on the tanks will be locked and there are multiple tanks in the area.

Phil – said they could put a motion sensor on the gate.

Chairman Martin – and install a security camera to begin to activate when the sensors come on

Commissioner Houpt – The wind moving east to west, what can be done about the odor?

Mr. Clemmons – with the closed tanks you have less emission of odors. No way to eliminate the odor.

Todd Peters – a concern with trucks – trucks do not keep their license plates clean so you can’t read or identify the State; could you have a policy when they move off the roads they will keep the licenses clean – vehicle ID is a big issue out there.

Phil –we can verify the licenses with our security camera; the applicant agreed with Mr. Peters and would make it an employee policy on that issue. Agree on the conditions of a security camera at the site and secondarily with gates with a keyed system.

Question regarding, Carcinoma to Mr. Clemmons – it is legal if it is ingested – do you know if can cause cancer if it gets on the skin – what about the vapors – someone that is continually working over an open tank daily.

Mr. Clemmons said there is no data that the vapors are hazardous and there is quite a distance to any resident.

Air permitting permit is required.

Fred – that’s included in the SPPC Plan.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing;

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit for storage and material handling of natural resources with the 8 conditions of staff.

Adding No. 9 – “the applicant shall install security cameras at the facility adequate to provide comprehensive surveillance of the facility.”

Commissioner Houpt concern from neighbors regarding the view shed and this is a highly impacted piece of property; it’s a large facility that could have impacts.

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Chairman Martin – on I-70 it is hard to hide and yes it is a highly impacted area but this is private property and some of those issues are out of our control. Motion lighting was testified to by the applicant.

In favor: McCown – aye Martin – aye Opposed: aye

BUILDING AND PLANNING - CONSIDER REZONING AN 8.95 ACRE PARCEL OF LAND LOCATED NEAR THE TOWN OF SILT FROM AGRICULTURAL INDUSTRIAL TO COMMERCIAL GENERAL – APPLICANTS: ALBERT STARK AND J. BRUCE SNODE – CRAIG RICHARDSON

Craig Richardson and Carolyn Dahlgren were present.

This was continued until June 18, 2007.

BUILDING AND PLANNING - CONSIDER APPROVAL OF A SPECIAL USE PERMIT TO ALLOW “PROCESSING, STORAGE AND MATERIAL HANDLING OF NATURAL RESOURCES” APPLICANTS: SCOTT AND LINDA BRYNILDSON

Cody Smith, Wagon Wheel consulting Scott Brynildson, Steve Fontenot with Antero

Craig Richardson and Carolyn Dahlgren were present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Craig submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Application Exhibit E – Staff Memorandum; Exhibit F – Memo from the Garfield County Road and Bridge Department dated 5-1-2007; Exhibit G - Garfield County Vegetation Management; Exhibit H – Bill Sappington City of Rifle; Exhibit I – email from Jim Rada, Garfield County Environmental Health dated 5-14-2007; and Exhibit J - Mountain Cross Engineering.

Chairman Martin entered Exhibits A – J into the record.

The Applicant requests that the Board of County Commissioners (the BOCC) approve a Special Use Permit (SUP) to allow “Processing, Storage and Material Handling of Natural Resources” on a property owned by Scott and Linda Brynildson. The subject property is located southeast of the City of Rifle, Colorado, on County Road 315. Specifically, the requested Special Use Permit will allow construction of a water treatment facility within the Agricultural/Residential/Rural Density (ARRD) Zone District. The proposed facility consists of a 205,287 barrel dual lined containment pond, three (3) storage tanks (initial treatment and hydro-carbon storage), processing facility, and an electrical pump (enclosed).

Project Description

The proposed water storage facility will be used to store flowback and produced water from Antero’s natural gas operations in the area. The drilling of natural gas wells require large volumes of water to stimulate production. Once completed the operation is left with large amounts of contaminated water that must be disposed of or recycled.

Water will be transported to the proposed facility by tanker trucks. The facility will utilize an electric pump to transfer the contaminated water into storage tanks where it will be initially treated. The water will then be placed in the proposed storage pond and reused in drilling operations. Hydro carbons removed from the water will be stored on-site and transported by tanker trucks to appropriate disposal facilities.

The proposed facility will be required to obtain a Centralized E&P Waste Management Facility Permit from the Colorado Oil and Gas Conservation Commission.

SITE INFORMATION

The proposed facility is situated above County Road 315 on an approximately 328 acre parcel. The footprint of the proposed facility will be 11.68 acres.

Containment Pond

The proposed containment pond will have a storage capacity of 205,287 barrels. The pond is designed to maintain two (2) feet of freeboard at full capacity. In order to prevent ground water contamination the proposed pond will be constructed with two (2) polypropylene liners and an internal leak detection and recovery system. The leak detection system (Facility Diagram Drawing Number 100-CE-111) will be constructed between the primary and secondary liners.

Three Storage Tanks and Processing Area

Three storage tanks will be utilized for initial water treatment and storage of collected hydro carbons removed from the produced water on-site.

Electric Pump

The facility will utilize an electric pump enclosed within a 10’ X 10’ building to transfer water on-site.

This facility will be a transient operation and will not accommodate fulltime on-site employees. Water and sanitation services will not be required at this facility. As recommended by Garfield County Environmental Health, Staff suggests the Board require a portable toilet facility for the comfort of the personnel on-site.

Access to the proposed facility will be from County Road 315. County Road 315 is designated as a preferred haul route. The proposed facility will generate a maximum of 132 daily trips (66 roundtrips) on weekdays.

The application included a traffic analysis conducted by Kimley-Horn and Associates, Inc. This analysis included the following intersections.

- Westbound I-70 Ramp and State Highway 13
- Eastbound I-70 Ramp and State Highway 13
- Westbound I-70 Ramp and County Road 315
- Eastbound I-70 Ramp and County Road 315
- County Road 315 and Airport Road
- County Road 315 and County Road 352

It is represented by this analysis that the traffic generated by the proposed use can be incorporated into the existing roadway network without any necessary improvements.

This application was referred to Garfield County Road and Bridge Department (Road and Bridge). Road and Bridge has issued a new driveway access permit for the proposed facility with conditions. It is recommended by Road and Bridge that all trucks hauling water from Antero’s drilling activities on County Road 346 which

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is not part of the preferred haul route systems be required to utilize I-70 Mamm Creek Interchange to access County Road 315. Staff recommends that the Board as a condition of approval require Antero Resources to be the Applicant for a State Highway Access permit if deemed necessary by Colorado Department of Transportation at any time during the operation of this facility.

Adjacent parcels to the subject property include three (3) residential uses, Light Industrial and Oil and Gas activities. The nearest residence to the proposed facility is located approximately 1,400 feet to the north at a significantly lower elevation. Two (2) additional residential units on adjacent parcels are located northwest of the proposed facility (approximately 2,500 and 2,700 feet from the proposed facility). The site plan for the proposed facility represents two (2) earthen berms for further visual mitigation. Vegetative screening is not included as part of the application but may be required by the Board.

All lighting associated with this use shall be directed downward and away from adjacent properties.

The proposed facility will be constructed as a “no discharge facility”. The containment pond will be constructed to maintain two (2) feet of freeboard to mitigate the risk of surface discharge. The facilities leak detection system will be monitored weekly to insure the protection of the area’s ground water. Two (2) ground water monitoring wells will be installed down gradient from the proposed facility.

Storage of produced water will generate emanations such as vapor. As explained to Staff by the Applicant’s representative (Wagon Wheel Consulting) during a site visit, Antero treats produced water with Anlyote prior to transport to aid in neutralizing water stored on-site.

Sound measurements taken at an existing facility similar to the proposed Brynildson Water Storage Facility were taken by Wagon Wheel Consulting. The measurements taken demonstrate the ability to comply with Colorado Noise Statute. Measurements provided for location one (1) demonstrate brief non-compliance with the standards identified for the existing adjacent uses. However, Title 25-12-103 (2) of the Colorado State Statute allows for an increase by ten db(A) for a period not to exceed fifteen minutes in any one-hour period. The facility will be required to comply Colorado State Statute regarding noise at all times. Lastly, glare will be created from the proposed containment pond which may or may not have any additional visual impact on aircraft trajectories used by aircraft using the County Airport. This issue was not addressed by the Applicant. Staff referred this application to Garfield County Airport Manager who provided no comments.

The application included a Wildlife Impact Report conducted by WestWater Engineering. The report identified an existing raptor nest approximately 700 feet from the proposed facility. The existing nest is not currently active and the species of raptor that may have occupied the nest is unknown. The Report identifies Cooper’s Hawk and the Long-eared Owl as potential past inhabitants.

The proposed containment pond and storage tanks will be encompassed by perimeter fencing to reduce the potential of contact by wildlife. The perimeter fencing is not identified in the application. Previous applications have included proposals for six-foot foot chain link (wildlife-proof) fencing.

A migratory bird and water fowl mitigation plan provided in the application identifies a crossed wiring system with flags. The Applicant should be aware that death of any migratory bird caused by the proposed facility is a violation of State and Federal law. Any deaths of migratory birds or other wildlife attributable to this facility must be reported to the Colorado Division of Wildlife and the United States Fish and Wildlife Service.

Staff recommends that the Board require revegetation of the proposed facility with native vegetation after construction. Native vegetation should also be required during reclamation. All seed mixes shall be approved by Garfield County Vegetation Management.

Staff finds that the Wildlife Impact Report conducted by WestWater Engineering, represents that the proposed use will not block area migration routes.

The application and traffic analysis represents a total of 132 daily trips (66 daily round trips) generated by this use. The proposed facility will be accessed via an identified preferred haul route. The traffic analysis concludes that the proposed facility will not require improvements to accommodate traffic generated by the proposed use.

It is recommended that the Board require all traffic traveling to the proposed site from Antero’s operations west of County Road 346 exit to the east and utilize I-70 to access County Road 315 via the Mamm Creek Interchange. This will reduce impacts on County Roads not constructed to heavy haul standards.

The nearest residence to the proposed use is situated approximately 1,400 feet away and at a significantly lower elevation. The Applicant has attempted to provide visual mitigation for the two (2) other adjacent residential uses located north of the proposed facility by constructing an earthen berm.

Staff recommends that the Board require a \$23,360 reclamation security, to be released after abandonment and full reclamation of the proposed facility.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners approve the Special Use Permit request to allow “Processing, Storage and Material Handling of Natural Resources” on a property owned by Scott and Linda Brynildson (Parcel No. 217919100511) with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board;
2. The Applicant shall provide Garfield County with a revegetation security in the amount of \$23,360;
3. Volume and Sound generated shall comply with the standards set forth in the Colorado Revised Statute at all times;
4. The Applicant shall comply with all performance standards identified in §5.03.08 of the Garfield County Zoning Resolution as amended;
5. The Applicant shall construct a driveway access apron as required by the Garfield County Road and Bridge Driveway Access Permit prior to the issuance of the Special Use Permit;
6. The proposed facility shall be limited to 132 daily trips (66 daily roundtrips) for all vehicles as represented in the application and traffic analysis;
7. The leak detection and recovery system shall be inspected weekly, accurate records of these inspections shall be maintained and made available to Garfield County upon request;

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8. A portable toilet facility shall be placed on-site for the comfort of employees;
9. All trucks hauling water from Antero's drilling activities west of County Road 346 shall utilize I-70 to access County Road 315;
10. All seed mixes shall be approved by Garfield County Vegetation Management;
11. All lighting associated with this use shall be directed downward and away from adjacent properties;
12. The proposed containment pond must maintain at a minimum two (2) feet of freeboard at all times;
13. The migratory bird and water fowl deterrent represented must be installed prior to operation of the proposed facility;
14. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation for this type of facility;
15. That the Applicant shall comply with the fire protection provisions included in the rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC) and the International Fire Code as the Code pertains to the operation of this facility.
16. If required the Applicant shall be responsible for obtaining any permits and improvements required by Colorado Department of Transportation as a result of traffic generated by the proposed use;
17. Wildlife perimeter fencing shall be constructed prior to operation of the proposed facility;

Applicant: Cody Smith said the berms are at a 90 degree angle. Berms are built around the site to mitigate the visual impacts of those additional houses. As well as added protection for the facility. Fencing – during the first submittal of the application we were unaware of what we were going to do, but since then we are planning to do the fence around the around the pond and the facility but not area the berms. We are working with the Brynildson to come up with a seed mixture for those berms that is a natural seed mixture with the grasses to help with the wildlife and look as natural as possible.

Discharge facility – this is discharge facility for the produced water and there will be a secondary containment which will hold 1 ½ times the amounts that the tanks will hold which they will all be 400 barrel tanks. It's a bladder system that has a liner in the bottom it's contained within that area. It's a 60 mil liner and 200 mil geo net textile liner underneath that which adds as a cushion to the 60 mil liner in case there's rocks in the pit which shouldn't be after grading is done, it will keep it from ripping when it's being installed as well as the leak protection underneath.

Odor – Antero does a bio site system at the well head to kill as much bacteria as possible before it ever leaves the well head and it will be pretreated before it ever comes to the facility. It will go through a skimming and the three tanks are used for skimming to skim off any hydrocarbons before it reaches the pond and we're also planning on doing a filtration system that adds additional filtration to those hydrocarbons prior to water ever hitting the pond. Basically it will be clean water. Antero will be willing to have a daily inspection as before on other applications by an Antero representative if hydrocarbons are present on the surface they will be boomed off, sucked off immediately so that vapor and smell is not present.

Steve - Antero – clarified the statement made by Cody – the treatment happens as we frac the well, it really isn't at the well head coming back, it's treated in the frac fluids that go into the fracing process. We use a biocide that kills the bacteria in the well so we're not introducing bacteria as we're fracing. Historically have reused our waters over and over so that we have to continually treat that water to make sure that we don't contaminate our wells as we're fracing.

Public Comment:

Craig Barton – we are the landowners below the pond and facility proposed and have concerns are against the project with this close proximity and concern over odors and one of the things is the heavy inversions in Mamm Creek where we are 10 degrees cooler than the Colorado River drainage and get a lot of settlings in the morning and have great concern over the odors and smells. Also the truck traffic, our driveway does come off CR 315 and there is heavy traffic and this will add to it bring more traffic from west of Rifle in those drill pads up through that same road. Another concern is their access road to the site, it's an old over the old small bridge that crosses Mamm Creek before they climb up onto the Mesa – concerns with this bridge due to the narrowness and possibly of spills into Mamm Creek draining into the Colorado River. We've done a lot of work in the area– getting rid of tamarisk – don't want to see something like this impact our lives in a negative way. Understand the berms and the vegetation; it's pretty close to the airport and visually from the airport with glare with planes with the airport whether this is a concern. Talking about cell phone and services or not if something were to happen, not sure there is cell service out there.

Diane Vardaman– was there other relocations considered for this project? The landowner owns 80 or more acres that do not have a lot of residences and just wanted to know if there were other locations considered for this project. Also like to know what they will do about additional 166 additional trucks coming through; there's a lot of speeding on that road and it's not all your employees but just the industry. People that are late for their shift and cruising down that road pretty fast. There's a lot more trash on the side of the road – we need to be careful about. Like to see the disaster recovery plan in writing – like to see if we can pull traffic studies and knows they put out the rubber counter the last couple of years and like to see the benchmarks in the future. This is permanent situation and we have to live with this the rest of our lives. How long will this wastewater decompose? Per gallons takes 2 months, 10 years, wants to know that information.

Craig - it's a large facility even compared to the one discussed earlier. It's 8 ½ million gallons of water and doing a good job with their leak detection and the fence is definitely good, like to see the slating like was proposed on the other one and the same security measures discussed with the lighting etc.

Todd Peters – from Rulison – keep hearing this that there's not odor but I live right next to one and I constantly smell it – how does it go from I smell it almost every day to people saying that there's no odors coming for these or very minimum?

Commisisoner McCown – Todd I think you live adjacent to evaporation from this pond. This is a permitted fresh water storage pond.

Todd – it's then converted now to a storage pond supposedly. It's not an evaporation pond anymore. I smell it.

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Unidentified - there is going to be a significant amount of evaporation on a pit this size because of the sheer volume and size of the pit and I don't recall those numbers.

Cody – natural evaporation in this area for a year in Garfield County is about 30 “ a year and that's natural evaporation no forced evaporation, just from humidity which will go up and down with the temperatures. Commissioner Houpt – this is a well lined pit which means it's not completely clean water.

Steve - This is production water and flow back water and water that has been treated in the fracing process.

Wanted to address some concerns raised earlier with regard to putting the site there. We had spoken with Scott and other land owners trying to get the best site for this facility and this is the one site that we agreed upon as the best in terms of minimal impact; we tried to get the facility as close to our wells as possible and this will help with truck traffic; the number is 66 round trips and 132 total both ways. We do have emergency response plan in writing and have had since our first days of operation in this area. We've only had to use it once and it was very effective; we hope not to ever use it. Appreciate the comments about the bridge but we have a gate and so the traffic coming across that road, since it's coming right off the highway they have to stop and open the gates so there won't be two vehicles passing on the bridge, it's impossible anyway. I think the concern over the speed and other issues, we will enforce our contractors to take care and respect those roads, and the landowners will address the mitigation. We have already bladed that road, we like to keep the roads up and mitigate the dust not only with water but where allowed by the landowner we'll put the mag chloride – we need permission of the land owners. Brynildson – we will take the lead in taking care of that issue.

Craig – please consider us in this equation because we plan to spend the rest of our lives here.

Steve – gave his card and said please feel free to call him directly. This is the same number as on all signage – anything to help mitigate on the front end they will do. Like an open communication on the front end.

Chairman Martin asked if they were following the community plan filed with Silt with reference to best practices.

Cody – Peterson's concern on the smell – has a lot to do with the biocides – Williams's doesn't put as much into their waters to kill all the bacteria – the main smells off these ponds is the bacteria allowing that water to sit stagnate and the bacteria grows even worst. The use of biocides will kill bacteria and kills the odor up to 90%.

Julie Larson – own 35 acres in this area and commented on the gate to the facility is down below here property. We will get the winds and have the smells from existing wells. Concerned about the dust – they sit above – the visual comments and dust and would like some mitigation for them.

Antero can mag chloride the roads. Willing to install combustible units to help mitigate – wells that don't have this are open – purpose of this facility –

Commissioner Houpt – would it work to have limited hours of operation. Folks live with the dust and truck traffic

Antero – can mag chloride the roads. The hours – primary site for distribution of the frac wells – previous site was for an emergency site and only used if we have to. We're to that point where we need to shut wells if we don't have a place to go with this water. We are reusing our water over and over and have close to 200 frac tanks running just to take care of transferring of water. We have a lot of fracas going on at 45 to 55 barrels fracs but we're always looking for a place to take care of this water and this facility will be the primary source of taking care of these fluids. By limiting the hours to daylight operation would have a significant impact and impair our ability to use this site for which is intended. We can try to mitigate the traffic at night where possible but can't tell you that we can and use this site in a way in which we need to use this site. The reason – we are fracing several stages and we frac the first stage early in the morning and we're transporting water to catch up for the next frac either that afternoon or the next mooring. A lot of cases we can have those frac tanks full and be ready for the next frac but can't say that we will always be that way. By the same token as those wells begin to flow back we've got 45,000 barrels of flow back water that's coming back at us pretty quick and we need to get rid of that fluid and treat it and reuse it if we need to but hopefully we wouldn't have to with evaporation and continuing to reuse the water as we have in the past, it will give us a place to put the water that will remedy our main problem and that's storage.

Commissioner Houpt – asked if it was impossible to not use this facility 24 hours a day – can you time it for less disturbance.

Antero – continually hauling throughout the night – can try to minimize the traffic at night. Try to minimize the traffic on CR 315 and all the way through, we would like to have a central facility and storage tanks and pipeline it in to minimize that truck traffic impact. This has to come with the next iteration because I need to negotiate with Mr. Brynildson as well. We are thinking towards that ends. But other part of that is to find the ideal property to put this pumping station. The Dever site when we're finished drilling up there, make that our turn around area and piping it down to the facility. That has to be approved by the County and looking at a facility drawing if that will work.

Cody – the FAA was queried on this and there were no comments back from the airport; when planes are landing they are landing further north – this facility is set back from the normal flight plan.

Steve – the life of this facility is 20 – 30 years, could be 50 or longer depends on how long the wells continue to produce and how long Antero continues to develop in this area.

Steve – the life is closer to 20 to 30 years of the actual use of the facility for water storage.

Commissioner Houpt voiced a concern with the portable toilets.

Applicant: we have a building there and can make sure it is not an issue.

Chairman Martin – that's changing the application putting a building on the site. That would need to go through a process.

Applicant: there is a 10 x 10 building for the pond.

Chairman Martin – but not for that particular use.

Applicant: we could put it adjacent to it and try to hide it.

Testimony:

Diane Vardaman – state the facts, the Brynildson are going to make a profit off of this and our health and our dollars invested in our property have just gone down the drain and it's also with our neighbors. I would like

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you guys to think about that too in your decision. Someone else is getting rich off the oil and gas property at our expense.

Chairman Martin – we took an entire year to do the study and the evaluation as to what happens with property values up and down when oil and gas comes through. We’ve shared this with the public and we know what happens.

Commissioner Houpt – it wasn’t very conclusive – it depends on where you are and what kind of impacts you have.

Julie Larsen – our access road to our property is directly east of their site, we’re on top of the hill. There are 6 residential lots – 4 houses on top of the ridge. We understand that it has to be done but it’s hard.

Commissioner Houpt – a lot goes into the siting of these facilities but it feels like there is a better location so it won’t impact residential areas. There was a question on the Dever property.

Commissioner McCown – The Dever site would be a series of tank batteries where the trucks would off load and then a pipelines running up to the storage facility. The storage facility would still have to be there to make an off loading site to work.

Applicant: that would only be used to eliminate the truck traffic – if the County approves a site – could off load there – still has to have pumps – hopefully in the future we will have a central facility.

Commissioner McCown – the Dever site would still need the storage facility.

Jesse – Dever site – not a heavy haul route and don’t allow 60,000 lbs –80,000 lbs on that road.

Cody – this site is next to a Barrett well site. EnCana further south numerous wells.

Commissioner Houpt – resources needs to be extracted.

Commissioner McCown – all these areas are 35 acre sites and these lots were carved without any land use review.

Cody – noticed the impacts and will berm it up as high as possible.

Applicant: the location was the consideration – it has good access from oil and gas facilities and this didn’t require a new road.

Commissioner Houpt – can you mitigate some of these concerns – can you speak with Mr. Brynildson as to Mag Chloride for the dust control.

Applicant: we will visit the speaker’s homes and existing smells could be part of that issue. We can get a baseline – we don’t want a cumulative impact – we don’t want smells.

Chairman Martin – accessing through those gates, would you be willing to put a camera and monitored lighting.

Applicant: someone to monitor – can’t always depend on the truck drivers. We will monitor that facility until cameras are installed.

Commissioner Houpt – like you to work with the neighbors on the berming.

Applicant: a done deal but anything else we can do for aesthetics. Natural drainage through there and can’t have a closed berming. Can’t interrupt the normal flow of water.

Cody – traffic control plan is available at Wagon Wheel and it’s a 135 page report. We’re located at 111 East 3rd Street – Rifle.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to close the Public Hearing;

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit for a processing storage and material handling with 17 condition adding number 18 – “production area fenced and that there will be a camera and motion censored and until such cameras the security will be placed there”.

Commissioner Houpt – there is a great interest in development in our County – there is an amazing amount of natural resources legally being tapped into. I appreciate landowners working with a company that has stepped up and is working with neighbors and appreciate the efforts made and hope they will continue; I urge you to continue to work with these folks.

In favor: Houpt – aye McCown – aye Martin - aye

Executive Session – Board of Adjustment on EOC Vezzoso - direction – legal position; Crouch allegations – Jesse direction concerning the PEIS and Amendment 41.

Commissioner McCown made a motion to go into Executive Session. Commissioner Houpt seconded.

Motion carried.

Commissioner McCown made a motion to come out of Executive Session. Commissioner Houpt seconded.

Motion carried.

Don – needs a motion directing the Chair to sign a letter to Adrienne after considering the issue and responding to her written requests; the board will commission a title search to determine encumbrances, liens and titles regarding County Roads 162 and 162A and once those results are obtained then the Board will inform Ms. Crouch.

Commissioner Houpt so moved; Commissioner McCown seconded.

In favor: Houpt – aye; Martin – aye; McCown – aye.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

JUNE 11, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, June 11, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were

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County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

COUNTY MANAGER UPDATE – ED GREEN

FAIRGROUNDS - 2008 RODEO CONTRACT – JESSE SMITH

Jesse presented the L Bar Four Rodeo Productions for the Garfield County Fair and Rodeo for the Rodeo Production for 2007. A kid's rodeo will be held on the evening of August 9, 2007 and the CPRA rodeo performance on the evening of August 10, 2007.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the L Bar Four Rodeo Productions for the Garfield County Fair and Rodeo for the Rodeo Production for 2007.

In favor: Houpt – aye McCown – aye Martin – aye

FAIRGROUNDS - COUNTY FAIR PARADE ROUTE – MARVIN STEPHENS

Marvin presented a letter from Annick Pruett of the Rifle Chamber of Commerce regarding the parade route. Traditionally 18th Street has been used as one of the staging areas for the Fair Parade. However, with the construction of the new Justice Center set to begin next month that area is no longer an option for this year and they are looking for other staging areas.

The parade is scheduled for August 11th and the request is to the County to allow CR 244, west 16th Street from just east of the Hwy 13 on/off Ramp to Railroad Avenue, approximately .6 miles from 7:00 a.m. until approximately 10:30 a.m. for Parade Floats to line up on the south side of the road only (east bound lane) and leave the westbound lane open for emergency vehicles and residents. Howard Avenue would also be left open for easy access to Hwy 13. The “road closed” signs would be immediately removed after the last float in the lineup is on Railroad Avenue.

The Board did not have any objections.

AIRPORT - TRANSFER OF ENTITLEMENTS – BRIAN CONDIE

Brian Condie and Debbie Quinn were present.

Brian submitted the agreement for transfer of entitlements stating that the County of Garfield, Colorado hereby waives receipt of the \$150,000 for fiscal year 2007 on the condition that the Federal Aviation Administration makes the waived amount available to the County of Rio Blanco, Colorado (Meeker). Agreement letters were submitted for the Chairman's signature.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the transfer of entitlements and authorize the Chair to sign; motion carried.

In favor: Houpt – aye McCown – aye Martin - aye

AIRPORT - SAFETY IMPROVEMENTS – BRIAN CONDIE

Brian Condie and Debbie Quinn were present.

Brian submitted a letter saying that it appears that our efforts to prevent aircraft overruns on Runway 26 are being unheeded by pilots as aircraft continue to go off the end of the runway. If we continue at this rate there will be 18 to 22 aircraft overruns before the scheduled airport upgrade completion. With the last overrun, Brian realized a fatal accident may just be a matter of time.

The question of safety is the number one priority the second is one of liability and third the financial and staffing drain on the County.

Action taken: Brian is making sure the FAA Flight Standards District Office, NTSB, FAA Airport District Office and the State are aware of this condition and request that the runway upgrade is placed on a high priority status and the completion schedule shortened. Also, Brian is requesting that a new instrument approach be developed for runway 08 and the existing instrument approach to runway 26 be revised. Brian's recommendation is that we proceed with runway grooving, video surveillance and a pilot education program as soon as possible. He requested funding from the State to assist us with the runway grooving project and awaits their reply. The runway grooving bids we received are still valid at a cost of approximately \$100,000. The video system is approximately \$10,000. The pilot education program to include advertisements and mailers is estimated between \$5,000 to \$10,000.

Brian included a list of the accidents and the conditions of the runway at that time for supporting documentation.

A motion was made by Commissioner Houpt to approve the safety recommendations brought forth by our airport manager including runway grooving in an amount not to exceed \$100,000, video surveillance in an amount not to exceed \$15,000 and a pilot education program for a not to exceed cost of \$10,000.

Commissioner McCown second.

Chairman Martin – you're asking for \$125,000.

Brian – runway grooving is the last thing that we have not already done.

Commissioner McCown - There is no guarantee that this grooving is going to fix the problem and it could be a two year fix if we come in there and tear it all out.

Brian – that's why I'm looking at a video camera to protect ourselves. This will show that we've done everything. If we have a fatal accident, how are we going to be represented, not only in legal terms but humanitarian – what else could you have done to try to prevent this to save this person's life. According to everybody else, the last thing we can do is groove the runway.

Commissioner McCown – the weak link is your pilot education money unless it is mandatory that they use 08 and if the weather is such that it creates a dangerous situation, it is still up to those pilots to make that decision if they are going to land or not. And the pilots have made that decision in the past. Those that have run off our runway have chosen to land anyway.

Ed – this would come out of your fund balance.

Debbie – no issues.

Brian – can come back to the Board with recommendations on the pilot education program before any expenditures are made of the \$10,000.

The instrument on 08 is scheduled for December 20th of this year, but no follow up and data needed to make sure it makes that chart date. This would be a total FAA project. This is a data change in the flight procedure.

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They will do a GPS approach and use the instruments in the aircraft to fly a precision approach to the 08 – no additional equipment will be needed.

Commissioner Houpt – I didn’t put the condition in my motion that Brian would come back before expenditures on the pilot education program but I will add that.

Commissioner McCown – amended his second.

In favor: Houpt – aye McCown – aye Martin – aye

AIRPORT/ADMINISTRATION BUILDING - DESIGN/BUILD AWARD –RANDY WITHEE

Randy, Ed and Brian presented.

At the Commissioner meeting, May 21, 2007 the BOCC authorized staff to pursue scope and cost negotiations with CMC group and on June 4, 2007 the BOCC authorized staff to negotiate an increase in the building envelope to accommodate additional office/conference/work space. Those discussions were held and the result was to increase the square footage of the building from 13,920 to 18,450. The initial proposal was for \$1,650,703 and with the additional square footage that cost is now estimated at \$2,235,869.

The budget from the Airport would be \$1,800,000 and \$600,000 from capital.

Randy said the recommendation is for the Board to award the design/build of the airport/administration building to CMC Group Inc. not to exceed amount of \$2,235,869.00

Commissioner McCown – asked about the contingency in the project.

Randy – there’s no contingency.

Brian said we’ve had several people ask if they can move the old buildings and they will work with the contractors and if so they can give us a credit. Still working with BLM to get a contract. Wednesday is the date scheduled to meet with BLM.

Ed said they are proceeding as if they will participate.

Randy stated the motion would be to award the design built to CMC Group for a not to exceed amount of \$2,235,869.00.

Commissioner McCown so moved. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – aye

RELAY FOR LIFE

The teams raised \$2,000. Linda took photos for the Green Acres. This is a great funding event and builds a lot of teamwork within our organization. We were team Kentucky and dressed appropriately. We did win the 2nd place for camp site awards.

COUNTY ATTORNEY UPDATE – DON DEFORD

Debbie Quinn for Don – no executive session items.

CROUCH PROPERTY – MISSOURI HEIGHTS

Chairman Martin stated we did receive a package from Mr. DeFord in reference to the letter to Ms. Crouch; this was signed and delivered last week and she should have received it.

Commissioner McCown asked if everyone got the correspondence back from Ms. Crouch dated–June 6th.

Board – all yes.

COMMISSIONER REPORT

Commissioner Houpt – attended Philanthropy days and had the opportunity to talk about economic development – the Governor and Lieutenant Governor were present – it was a good conference. I-70 Board meeting on Wednesday and we have a grant to proceed on planning for the type of corridor the State would be looking at for transit along I-70; we have \$500,000 to look at that. It will identify proposed station stops and routes and then Rocky Mountain Rail Authority will take that information and use it in determining what kinds of technology are out there that could be used for that corridor. This week – CCI Summer Conference in Keystone; Thursday – Coalition for I-70; and a meeting on Friday in Rifle on the Justice Center to select colors; and a meeting with the Aspen Foundation.

Commissioner McCown – last Wednesday was the Resource Plan Meeting with BLM and it was held at the Energy Building; had a meeting with a pipeline group from the Bold Mountain Pipeline wanting to build a pipeline out of Gunnison and Garfield County to interconnect with other pipelines; Thursday, Northwest Oil and Gas Forum – very well attended forum, had a scheduled conflict on the building and had to go to the Human Services building and it was packed. This week – BLM Workshop Thursday evening 4 pm at the Rifle Firehouse on the Trails identification that we’re asking for in the Resource Management plan asking all users to come forward and identify any particular trails of favor that may or may not be on the map that BLM has; this is the opportunity for the public to come forward. The notice has been posted from Kremmling on down and they want to make sure that everyone gets their trail of choice identified, they may not be placed on the map – eventually they may not be chosen as part of the chosen route but they don’t want folks to come back later and say I didn’t want everybody to know about this trail because I didn’t want everyone to know about it and its my trail. So this is the opportunity for folks to come and get their favorite trail on the map; a questionnaire they can fill out available at these work groups, type of trail, how many times to you use it, it is a 4- wheel drive trail, off-road vehicle trail, single track, livestock right of way, game trail, whatever. The trails on the map are on the map and you have plenty of time to comment on whether you want that trail there or not, but the ones that are clearly identified on the map are ones they have clearly identified. What they are concerned about are those - terms those folks use are abandoned trails that no one knows about – and they don’t want those to go unnoticed as they will not be identified when the map is finished.

Chairman Martin – met Wednesday with Rifle and the changes and hopefully everyone will agree and that is to keep a narrow section of 18th street open, landscaping, raised sidewalks, etc. City Council was also willing to give us an encroachment license in reference to the right of way because of the issue of the front door and they also need one for their building. The roadway will be two lanes of 12 feet each but no parking with a reduction of speed. Landscaping will be an issue also because of the changes. There will be a report back from the White Group and the city is willing to go ahead; we won’t have to put in a traffic light. Mr. Scalzo was also willing to go ahead and put a \$1,000 on a petition drive to stop the whole project in reference to issues of safety issues that he brought up, the park, and we avoided that and also had John Nall as an ally. The city rescinded the agreement and our County Attorney department should receive an amended IGA with the Justice Center, the Police Department, the City and Garfield County.

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Ed – the agreements takes out closing 18th street and we talked about a minimal landscaping. Of that area from the parking lot to Railroad to make it look attractive.

For the next two years it will be a staging area.

Commissioner McCown – is the county responsible for landscaping on their side and the city on theirs?

Ed – it will be a commons area – it will be separated by the street.

Commissioner McCown – basically then we’re responsible for our side and they’re responsible for theirs.

Any relocation on the public water supply?

Ed – they intend to do that, the impression was in the next couple of months that will be accomplished, the batting cages will not be going to be relocated.

Chairman Martin – going to Park City in reference to the BLM on the cooperating status and asked for the latest oil and gas numbers from the forum on production, rigs, companies and asked Jesse for the Economic Impact from BBC we received. John will be absent on Monday 18th – in Park City.

Ed – Strategic Planning the first week of August. There will be three sessions; the first one is going to an environmental scan where we take a look at what’s facing us.

Ed also mentioned the joint training session with Mesa County on the 19th of July - Customer service with motivational speaker Marty Clark. 80 folks there; 40 from each county.

CONSENT AGENDA

a. Approve Bills

b. Changes to Prior Warrant Lists

c. Authorize the Chairman to sign a Resolution of approval and Special Use Permit for a Guest House located at 12746 Highway 82, Carbondale. Applicant: David S. Effress – David Pesnichak

d. Authorize the Chairman to sign a Resolution of approval and Special Use Permit for a “Communication Facility” on a property owned by Chevron USA Inc. – Craig Richardson

e. Liquor License Renewal for Red Rock Diner – Jean Alberico

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a - e; carried.

PUBLIC MEETINGS:

COMMUNITY CORRECTIONS BOARD RESOLUTION – GUY MEYER

Guy Meyer, Dale Hancock, and members of the Board: Dale Hancock, Marian Clayton, Steve Reynolds, Don Gillespie and Jan Kaufman were present.

Guy and Steve presented.

Steve stated we have worked with the judges, probation and the board on this subject.

Jan has worked 20 years on this subject; we are excited about our new facility and especially to accept women and the new Resolution outlines what we can do.

The Resolution repealing Resolution No. 99-052 and amending Resoluion No. 2003-43 in order to clarify membership of the Garfield County Community Corrections Board (GCCB), expand the authority of the Garfield County Community Corrections Board under a specific state contract and clarify staffing and budgeting processes for the Garfield County Residential Community Corrections Program was presented to the Commissioners.

The amended section paragraph 5 of the Resolution No. 2003-43 shall read:

“The Garfield County Community Corrections Department, consistent with the administrative structure of county government, shall have the authority to develop, implement, administer and operate residential and non-residential community corrections programs designated by the Board of County Commissioners (BOCC). The employees of the Community Corrections Department are employees of Garfield County, subject to the BOCC’s personnel policies and procedures and other applicable administrative rules and regulations. Community Corrections Department employees are eligible for the benefits available to other Garfield County employees, consistent with the eligibility requirements and rules of each benefit program. Community Corrections Department employees are not employees of the GCCB. And Paragraph 7 amended shall read:

Pursuant to the DCJ Contract, the BOCC hereby delegates to the GCCCB the authority to screen all referrals for placement into community corrections facilities throughout the State, including the Garfield County the State, including the Garfield County Community Corrections Residential Program. The GCCB shall have the authority to accept, reject and to reject-after-acceptance and terminate placement of offenders in the Garfield County Community corrections Residential Program and residential programs throughout the State. Such screening and program placement shall include the allocation of community correction funds received by the BOCC under provisions of the DCJ Contract. The GCCB’s screening and placement authority extends to residential and non-residential community corrections placements allowed under the DCJ Contract. The GCCB shall provide, in writing, acceptance criteria and screening procedures to each referring agency. The GCCB’s authority to screen, accept or reject under the DCJ Contract is limited by the statutory authority granted to community corrections programs, as stated in Section 17 -24-104, C.R.S., as amended.

Additionally, in the Resolution – the “Resolution eliminating the Authority of the Garfield County Community Corrections Board to Screen Applicants for Placement in Community Corrections Facilities located outside Garfield County for other than funding availability and is hereby repealed and rescinded.

And

The BOCC has authorized Garfield County administrative staff to establish and operate a residential community corrections program, housed in a facility

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separate from the Garfield County Jail. Upon the opening of the “Garfield County Residential Community Corrections Program Facility”, on county-owned property near the Rifle-Hunter Mesa Road and Bridge facility, the beds assigned to the Garfield County Sheriff for non-community corrections needs. The new facility shall contain “Diversion”, “Transition” and Work Release” beds for placement of offenders being transitioned to Garfield County by the Colorado Department of Corrections (DOC) or the State Board of Parole, offenders sentenced to a residential community corrections program by the Court as a diversion from incorporation in DOC, and those sentenced by the Court to work release status. The facility and associated offender services are designated as the “Garfield County Residential Community Corrections Program”. And

Paragraph 11 shall read:

The BOCC approves staffing for the Garfield County Residential Community Corrections program. Identification and approval of staff positions shall be approved by the BOCC through the normal County budget and personnel processes. And

Paragraph 12 shall read:

Funding for the Garfield County Residential Community Corrections Program shall be by way of the normal Garfield County budget process or, as needed, by separate duly authorized Motion or Resolution of the BOCC.”

This is the 9th Judicial District in reference to the Community Corrections and anyone within that 9th Judicial District can be referred to the Board for placement in the facility. That’s why we have the outside Garfield County membership folks.

Don Bird with Pitkin County has been very active, taking part in the screening committees and we’re happy to have him.

Guy worked with Carolyn all through the process and didn’t have any further comments.

Commissioner McCown asked if the numbers, appointments and appropriations are still okay.

A motion was made by Commissioner McCown that we approve the Resolution repealing 99-052 and amending Resolution 2003-43 in order to clarify the membership of the Garfield County Community Corrections Board, expand the authority of the Corrections Board under specific statement of contract and clarify staffing and budgeting processes for the Garfield County Residential Community Correction program. Commissioner Hought – seconded.

In favor: Hought – aye McCown – aye Martin - aye

CLERK & RECORDER - SET HEARING DATE FOR DEBEQUE FIRE PROTECTION DISTRICT TITLE 32 PETITION – JEAN ALBERICO

Nick Larson, Fire Chief for DeBeque and Jean Alberico presented.

A draft letter was submitted giving notice of the hearing date that will be forwarded to the District and the Department of Local Affairs.

Set a hearing date within 30 days. The Planning Commission – June 13, 2007.

July 9th – 10:15

So moved by Commissioner McCown and seconded by Commissioner Hought;

In favor: Hought – aye McCown – aye Martin – aye

The Fire District will take care of notification of members in the district and noticing.

Fee – statute allows a fee up to \$500.00 – with the recent modification, we charged a \$100 fee. Carolyn - thinks this is an appropriate fee. We charged the same fee for Burning Mountains Fire Protection District.

Items Not on the Agenda

OIL AND GAS ISSUE - REGIONAL CUMULATIVE IMPACT - JESSE SMITH

Jesse Smith stated if the Commissioners recall, we have been working on pulling together a Regional Cumulative Impact Study that would encompass six (6) Counties in the Northwest part of Colorado and the purpose being to have a well done researched viable report available that can be given to the Legislature and the Governor just prior to them getting the PEIS report that they will have to react to. And the steering committee came together last week on Thursday and did a final review of the RFP that is going out; we have been funded completely by DOLA to do this study. And they also looked at a requirement that DOLA had made where DOLA wanted a ½ time project manager that would guide this whole project along with the research firm that is successful in the RFP. Well the steering committee looked at several different candidates that had surfaced as possible project managers and they unanimously selected Judy Jordan to be this person and I told them I would come to the Commissioners and let the Commissioners know to see if there was any problem in us having Judy take on this project. She will continue to be a County employee and paid by the County but the County will be reimbursed from the research funds for the time that she puts into managing this project.

Chairman Martin – in no way does she get compromised in reference to her job with the County as it’s oil and gas liaison but she’ll be able to use inside information and also the intellectual knowledge stays with the County as well?

Jesse – The County is one of the steering committee members and will get all of that. This study is very critical to the whole Northwest region and especially Garfield County in making sure that people truly understand what the cumulative impacts are from all energy not just oil and gas but all energy related activities on the Northwest region.

Commissioner Hought – as a new employee who will obviously have a great deal to catch up on, will this detract from what she needs to be doing in this County as well?

Jesse – I don’t believe so because I will still continue to be here and be able to support her in that and this project would end so that by the time I’m leaving she will have been up to speed on all the oil and gas issues. Commissioner Hought – how long is this going to be going on?

Jesse – 6 months.

Commissioner Hought – so we’ll really only have her on board as ½ time oil and gas liaison.

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Jesse – along with Katie Middleton who is working both in the oil and gas arena and the building and planning arena on oil and gas issues. Katie Middleton and Judy Jordan will be working as a team and I told Judy that if this is something that she is interested in and the Commissioner agreed, I would support her anyway that I could.

Commissioner Houpt – well, I’m a little hesitant as you can see, I know that it’s a really important study and a lot of what the foundation it will start with will be Garfield County information anyway because we already did it. So she’ll be doing most of her work for other counties.

Jesse – well she is going to be managing the steering committee and overseeing the researcher; she will not be out there doing the actual research.

Commissioner Houpt – so why do they think, what does the group think this will take ½ time?

Jesse – up to ½ time. No one knows at this point, it’s primarily this coordination, communication, getting the steering committee pulled together, listening to them and then translating that to the researcher and making sure that the steering committee then is going back to their perspective communities in gathering the information.

Chairman Martin – which I think should compliment her because she’ll be able to absorb it faster and actually apply it to Garfield County as an employee – she’ll have a real good foundation as to what is going on as well. Her learning curve will be shortened I think.

Commissioner Houpt – if it becomes a distraction to the real reason we hired her, I’m going to challenge her doing this, but let’s see how it goes.

Commissioner McCown – I don’t have a problem with her doing this for 6 months.

Chairman Martin – thinks it would great. She needs to get started and get things rolling so she can actually accelerate her understanding and knowledge here and give us good advice and direction.

Commissioner Houpt – well if she had been here....

Jesse said he asked her after that steering committee met, I said Judy you have the say in this, is this something you are willing to do and with this challenge, and she said yes.

Chairman Martin – well I think she has the qualifications from reviewing her application and her qualifications that she brought to the job far and beyond just above anyone that we’ve seen. I think she can apply it.

Commissioner Houpt – there’s no question about that, but she just arrived in the County and I want to make sure our business is not falling behind because she’s distracted by other Counties’ business. Just keep a close eye on this.

Chairman Martin - and monitor that and report back if there’s an issue.

BUILDING AND PLANNING - CONSIDER AN UPDATE ON PROGRESS WITH IMPROVEMENTS FOR SPRINGRIDGE RESERVE PHASES 1 AND II- GARFIELD & HECHT, PC – FRED JARMAN

Fred Jarman, David McConahey and Yancy Nichol were present.

Fred Jarman submitted a letter from Garfield & Hecht, P.C., Nicole D. Garrimone providing an update to the Board regarding the status of the remaining phase I improvements for the Springridge Reserve Subdivision.

The SGSDC diligently pursued completion of the improvements but were unable to meet the May 30, 2007 deadline under the First Amendment. The delay was due in part to difficulties the contractor had coordinating with Springridge Place homeowners for the installation of adequate pressure reducing valves, which values were required prior to bringing the new water tank online.

Sopris Engineer, LLC submitted the improvements that remain to be completed are not needed to provide services to Phases 1 or 2 of Springridge Reserve. The engineers anticipate the outstanding improvements will be completed by the end of June, 2007.

SGSDC expects to submit a certificate for final release for the Remaining Phase 1 Improvements prior to meeting with the BOCC for the Phase 3 final application in July. The security for the remaining phase 1 improvements is valid until November 30, 2007 so no additional or amended security is required in the meantime.

David –they are being pro-active and not placing blame but explaining the challenges.

Yancy – remaining work is the existing tank, coordinating with the sub contract and added in the second well and hooking it up is all that’s left.

Foundation and pad are in and we are getting the sub contractor in there in the next two weeks, should be done by the end of June.

Bruce Wampler – Springridge I – understood they had used the pressure relief valve – did not like hearing they were responsible for the delay. It will be done correctly and the irrigation system is doing fine – nothing has been easy with these guys. A few major concerns – irrigating and this has led to a weed problem – they did hydro seeding last fall and it didn’t take at all. Promised to do landscaping around the weigh station but this hasn’t been done yet.

David – the existing security the County is holding has two components as it typical, you are holding \$165,000 in cash on the tank but you still do have two separate letters of credit on the revegetation and weed control and we need to get past Steve Anthony to get this released and we’ll follow up with that.

Yancy – commented that we are waiting until the tank is complete due to the disturbed area now and at the other tank on the last remaining work, then we’ll go into and revegetate that.

Fred commented from a technical perspective we have two SIA’s that are bound together with the timeline which is May 30th and for a clean record suggested a revised one page on this.

David – if you want to do a further amendment we have no problem. We’ll be back in front of you in a few weeks on Phase III and could deal with that in a sentence or two in that document.

Fred preferred to keep them separate for a clear record.

Commissioner McCown made a motion to extend the SIA to August 1, 2007.

Commissioner Houpt seconded.

In favor: McCown – aye; Houpt – aye; Martin - aye

BUILDING AND PLANNING - CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT ALLOWING A RESIDENTIAL UNIT IN LIGHT INDUSTRIAL ZONE DISTRICT. APPLICANT. EDE INVESTMENTS – CRAIG RICHARDSON

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This is located on County Road 253.

REQUEST

Garfield County Building and Planning Department has received a Special Use Permit (SUP) application to allow a residential unit in the Light Industrial (LI) Zone District. Residential use is contemplated as a Special Use in LI Zone District and the unit must be utilized in conjunction with storage, housing the property owner or on-site property manager.

STAFF RECOMMENDATION

Staff finds that the proposed use will have a minimal impact and recommends that the Board of County Commissioners not refer the request to the Planning Commission.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to direct staff to put this on the BOCC agenda.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A TEXT AMENDMENT TO THE GARFIELD COUNTY ZONING RESOLUTION OF 1978, AS AMENDED. APPLICANT: POW INC. (GLENWOOD CAVERNS ADVENTURE PARK) – CRAIG RICHARDSON

Craig Richardson, Michael Howard, Russell Disberger and Kelley Bates were present.

Michael Howard reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Craig submitted the following exhibits: Exhibit A – Garfield County Zoning Regulations of 1978 as amended; Exhibit B – Application; Exhibit C – Staff Memorandum; and Exhibit D – Email from A’Lissa Gerum, City Planner, Glenwood Springs, dated 4-30-2007 materials; Chairman Martin entered Exhibits A – D into the record.

BACKGROUND:

“Commercial/Recreational Facility/Park” is an existing use contemplated as a Special Use in the Agricultural/Residential/Rural Density and Agricultural/Industrial Zone Districts. Presently, this use is not defined in the land use code.

REQUEST:

The Applicant would like to amend the Garfield County Zoning Resolution of 1978, as amended by defining the use.

The Applicant owns and operates Glenwood Caverns Adventure Park in Garfield County. Like most employers in Garfield County the lack of attainable housing makes it difficult to retain employees. The proposed definition would allow for on-site employee housing and define the operation standards of the existing use as follows:

Commercial/Recreational Facility/Park

An area or facility that provides recreation or entertainment to the public for a fee and customary accessory uses including buildings for retail establishment, visitor center, dining, and shelter and enclosures of persons, animals or property employed in any of the above uses.

Defining the existing use identified in the Zoning Code allows for a clear and consistent interpretation at Staff level. Garfield County Comprehensive Plan Section III – Goals, Objectives, Policies and Programs §8.0 Natural Environment identifies tourism as an integral component to the economy of Garfield County. The proposed definition will create opportunity for employers in the tourism industry to provide on-site employee housing.

Staff suggests the following changes to the Applicant’s proposed definition.

Commercial/Recreational Facility/Park

An establishment that provides recreational or entertainment attractions to the public for a fee and customary accessory uses including transport, souvenir retail, visitor center, dining, shelter of animals, dwelling units restricted to persons employed on-site during the entire duration of occupancy, and facilities used exclusively for the preparation, maintenance and storage of equipment used in Commercial/Recreational Facility/Park business operations.

This request was reviewed by the Planning Commission on May 9th, 2007. The Commission recommended that the Board of County Commissioners approve the request to amend § 2.00 of the Garfield County Zoning Resolution of 1978, as amended to include a definition for Commercial/Recreational Facility/Park with the recommended changes by Staff.

RECOMMENDATION

Staff recommends the Board of County Commissioners approve the proposed text amendment to the Zoning Resolution of 1978, as amended to include the following definition of Commercial/Recreational Facility/Park in § 2.00.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close public hearing.

In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the zone text adding the verbiage with the recommendation of staff.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR A “COMMERCIAL/RECREATIONAL FACILITY/PARK” FOR GLENWOOD CAVERNS ADVENTURE PARK; APPLICANT: POW INC. – CRAIG RICHARDSON

Debbie Quinn, Craig Richardson, Russell Disberger and Kelley Bates were present.

Debbie reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Craig submitted the following Exhibits: Exhibit A – Garfield County Zoning Resolution of 1978 as amended; Exhibit B – Application; Exhibit C – Staff memorandum; Exhibit D – Memo from the City of Glenwood Springs, dated May 3rd, 2007; Exhibit E – Memo from Glenwood Springs Fire Department, dated May 3rd, 2007; Exhibit F – Email from Garfield County Environmental Health Department, dated May 4, 2007;

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Exhibit G – Memo from Mountain Cross Engineering, dated Jay 10, 2007; Exhibit H – Letter from Steve Beckley in response to Glenwood Springs Fire Department comments, dated May31, 2007; Exhibit I – Letter from Steve Beckley in response to the City of Glenwood Springs comments, dated June 5, 2007; and Exhibit J – Letter from Steve Beckley dated June 5, 2007 – (2nd letter).

July 9th – Steve Beckley unable to be here today – out of state with family.

Commissioner McCown – continue to July 9th. Commissioner Houpt seconded.

Chairman Martin entered Exhibits A – J into the record.

The applicant requested a continuance until July 9th based on the fact that Steve Beckley is unable to be here today – he had to deal with family issues outside the state.

Chairman Martin asked if anyone had testimony to be considered today and would object to a continuance or anyone from the Board.

Chairman Martin rephrased the motion made by Commissioner McCown to continue this hearing until July 9th at 1:15

p.m. time slot and it was Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING – CONSIDER A REZONING REQUEST FROM ARRD TO PUD AND SKETCH PLAN FOR THE RESERVE AT ELK MEADOWS, APPLICANTS: BERSHEYNI LAND & CATTLE,LLLP, CAROL A. BERSHENYI, JOHN WILSON BERSHENYI AND ALICE P. BERSHENYI AND THE RESERVE AT ELK MEADOWS, LLC – FRED JARMAN

Larry Green, Ron Liston, Tom Zancanella, Will Humphrey new owner letter authorizing this and speaking for them; Fred Jarman and Michael Howard.

Michael Howard reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Fred submitted the following exhibits: Craig submitted the following exhibits: Exhibit A –Proof of Publication; Exhibit A – Garfield County Zoning Resolution of 1978 as amended; Exhibit C – Garfield County Comprehensive Plan of 2000 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E – Applications (Binders 1 & 2); Exhibit F - Staff Memorandum; Exhibit G – Memo from the County Vegetation manager dated 3-22-07; Exhibit H – Letter from Mt. Cross Engineering dated 3.21-07; Exhibit K – Email from the County Road and Bridge Department dated 3-21-07; Exhibit J – Letter from the Colorado Geologic Survey dated 3-16-07; Exhibit K – email from EDPHE dated 3-21-2007; Exhibit L – Email from Kenneth Wilson dated 3-28-07; Exhibit M – Letter from Glenwood springs Fire Protection District dated 3-21-07; Exhibit N – Letter from the Colorado State Forest Service dated 3-19-2007; Exhibit O – Email from CDOT 2-26-07; Exhibit P – Letter from the Garfield Housing Authority dated 3-20-07; Exhibit Q – Letter from BLM dated 3-22-07; Exhibit R – Letter from DOW dated 3-16-07; Exhibit S – Letter from City of Glenwood springs (Com Dev) dated 3-27-07; Exhibit T – Letter from City of Glenwood Springs (Com Dev) dated 3-13-2007; Exhibit U – Letter to the editor of the GPI from Michael Larime dated 4-9-2007; Exhibit V – Email to the BOCC from Jim and Cheryl Hawkins dated 4-9-2007; Exhibit W – Letter from the DWR dated 4-2-07; Exhibit X – Power Point Presentation from Staff dated 4-11-2007; Exhibit Y – Email from Mitch Mulhall to BOCC dated 4-11-2007; Exhibit Z – Email from David Bowers to BOCC dated 4-11-2007; Exhibit AA – Building Envelope depths for Lots 1 – 18 from Applicant dated 4-11-2007; Exhibit BB – Amended Phasing Plan submitted by applicant dated 5-16-07; Exhibit CC – Amended PUD Zone Text and map submitted by applicant dated 5-16-2007; Exhibit DD – Letter from Glenwood Springs Fire District dated 5-17-07; Exhibit EE – Letter from Sopris Engineering dated 5-15-07; Exhibit FF – Email from Mountain Cross Engineering dated 6-6-07; Exhibit GG – Power Point dated June 11, 2007.

Chairman Martin entered exhibits A – GG into the record.

PROJECT SUMMARY

As originally proposed to the Planning Commission, the Applicant requests land use approvals to develop the Bershenyi & Martino Ranches into a residential development called ***The Reserve @ Elk Meadows***. The two properties are located south of Glenwood Springs along Four Mile Road (CR 117) immediately south of Four Mile Ranch Subdivision.

Specifically, the proposal includes developing the two adjacent ranches (when combined comprise a total of 506 acres) into 189 residential lots located in three (3) residential clusters in a 6 phase development plan. One cluster of 72 lots would be located in the lower meadow below CR 117 and the two other residential clusters (55 lots and 69 lots) are to be located on meadows on the upper portions of the ranch on the west side of CR 117.

All lots are proposed to be connected the City of Glenwood Springs public wastewater system. Domestic water is proposed to be provided by an on site central water system consisting of a well field, water treatment facilities, distribution lines and storage tanks with capacity for fire protection water. Additionally, a raw irrigation water delivery system will be constructed to deliver irrigation water to each lot.

The proposed design provides for over 374 acres to be placed into open space which also includes an internal trail system as well as a continuation of the public trail along CR 117 through the development.

Access to the project is anticipated directly from CR 117 with the Applicant proposing a partial realignment and improvement of a portion of CR 117 as it passes through the project.

REQUEST TO AMEND THE COMPREHENSIVE PLAN

On April 11, 2007, the Planning Commission unanimously approved an amendment to the Proposed Land use Districts Map of the Comprehensive Plan of 2000 in order to accommodate the proposed PUD as requested by the Applicant. The property is located in Study Area I and was overlain primarily with the Medium Density Residential (6 to <10 acres / du) designation with three small pockets of Low Density Residential (10 acres or more / du). As you recall, these designations were chosen primarily due to development constraints and land use considerations as more fully described in the methodology section of the Comprehensive Plan.

The application proposed to re-designate the majority of the property to Medium Density Residential (which includes 1 residential cluster) and re-designate the remainder two residential clusters as High Density Residential such that it would be consistent with the proposed development. The currently adopted density definitions in the Comprehensive Plan are as follows:

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- Low Density Residential: 10 or more acres / du (18.2)
- Medium Density Residential: 6 < 10 acres / du (53.97)
- Medium-High Residential: 2 < 6 acres per dwelling unit
- High Density Residential: Less than 2 acres per dwelling unit

The reason for the three small pockets of Residential Low Density are due primarily to 1) surficial geology for landslides, 2) major slope hazards, and 3) moderate soils hazards as identified in the Comprehensive Plan.

As you are aware, the Comprehensive Plan contains a methodology matrix that provides the general exercise undergone that ultimately resulted in why certain areas in Study Area I were given a certain density. Because this exercise was done at a broad scale and not the result of a site specific analysis, amendments can (and should be) contemplated at a closer “property-specific” scale. In this case, the Applicant suggested, and the Planning Commission agreed, that the property’s designations could be varied as certain environmental and development constraints could adequately be mitigated resulting in varying densities.

In summary, the Planning Commission agreed with the analysis in the application which resulted in the re-mapping of a portion of the property as High Density Residential and the large remainder as Medium Density Residential shown above. Generally, the analysis suggests that the lower, gently sloping fields and meadows of the Martino and Bershenyi Ranches could easily be re-mapped as Residential High Density District due to the lack of any significant development constraints, availability of central sewer service and proximity to an improved collector road and community services.

Similarly, the remainder of the property was mapped as Medium Density Residential due to some areas having development constraints (primarily geologic and slope related) but those areas could also be accommodated by central sewer, proximity to good access and existing urban services in nearby Glenwood Springs.

In order to quantify the mapping change and what that will realize in terms of residential density, the following is a summary showing the change.

Therefore, a re-mapping of the subject property (as proposed) resulted in a net density increase from 7 acres per dwelling unit to 2.53 acres per dwelling unit or from a total of 72 lots to 200 lots. By comparison, this density is lower than Four Mile Ranch Subdivision which has a density of 2.38 acres per dwelling unit.

I. Planning Commission Recommendation to the BOCC: April 11, 2007

On April 11, 2007, the Planning Commission (by a vote of 7 to 0) unanimously approved the amendment to the Comprehensive Plan and also unanimously recommended the Board of County Commissioners (BOCC) approve the rezoning from ARRD to PUD with the following significant site plan changes to the proposal: (Note, there are additional recommendations contained within the list of conditions of approval which are listed at the end of this Staff Report.)

a. Include the 10% Affordable Housing On-Site

As you will see throughout the memorandum, the Planning Commission unanimously recommended that the 10% affordable housing units be included within the development and not be located off-site. As a result, the Applicant agreed to the following condition:

The Applicant shall provide the 10% affordable housing unit requirement on-site within the development. Prior to the public hearing before the Board of County Commissioners, the Applicant shall amend the PUD site plan to replace lots 10 – 18 now shown in the South Meadow neighborhood with 20 affordable housing units with the understanding that by including these 20 affordable housing units on-site, the total lots proposed in the development increases from 189 to 200. Additionally, the Applicant shall amend any associated PUD zone text in support of the change.

Applicant Response

The Applicant has revised the PUD Site Plan to include 20 affordable housing units on site. This has been realized by converting Lots 10 – 18 (comprising 9 free-market single-family lots) to Lots 54 – 63 (comprising 10 duplex affordable housing units). By incorporating these units on-site, the net result shows the original free-market unit count of 189 units has decreased to 180 and the additional 20 affordable housing units brings the total to 200 units for the project.

The change in the site plan to accommodate the 20 on-site AH units can be seen on the following page:

Staff finds the inclusion of the AH on site not only satisfies the housing component of the Comprehensive Plan, but also satisfies the requirements in the PUD.

b. Revised Traffic Study

The Planning Commission understands the Traffic Impact Study demonstrates that all of the traffic generated from this development is funneled into Glenwood Springs and that an agreement had been made between the developer and the City; nonetheless, the Planning Commission agreed that the study be revised to provide a better idea of the impact of those trips on the intersection of Mt. Sopris Drive / Midland Avenue in the following condition:

The Applicant shall submit a revised Traffic Impact Study (TIS) with the Preliminary Plan submittal that incorporates impacts to the Mt. Sopris Drive / Midland Avenue intersection and a roundabout at Midland Avenue / 27th Avenue.

c. Private vs. Public Internal Roads

Staff asked for a clarification on whether the internal roads within the development were public or private. The Applicant has now stated that the roads are to be dedicated to the public but privately owned and maintained.

d. Fire Protection Approval of Internal Road Design

The Planning Commission questioned specific elements of the proposed internal road design which included cul-de-sac lengths, road widths and grades, and secondary access and whether the Glenwood Springs Fire Protection District approved the road network acceptable in terms of service provision. To that end, the Planning Commission required the following condition:

That prior to the public hearing before the Board of County Commissioners, the Applicant shall provide a letter from the Glenwood Springs Fire Protection District that specifically approves of the internal road network, design width and grade.

Applicant Response

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The Applicant met with the Fire District and provided the following response to their ability to serve the development with the proposed road design.

e. Road Grade of “Street A” to Exceed 8%

There appear to be steep areas that Street A crosses to provide access to the upper meadow lots that may exceed the 8% grade limitation for a “Minor Collector.” As a result, the Planning Commission required the following condition:

That prior to the public hearing before the Board of County Commissioners, the Applicant shall provide an analysis that demonstrates the road grade of “Street A” can exceed 8% using the standards in Section 9:37 of the Subdivision Regulations or 1984, as amended.

Applicant Response

The Applicant provided an analysis from Sopris Engineering that ultimately says a lesser grade of 8%) will result in much greater cuts and fills to reach the upper meadow, 2) is acceptable from an emergency response perspective, and 3) are oriented to the south allowing solar exposure reducing ice / snow buildup. This letter is included in the front of Binder 1.

f. Refinements to the Phasing Plan (Commencement & Completion)

The PUD regulations require a more refined phasing plan than what was proposed. As a result, the Planning Commission required the following:

That prior to the public hearing before the Board of County Commissioners, the Applicant shall assign approximate dates to the phasing plan including month and year for when phases are to commence and be complete.

Applicant’s Response

The Applicant has provided a revised phasing schedule with approximate dates attached which is acceptable.

g. Refine Phasing Plan for Specific Improvements

The originally submitted phasing plan provided, in more general terms, the improvements that were to be included within each phase. The Planning Commission requested the Applicant revise this plan to specifically include the relocation of CR 117 etc. The requirement was as follows:

That prior to the public hearing before the Board of County Commissioners, the Applicant shall submit a revised phasing plan that specifically includes, but is not necessarily limited to, the realignment of CR117, the community facilities/amenities and landscaping in the Barn/Heritage area, the relocation and stabilization of the Bershenyi Barn, the public trail along CR 117, and the platting of the affordable housing lots.

Applicant’s Response

The Applicant has provided a revised phasing plan that provides the necessary detail requested by the Planning Commission.

h. Engineering Issues Regarding Water System

Mountain Cross Engineering, on behalf of Garfield County, questioned water pressures as well as gallon usage that needed to be further addressed. To that end, the Planning Commission required the following:

That prior to the public hearing before the Board of County Commissioners, the Applicant shall address the comments made by Mountain Cross engineering regarding pressure zones and gallon usage. See Exhibit H

Applicant’s Response

The Applicant had Sopris Engineering address these issues and Mountain Cross Engineering (on behalf of the County) provided the following response:

1) *As part of the preliminary plan guardrail should be analyzed and proposed along warranted sections of the roads, in particular along Street A.*

2) *There are areas of significant cut and fill (20 feet to 30 feet). Steep cut and fill slopes, generating large areas of disturbance, or high retaining walls will be required. The 8% would be worse; that is agreed, but the 10% grades that are proposed will also be expensive and difficult to construct.*

3) *The 10% grades and lengths should be reviewed and approved by the Fire District.*

4) *The Uniform Plumbing Code calls for water to be delivered to homes for domestic use at between 50 to 70 psi. Some consideration for mitigating the higher pressures will be required. Sopris Engineering proposes to modify the proposed design to mitigation the pressures. This could be addressed at the time of preliminary plan.*

5) *The explanation of water demands is adequate.*

i. Proposed Gift of the 960-acre “Mountain Park” to Garfield County

While not physically part of this PUD, the Applicant offered this 960-acre property to the County as a gift to be used as a park. The Planning Commission decided that while the offer is a valuable gesture, they recommended the County not accept the property (similar to the reasoning of Glenwood Springs) due to the unknown issues attached (mineral estate questions) and cost liability to the County tax payers for the continual upkeep of such a park. To that end, the Planning Commission recommended the following change to the condition of approval offered by the Applicant:

The entire PUD / project design is contingent upon a proposed amendment to the Proposed Land Use Districts Map as discussed earlier. Staff has agreed that the proposed amendment to the map (establishing residential densities) appears to be justified. The second major component of the Comprehensive Plan includes the Goals, Policies, and Objectives. The application provides a review of these elements in Tab 4. Staff agrees that, should the Planning Commission agree to amend the map, that the application demonstrates general compliance with the remainder of the Comprehensive Plan. Of particular importance was a discussion on housing. Staff has included that discussion for your review below that demonstrates the importance of including the AH on-site.

Because of the significant increase in residential density beyond what the property is currently allowed (74 to 189 units), the development is required to construct 10% (or 19 units) of the units as affordable housing units to be controlled by the County Housing Authority. To this end, the Applicant has agreed to provide these units on-site integrated in the development rather than off-site. Staff finds that this not only satisfies the main housing goal above but is also aligned with the opinion of the Garfield County Housing Authority.

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In further support of on-site housing, the application goes to great length to demonstrate that a comprehensive plan amendment is warranted due to Infrastructure Needs and Distance from Urban Uses. For example, the application states the following to support a change to high density residential (pages 3 and 4 in Tab 3):

- The County Housing Authority strongly recommended the AH be located on site.

Additionally, this Housing Goal anticipates that PUDs would provide “all types” of housing which Staff suggests includes multi-family units. The PUD, as proposed, provides only for single-family dwellings on a variety of lot sizes. The application suggests that the varying lot sizes accommodate this housing goal. Staff disagrees; however, the Applicant’s commitment to provide on-site AH in multi-family units meets the intent of this goal.

Staff finds that the proposed development generally has an appropriate relationship to the surrounding area as one considers the broader character of the lower Four Mile Valley and the residential developments that presently exist. Because of the site’s varying terrain, portions of the development will be hidden with while other portions, such as the East Meadow, will be highly visible. The site plan incorporates open space tracts to buffer the development here from Four Mile Road in an attempt to continue the agricultural nature of the area with a 20-acre irrigated hayfield. The barns are also proposed to be preserved supporting this heritage.

The most adjacent residential area is Four Mile Ranch Subdivision which is a 2-acre lot subdivision just on the boundary with Glenwood Springs. The proposed development is somewhat buffered from this development with the open space tract. The proposed density is much higher than Four Mile Ranch with sub-urban like lot sizes ranging from 13,000 sq. ft. to 30,000 sq. ft. in the lower east meadow. Staff finds that the project proposes sub-urban lot sizes on central services that while highly visible in the lower meadow from CR 117, measures have been taken to minimize their visual affect as seen from SH82 with height limitations and vegetation requirements without maximizing the development footprint on the property.

The main direct adverse affect to the surrounding areas include visual impacts, light pollution of the night sky, and traffic impacts. The City of Glenwood Springs commented that “portions of the development will be highly visible from the lower reaches of the valley. It would seem appropriate that limited lighting be utilized within the development. Full cut-off fixtures for both street lighting and on individual homes should be considered in design requirements for the development.” Staff suggests the Applicant prepare a Residential / Community Lighting Plan that addresses light trespass issues so that this community will not adversely affect the night sky.

Regarding traffic, the proposed 189 units will generate approximately 1,900 ADT at full build-out. As background traffic increases in the Four Mile Valley and Sunlight Ski Area undergoes significant redevelopment, this traffic can only go north directly into Glenwood Springs. Staff agrees that the re-alignment of ¼ mile section of CR 117 through the project will benefit the CR 117 corridor traffic and make the road a safer road to travel. The project is also required to pay the County’s Traffic Impact Fee at the time of final plat. That total fee is estimated to be approximately \$500,000.

While that deals with County’s portion of the traffic impact, the intersections that will be impacted with traffic volume conflicts are all located in Glenwood Springs and not in Garfield County. In order to deal with these issues, the Applicant’s traffic consultant prepared an analysis that modeled the impacts which are summarized here and are also contained in Tab 3, Binder 2:

As discussed earlier, the pre-annexation agreement that has been entered into to provide wastewater service from the City to the development also includes an obligation on the developer to make \$900,000 worth of improvements to one of these intersections described below:

The City of Glenwood Springs provided additional comment on the application which acknowledged the pre-annexation agreement obligations; however, the letter from Andrew McGregor states that the agreement is not meant to serve as an “endorsement” of the project. Additionally, he notes that changes have occurred with potential improvements to the Midland / 27th Avenue intersection that suggest a roundabout is better than a signal. As such, the traffic study should be revised to reflect this change. Additionally, the study relies on the tenuous subject of the possible construction of the South Bridge. Lastly, the study fails to address the Midland / Mount Sopris Drive intersection which presently has conflicts as it, at times, under serves a school, 350 home, and parks.

The PUD proposes an internal street system characterized by looped cul-de-sacs. As viewed in two sections with CR 117 splitting the development, there is only one way in and one way out. Internally on the west side, the site plan provides emergency access routes to provide a secondary egress / ingress in the event of an emergency.

The application states (and Staff agrees) that the proposed realignment of Four Mile Road will improve safety on this major collector road and allow for the construction of an efficient and safe intersection with the roads internal to the PUD. It is unclear of the application proposes these roads to be “private” or dedicated to the public because the application states that *“Some roads will also be platted with a public access easement such that the public may access the parking areas designated for users of the proposed “mountain park”.”* Roads in a PUD may be private if requested and approved by the BOCC.

The application also proposes to reduce the required road standards listed in the County Subdivision regulations. Specifically, the County requires that the roads be designed to the Minor Collector standard which requires 60-foot ROW, Two 12-foot lanes, 6-foot shoulders and a max grade at 8%. The PUD proposes 22-feet of asphalt traffic lanes.

Additionally, the application provides that *“in three locations, emergency access drives are proposed as an alternative to full cross section streets to avoid dramatic scarring of the native terrain. One emergency access, which is of relative steep grade and also serves as a primary pedestrian trail, will have a ten foot wide asphalt surface with one foot shoulders. The remaining two emergency drives will be twelve foot wide gravel platforms and will also serve a pedestrian function. Paved pedestrian trails connect the public pedestrian trail located east of Four Mile Road with access to the proposed “mountain park”.”*

There appears to be good pedestrian / bike access through the site. The City of Glenwood Springs provided thoughts on the trails:

There are significant trails around the perimeter of the property. Some consideration should be given to more connections from the periphery to the internal roadways so that pedestrians do not have to walk around an entire area to gain access to the road. Will the trails be used by school aged children to provide access to

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a central bus location at the entries to the development? Ongoing maintenance of the trails so they are always available for pedestrian access? Is there a need for sidewalks in the development to serve this purpose?

Staff questions the grade of Street A and the emergency access which appear to be rather steep and could be further impacted by snow in the winter due to their north, northeast aspects which are more difficult to get sun exposure. Again, there is only one way in and out of the project on either side of CR 117. The Subdivision Regulations require a secondary access if cul-de-sacs are longer than 600 linear feet. While the east meadow appears to have little wildfire issues, the upper meadows have those issues. Staff initially found that this needs to be more fully explored and noted that the Glenwood Springs Fire Department as well as the Colorado State forest Service were silent on the issue. To that end, the Fire District provided an additional letter stating that they approve of the design as mentioned earlier.

Staff agrees with the City's comments regarding *approximately 700 ft. of the access road at the upper meadows area will encounter slopes with gradients of 40% and that rock-walls may be required. Additionally, a rock wall is proposed at the south end of the development. Design standards should be incorporated to require terracing of retaining walls with vegetation.*

Roads are to be 22 ft. in width with perpendicular "guest parking" spaces at intervals throughout the development. It is assumed there will be no on-street parking. Developments with similar road widths and guest parking have had enforcement issues when the Homeowners Association is responsible for enforcement. Construction vehicles, abandoned vehicles, etc. can create problems.

The PUD proposes "guest parking" throughout the PUD as well as provides a 10-space public parking lot in the upper meadow for access to the BLM and the "Mountain Park." Staff finds that these areas are appropriately located.

The site plan incorporates almost 75% of the property in some form of open space. Staff finds that much of the open space is practically unbuildable but the site plan does set aside very buildable areas such as the 20-acre hayfield on CR 117. The site plan does propose that the development footprint occur in areas already disturbed from agricultural practices / uses and that the road system has been designed to minimize cuts and fills on the property to preserve hillsides as much as possible. The residential clusters also provide for unique active and passive recreation as well as preserved much of the hillsides on the property.

This standard requires that the PUD shall provide for a variety in housing types and densities. As mentioned earlier, with the new inclusion of multi-family AH units, the PUD does provide for a variety of housing types other than single-family dwellings. Additionally, the PUD provides ample open space and other amenities that satisfy this standard.

Generally, the proposed site plan provides for private between units as almost all of the units back up against some form of open space. The density proposed, particularly in the lower meadow is a suburban style lot type that provides minimal privacy simply due to lot size and proximity one another.

Staff finds the PUD has done a good job at providing pedestrian trails / amenities throughout the development which will benefit not only the residents but the general public as well. This standard has been met.

The City of Glenwood springs will provide sewer treatment services The PUD site plan shows that a separate utility zone district has been created to accommodate the chlorine treatment facility for the domestic water system, water storage tanks and an irrigation water pumping station. Staff agrees that the individual wells do not need to be contained with the utility district but are noted as an allowed use in the open space district as the space consumed by an individual well head is insignificant to the open space uses of the area. The on site central water system including wells, treatment facilities and distribution lines will be owned and maintained by the Elk Meadows home owners association. The on site sewer collection lines and any potential sewage lift stations will be owned and operated by the home owners association.

The site plan with grade contours shows that virtually all of the residential disturbance will occur in areas of 30 percent or less in slope. The application points out that approximately 700 feet of the access road to the Upper Meadow residential area crosses slopes with gradients of 40%.

In order to deal with that slope issue, the application suggests that it may be possible to use rock walls on the uphill cut side of the road allowing a full bench cut which will minimize the fill slope disturbance and reduce the visual impact of the road as it crosses this hillside. Moreover, a report prepared by HP Geotech addresses slope stability questions relative to the road construction and the civil engineering statement prepared by Sopris Engineering describes the basic parameters for the revegetation of disturbed slopes in the project and particularly disturbance on the steeper native slopes.

The PUD does propose several community facilities that include preserving the two barn structures that the applications states are "historic." [Note, while they may appear practically historic, they are not listed on any state or federal historic inventory that Staff is aware of; nonetheless, they are certainly cultural fixtures that serve as reminders of the County's agricultural heritage and should definitely be preserved.]

The PUD also proposes to the Bershenyi Frame Barn which requires only basic interior clean-up, exterior painting and roof repair; and the Bershenyi Log Barn which is proposed to be moved to the northeast to accommodate the realignment of Four Mile Road, placed on a new foundation, the interior cleaned up, general repair of the roof and exterior walls as needed for basic preservation. Other community facilities proposed in the PUD include the asphalt and gravel trails, parkland facilities which includes children's play equipment, an observation platform and shelter, a picnic shelter, a parking lot for use by the public near the access trail to the proposed "mountain park" and landscape plantings at the community entry and in the open space parks internal to the South Meadow and the East Meadow.

The PUD states that the completed facilities will be dedicated to the Reserve at Elk Meadows Home Owners Association for long term operation and maintenance and that the details of these facilities will be provided with the preliminary plan.

The PUD proposes to use the same height limitations in the underlying ARRD zone district with no exception requested. The application does request to "grandfather" the height of the existing Bershenyi Frame Barn. Staff finds there is no need to ask because it is a legal non-conforming structure. Note, however that if it is to be used for human occupation rather than strict agricultural purposes, a building permit would be required.

Using the underlying ARRD as a guide, Staff provides a comparison of what the PUD proposes against the ARRD:

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The application states that the proposed lot size and coverage criteria are not significantly different from that of the “urban and suburban” density residential zone districts contained in the Garfield County Zone Regulations which would be consistent with the Comp Plan designation of “Residential High Density”. The application is required to indicate what those limits are so that when zoning review occurs, it can be determined if the structure meets the provisions of the PUD. This standard has not been met.

Including the AH units for a total unit count of 200, the PUD proposes a gross residential density of 0.40 dwelling units per acre or 2.53 acres per dwelling unit. This standard has been met.

The PUD covers a property totaling 506 acres which satisfied this standard.

The primary use in the PUD is a single family residential use of the property is also an allowed use in the underlying zone district ARRD. The community and infrastructure facilities are considered accessory uses serving the residential community.

All PUDs in Garfield County require that at least 25% of the property be designated as open space. In this case, 25% of 506 acres is 126.47 acres. The PUD site plan is also required to further refine the types of open space which are provided below:

The PUD has satisfied the open space requirement. (Note, these acreages are for areas within the PUD boundary only and DO NOT include land in the proposed “mountain park”.)

The City of Glenwood Springs provided the following comments on open space within the project:

The use of the open space is prescribed as trails and passive open areas, which is desirable. The application indicates some of the open space areas will be available for “open field play.” Are any active recreation fields proposed within the development? It would seem appropriate, given the density that some active recreation such as a soccer field, ballfield, basketball court, etc. would be appropriate.

One of the key emphasis of the PUD is the heritage ranch and preservation of the hayfields. The allowance for community gardens within some of the designate open space areas, particularly in the area of the barns might be appropriate. There is some concern that the relocation of one of the log barns can be accomplished from a structural preservation standpoint.

The PUD does not propose any time-share or fractional ownership schemes.

This is the section of the Code that applies to the PUD for the requirements for affordable housing.

The proposed PUD results in an increase in density and therefore is obligated to provide 10% of the units to be provided as affordable housing units. As shown above, in order to quantify the mapping change and what that will realize in terms of residential density, the following is a summary showing the change.

Therefore, a re-mapping of the subject property (as now approved) resulted in a net density increase from 7 acres per dwelling unit to 2.53 acres per dwelling unit or from a total of 72 lots to 200 lots for the entire property. Note, specific increases in density for the High Density Residential results in 0.80 acres / dwelling unit. This is important to the next standard.

The PUD agrees with the obligation to provide 10% of the total housing units to be deemed “affordable housing units” which totals 20 units. Initially, the Application requested the ability to provide these units “off-site” rather than include them within the units in the PUD. See below regarding “Off-site.”

The Applicant has made a logical argument in their request to amend portions of the Proposed Land Use Districts Map in the Comprehensive Plan from Medium and Low Density to Medium and High Density. In fact, all of the lower and south meadow residential clusters would be designated High Density at the request of the Applicant because of a lack of significant development constraints, availability of central sewer service and proximity to an improved collector road and close proximity to community / urban services in Glenwood Springs.

This standard above, explicitly agrees with the suitability of providing affordable housing units “on-site”, in that, areas of High Density are planned for two or less acres per dwelling unit, which are the locations most suited for affordable housing. Further, off-site proposals will only be approved by the County Commissioners if the Applicant can demonstrate circumstances that would justify an off-site option. In any event, the Applicant must show that affordable housing units meet the requirements of these regulations and the Garfield County Affordable Housing Guidelines, and that these housing units will actually be built in Study Area 1.

Importantly, Staff interprets this language in this section 4.07.15.01(1 and 2) above, to mean the following:

- 1) Section 4.07.15.01(1) applies to this PUD because the Planning Commission approved an amendment to the Comprehensive Plan Map to High Density Residential;
- 2) This PUD standard requires the “policy debate” to occur at the hearing before the Board of County Commissioners as they review this PUD, where the Board decides whether affordable housing will be on-site or off-site. If the Board agrees to the provision off-site, the Applicant shall meet the requirements to do so at Preliminary Plan.

Ultimately, the Applicant agreed to incorporate the 10% (20 units) on-site therefore satisfying this standard. As mentioned throughout the memo, Staff believes the 10% should be built on site rather than somewhere in Study Area I for the following reasons:

Staff recommended and the Applicant agreed the 10% affordable housing units are to be included on site and the site plan has been revised to reflect this commitment.

The application contains a Title Policy from Land Title Guarantee Company which indicates that the Applicant owns the Martino Ranch. Additionally, the Policy demonstrates that the Bershenyi Ranch is owned by Bershenyi Land & Cattle LLLP, Carol A. Bershenyi and John Wilson Bershenyi and Alice P. Bershenyi. The application contains a letter from these owners giving the Reserve at Elk Meadows, LLC permission to submit the PUD application.

The PUD states (and shows) that the site plan envisions a site specific development plan containing 189 residential lots.

The PUD site plan shows a dedication of approximately 374.7 acres of total common open space.

Generally, the primary use in the PUD is a single family residential use (comprising approximately 131 acres which includes roads through the property leaving the balance of 374 acres in open space that also contain community facilities which can be considered accessory uses serving the residential community. The PUD zone districts map provides a land use summary as follows:

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The PUD proposes an internal street system characterized by looped cul-de-sacs. As viewed in two sections with CR 117 splitting the development, there is only one way in and one way out. Internally on the west side, the site plan provides emergency access routes to provide a secondary egress / ingress in the event of an emergency.

The application states (and Staff agrees) that the proposed realignment of Four Mile Road will improve safety on this major collector road and allow for the construction of an efficient and safe intersection with the roads internal to the PUD. It is unclear if the application proposes these roads to be “private” or dedicated to the public because the application states that *“Some roads will also be platted with a public access easement such that the public may access the parking areas designated for users of the proposed “mountain park”.*” Roads in a PUD may be private if requested and approved by the BOCC.

The application also proposes to reduce the required road standards listed in the County Subdivision regulations. Specifically, the County requires that the roads be designed to the Minor Collector standard which requires 60-foot ROW, Two 12-foot lanes, 6-foot shoulders and a max grade at 8%. The PUD proposes 22-feet of asphalt traffic lanes.

Additionally, the application provides that *“in three locations, emergency access drives are proposed as an alternative to full cross section streets to avoid dramatic scarring of the native terrain. One emergency access, which is of relative steep grade and also serves as a primary pedestrian trail, will have a ten foot wide asphalt surface with one foot shoulders. The remaining two emergency drives will be twelve foot wide gravel platforms and will also serve a pedestrian function. Paved pedestrian trails connect the public pedestrian trail located east of Four Mile Road with access to the proposed “mountain park”.*”

There appears to be good pedestrian / bike access through the site; however, Staff questioned the main road widths for this PUD. Specifically, the grades appear to be too steep and could be further impacted by snow in the winter due to their north, northeast aspects which are more difficult to get sun exposure. Again, as mentioned earlier, there is only one way in and out of the project on either side of CR 117. The Subdivision Regulations require a secondary access if cul-de-sacs are longer than 600 linear feet. While the east meadow appears to have little wildfire issues, the upper meadows certainly have those issues. Staff finds that this needs to be more fully explored. Staff notes that the Glenwood Springs Fire Department as well as the Colorado State forest Service were silent on the issue. This issue has been adequately addressed as discussed earlier with an additional letter from the Fire Department, Sopris Engineering and the County’s engineering review.

The PUD is located in the RE-1 School District. As such the PUD proposes (and is allowed) to make a payment of cash-in-lieu for School Site Dedication purposes to the School District. This calculation shall be done according to Section 9:80 of the County Subdivision Regulations at will be paid at Final Plat.

The PUD proposes no commercial or industrial uses.

The PUD proposes a central water system for both potable and irrigation water. Wastewater service is to be provided by the City of Glenwood Springs via the terms in a pre-annexation agreement. Telephone, electricity, natural gas and cable television will be installed underground within the amended PUD and in accordance with plans designed or specified by the utility companies serving this area. The detailed engineering for these utilities and their associated state approvals are to occur at preliminary plan and final plat.

Tab 10 of the application contains the specifics in the proposed PUD regarding dimensional requirements (lot size, height, etc.) and uses allowed in each of the districts shown in the PUD master Zoning Map. Generally, the application states that the residential lots are very typical of urban / sub-urban type lots. Staff agrees and notes that they are very similar to what would be in the RGUD or RLUD zone district. Staff notes that where an item is not covered in the proposed PUD, the County shall refer to the County Zoning Resolution by default.

The PUD proposes the development would achieve full build-out over 6 phases. The phasing plan is laid out on the following page. Note, initially there were no timelines attached to the phasing plan and instead, the application asks that it be built out according to the measure of how well the market is doing rather than tie phases to timelines. At the direction of the Planning Commission, this has been revised with dates. That phasing plan has been attached as an Exhibit hereto.

As with all PUDs, an Applicant shall be required to submit a preliminary plan application for subdivision of the entire PUD shall be submitted to the County within 1-year of approval of the PUD. Then the separate phases would occur via 6 separate final plats.

The application states that while this is the currently proposed phasing plan, market conditions and construction implications may cause the Applicant to modify the sequence of the development of these phases. Additionally, the application states that the configuration of the proposed phases allows for utilities and roads in a manner such that if subsequent phases are not developed for some time, the completed areas of the development will function effectively.

Important to note that the Applicant requests that with the approval of the Elk Meadows PUD, the sequence of phasing construction may be modified through the subdivision review process and not require an amendment of the originally approved PUD. Staff does not interpret the County’s regulations to accommodate such a request understanding that the phasing plan is directly required by the PUD and the Preliminary Plan / Final Plat action is merely the subdivision action directed and guided by the phasing plan in the PUD. In this way, to amend the phasing plan, an applicant shall be required to modify the PUD and cannot achieve that change through the County’s Subdivision processes. Staff cannot recommend this be approved.

Ultimately, the development build-out completes the lower meadow first followed by the south meadow second, and finally with the upper meadow. With phased developments, Staff continues to take the position that all of the amenities promised by a developer in a PUD should be available for all of the future residents in that community which includes the first and last resident to build. To that end, Staff suggests that all of the community facilities including trails, community buildings, open space tracts, landscaping, etc. be platted and constructed during the first phase of development. The Applicant has committed to developing the public trail extension from Four Mile Ranch through this development as part of Phase A.

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The application proposes to provide domestic water supply to the all residential lots from a new central water supply system. This system would be served by three wells located near Four Mile Road and Four Mile Creek. This water is to be treated then pumped to 2 separate storage tanks where the lower tank has a capacity for approximately 130,000 gallons serving 142 lots and the upper tank has an approximate 90,000 gallon capacity serving 48 lots. The system will require approval from the Colorado Department of Public Health and Environment (CDPHE) for a community water system.

The application states the system design is based upon delivering water at a maximum forty (40) psi and a maximum one hundred seventy (170) psi to each lot. However, the County engineering consultant speculates that this pressure maybe too high for domestic purposes and suggests adjustments be implemented such as reducer valves. Additionally, the planned fire flow is 1,500 gal/min. for a thirty (30) minute duration equaling a five thousand (45,000) gallons of water storage for fire protection.

Access to the property is proposed to be directly from CR117. The PUD proposes to re-align a portion of CR 117 to accommodate better entrances into the PUD. The Applicant will need to obtain permits under the County Road and ROW Use regulations. As well as obtain permission to relocate the County Road. Vacation of the old portion is governed by the Road Vacation Resolution.

The Application contains a detailed Wildlife Assessment and Mitigation Plan that contains great detail on the existing wildlife and habitat values of the property and a variety of suggestions and commitments for development on the property that range from landscaping, bears and trash disposal, big game management, open space use restrictions, restoring disturbed winter range, designating open space, dogs and pet control, fencing restrictions, and establishing building envelopes, wildlife movement corridors, and clustering the development.

Staff suggested to the Planning Commission that the proposed offer to donate the 960-acre Mountain Park is an excellent and generous offer that has significant public and wildlife / habitat value and recommended the Board of County Commissioners accept this parcel of land as the landmark step in creating a County Parks and Recreation District that would own and manage this parcel for the benefit of County residents.

Staff notes should the LOVA Trail also become a reality, the County would be the agency that holds the permit to its use and maintenance as well which could also benefit from the creation of a County Parks & Recreation District. Of course, this would mean County funds would need to be diverted to maintain these amenities as they won't pay for themselves. However, Staff believes the public benefit will be realized in the preservation of the property from development, allowing the public to enjoy the passive and active recreation opportunities the property affords as well as preserve and enhance wildlife benefits.

As stated earlier, the Planning Commission disagreed and recommended the park be donated; however, the County would be removed from the list of potential receivers finding that while the offer is a valuable gesture, they recommended the County not accept the property (similar to the reasoning of Glenwood Springs) due to the unknown issues attached to the property (mineral estate questions) and cost liability to the County tax payers for the continual upkeep and maintenance of such a park.

The application states that all open space lands within the PUD boundary including preserved ranch buildings, park facilities and landscaping will be dedicated to the homeowners association (HOA). The HOA will be responsible for the operation and maintenance of all opens space lands and facilities. Funds for the maintenance of PUD open space lands and facilities will be derived from dues collected by the HOA from the PUD residents.

As stated earlier in this application, the hayfield and preserved barns might be incorporated into a "heritage ranch" educational facility that would be operated by a non-profit corporation. The Applicant is committed to cooperate with area residents and future PUD residents that might be interested in spearheading the creation and operation of a heritage ranch non-profit corporate entity.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission (by a vote of 7 to 0) unanimously recommended the Board of County Commissioners approve the rezone request to PUD for the Reserve at Elk Meadows with the following conditions:

- 1) That all representations made by the Applicant in the application, and at the public hearings before the Planning Commission and the Board of County Commissioners, shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
- 2) The Applicant shall depict the following items on the Preliminary Plan:
 - a. The 100-year flood way; and
 - b. The 100-year flood fringe.
- 3) The Applicant shall submit a Lighting Plan for all the residential clusters, street lights, and lighting of community facilities with the Preliminary Plan that specifically addresses how the plan intends to minimize light pollution from the development.
- ~~4) Prior to the hearing before the Board of County Commissioners, the Applicant shall redesign the configuration of the upper meadow cluster to relocate Lots 18 – 23 below Street D as suggested by the DOW to reduce the impact on severe winter range.~~
- 5) The Applicant shall provide the 10% affordable housing unit requirement on-site within the development. Prior to the public hearing before the Board of County Commissioners, the Applicant shall amend the PUD site plan to replace lots 10 – 18 now shown in the South Meadow neighborhood with 20 affordable housing units with the understanding that by including these 20 affordable housing units on-site, the total lots proposed in the development increases from 189 to 200. Additionally, the Applicant shall amend any associated PUD zone text in support of the change.
- 6) The Applicant shall provide a Weed Management Plan as a submittal with the Preliminary Plan addressing the comments by the County Vegetation Manager attached as Exhibit G.
- 7) The Applicant shall submit a revised Traffic Impact Study (TIS) with the Preliminary Plan submittal that incorporates impacts to the Mt. Sopris Drive / Midland Avenue intersection ~~and a roundabout at Midland Avenue / 27th Avenue.~~
- 8) That prior to the public hearing before the Board of County Commissioners, the Applicant shall affirmatively determine if the internal roads in the PUD are to be public or private.
- 9) That prior to the public hearing before the Board of County Commissioners, the Applicant shall

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provide a letter from the Glenwood Springs Fire Protection District that specifically approves of the internal road network, design width and grade.

- 10) The Applicant shall affirmatively demonstrate which lots are to be governed by setbacks and /or where building envelopes are required for environmental hazard / concern areas. Further, if building envelopes are approved, the Applicant shall provide criteria / standards by which they can be amended. This shall be submitted with the Preliminary Plan.
- 11) That prior to the public hearing before the Board of County Commissioners, the Applicant shall provide an analysis that demonstrates the road grade of "Street A" can exceed 8% using the standards in Section 9:37 of the Subdivision Regulations or 1984, as amended.
- 12) That prior to the public hearing before the Board of County Commissioners, the Applicant shall assign approximate dates to the phasing plan including month and year for when phases are to commence and be complete.
- 13) No separate phase of the PUD shall be allowed to be constructed that results in a dead-end cul-de-sac without a letter from the Glenwood Fire Protection District affirmatively indicating that they will be able to provide emergency response service with adequate ingress / egress.
- 14) That any modification of the phasing plan contained within the PUD shall require an amendment to the PUD.
- 15) That prior to the public hearing before the Board of County Commissioners, the Applicant shall submit a revised phasing plan that specifically includes, but is not necessarily limited to, the realignment of CR 117, the community facilities/amenities and landscaping in the Barn/Heritage area, the relocation and stabilization of the Bershenyi Barn, the public trail along CR 117, and the platting of the affordable housing lots.
- 16) That prior to the public hearing before the Board of County Commissioners, the Applicant shall address the comments made by Mountain Cross Engineering regarding pressure zones and gallon usage. See Exhibit H
- 17) That the Preliminary Plan submittal contains a professional geologist's response to Section 5.11 of the Zoning Resolution of 1978, as amended.
- 18) That the Preliminary Plan includes the recommendations of the DOW in their letter attached as Exhibit R with the following special notations:
 - c. Applicant is not required to provide the 100' foot open space corridor along the north boundary of the east meadow;
 - d. Applicant is not required to remove / relocate lots 18 – 23 in the upper meadow;
 - e. That the Applicant shall present an amended plan for lots 1 – 22 with setbacks pulled back from the top of the bluff above Four Mile creek as contained in Exhibit AA submitted to the Planning Commission ; and
 - f. The Applicant shall be prohibited from installing the proposed gravel trail along Four Mile Creek.
- 19) That the Applicant dedicate with the first phase final plat approximately 960 acres of the west parcel of the Bershenyi Ranch (Mountain Park), to some type of public or private entity (~~county~~, city, special district, non-profit corporation, home owners association) for the purpose of managing this parcel for use by the public. The Mountain Park is proposed to be available for non-motorized use by the public under the guidance of appropriate rules that will foster a compatible relationship with the native wildlife. In cooperation with the Colorado Division of Wildlife, some seasonal limitations may be placed on public use of the "mountain park" to protect the wildlife values of the property. Even with sensitive consideration for wildlife, the Mountain Park will provide an enormous recreational resource that is readily accessible to residents in the Four Mile corridor and Glenwood Springs.
- 20) That the Applicant shall address in the Preliminary Plan submittal the geotechnical concerns submitted by the Colorado Geologic Survey in their letter dated 3/16/07 included as Exhibit J in the Staff Memorandum.
- 21) That prior to the public hearing with the Board of County Commissioners, the Applicant shall discuss the appropriateness of requiring sprinkler systems for the 20 affordable housing units to be provided on site with the Glenwood Fire Protection District. To this end, the Applicant shall obtain a letter from the District indicating their opinion on whether these units should be sprinkled.
- 22) That the Applicant shall submit a revised PUD site plan prior to the public hearing before the Board of County Commissioners that reflects the relocation of Lots 1 – 4 in the lower meadow as described by the Applicant at the Planning Commission meeting.
- 23) As part of the preliminary plan, a guardrail should be analyzed and proposed along warranted sections of the roads, in particular along Street A.
- 24) The Uniform Plumbing Code calls for water to be delivered to homes for domestic use at between 50 to 70 psi. Some consideration for mitigating the higher pressures will be required. Sopris Engineering proposes to modify the proposed design to mitigation the pressures. This shall be addressed at the time of preliminary plan.

Exhibit I – was referenced – Felsburg Holt and Ullevig recommends that a south bound left turn lane would be required to adequately facilitate safe traffic flow.

Fred walked through the Planning Commission recommendations and commented on the water wells.

Applicant:

Will Humphrey –from Reserve at Elk Meadows. Rich Swanson, a principal of the firm; team members Larry Green, Ron Liston, Yancy Nichols, Tom Zancanella, and Jack Bean. We've been at this for two years. The Hallmarks of these two years has been engaging the community and we've done that with at least two town hall meetings; we called and advertised and solicited neighbors and neighborhood organizations. A lot of the planning you see here reflects all that community input. We think this plan reflects community input and also is responsive to the land, respects the land and the stewardship that the Bershenyi's who are here today have shown for their property and we look forward to continuing. A lot of the highlights here are conservation of over 93% of the entire property that we own including the mountain park as an amenity and resource to the

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residents of the County. Besides the open space are the protection of historical and cultural heritage which we're trying to do for preserving the barn and stalemating that for possible use by a non-profit organizations, protecting view sheds and view corridors to the extent that we can and hay meadows to reflect the cultural aspect of 4 mile, an extensive trail system for recreational activities and other environmental aspects, one of those is to try and offset the carbon footprint generated by the operation of these homes. We are partnering with a national non-profit to do that.

Larry Green – Fred gave a very thorough review and didn't have a lot to add but we are here to answer questions. Commented generally that he has been representing land use applications for Garfield County for more than 20 years. This application and these applicants are the best yet to try and address the concerns for the land and the neighbors and the community. Proposed development a few years ago and with discussions with Rick and Will, that plan has evolved significantly where there is no development on the 960 acres of the Mountain Park and no development on the North Meadow visible from the City of Glenwood Springs. This is not a cookie cutter layout but they take into the plan the natural topography of the land; we tried to leave open space and succeeded in doing so in each of the development pods. The plan is almost 20 acres adjacent to Four Mile Road protected from development. This plan is good as you can get. To adapt to this land to allow a sales price to the Bershenyi's they are entitled to and have these developers to receive a fair and reasonable return. For the last 2 years we have discussed with the City of Glenwood Springs because there's no sewer line nearby this property, there's a sewer line that goes right through the middle of it and it didn't seem logical to me or the applicant to try and propose a development that utilized septic systems or some constructed waster water treatment facility on the property, so we approached the City and asked what it would take to allow us to connect to the sewer line that was then contemplated and has now been constructed and through that process was the pre-annexation agreement that is in the packet. There are two other elements, the City will be receiving 200 tap fees which will help them deal with their waste water treatment issues. Also we've agreed to a fee in lieu of parks in Glenwood Springs, it's an additional several hundred thousand dollars that will go to the City. Finally the \$900,000 either in dollars or the form of work that will be paid to the City for the roundabout at 27th and Midland. They will design and build it or write a check for \$900,000. City will get a combination of \$900,000. The Mountain Park – not technically a part of this application – uncompromised commitment on approval of a final plat for this project to convey that 960 acres to an appropriate entity and make sure it is available for perpetuity for public use. This is unprecedented in Garfield County. There is also a commitment to find a governmental entity to take position of that property and or convey it to the HOA for deed restricted.

Water – Tom Zancanella and Sarah Dunn are here to answer questions.

Traffic is an issue and Yancy Nichols and Jeff Ream are here to address questions about the traffic impacts.

Yancy can address questions from the letter from Ron Biggers on the fire district. Affordable Housing – simple proposal for affordable off site would be sufficient but in hindsight Geneva and staff were correct to put the 20 Affordable Housing units on this property.

Ron Liston – Land Design Partnership, went over some of the highlights saying that the land is mostly agricultural This is one of the nicest projects in terms of the developer's sensitivity and willingness to work with the community on the property. He went over the presentation and addressed the ridgeline could have a very strong visual impact but development was kept off of it. East meadow neighborhood, preserving the hay meadow, above the Roaring Fork River, building envelopes are kept back from the edge; the area that is very flat and we are proposing landscaping and held building heights to a minimum. A lot of time was spent being considerate of the visual impacts.

Another area to highlight is the recreational value – the needs in the east meadow and south meadow – some open lawns – barnyard area – making if available for a Heritage Ranch.

Yancy Nichol clarified the Ron Biggers letter on fire protection. He explained the road grades and the preliminary plan working with Ron on the grades and clarified 10% versus the 8%. Roads, switchbacks, grades on 4 mile road, change in the grades, 8% creates 3 switchbacks and creates more for the fire protection; said he looked at 10% with one switchback. Keep in mind the slope and grade of the roads as this is very critical to the plan; the width of the roads are what the fire department needs but less than what the county requires.

Commissioner Houpt – asked for mitigation on the roads; 8% require more switchbacks.

Yancy – most desirable – start steeping and landscaping – trying to keep the fill from the side of the road – large cut and fill – 8 to 10 feet heights along that stretch – tier roads on the hills.

Yancy showed a handout.

Ron – full bench cut – we could balance a cut and fill – put impacts on the fill area. Gives the least amount of long term cuts.

Sarah Dunn – gave an overview of the water system and augmentation explaining the irrigation from senior irrigation rights released from Ruedi Water and pump it through Prehm Ranch – mitigate any injuries – they are close to stipulations with all of the parties. They have 30 year lease renewals – can contract with the Bureau of Reclamation.

Commissioner McCown addressed the aquifer and Tom Zancanella answered the concerns.

Summation: Larry Green said they agree with the conditions in the report and asked approval.

Commissioner Houpt addressed the traffic report saying she wasn't in total agreement with the City saying part of the problem with the way Four Mile has grown is with the lack of road infrastructure, once we get into Glenwood Springs and we've talked about upgrades to intersections off of Midland and the South Bridge and in my mind looking at the potential growth in this corridor including this development and you look at putting all that traffic onto Midland that doesn't seem like a very safe or practical response to growth and development. We as a county are really behind in trying to figure out this situations if there's a fire and we've been very fortunate in the past of that corridor that there hasn't been an immediate need for fast evacuation but if there is a problem people end up on that very narrow road that connects with Glenwood Springs and could spell disaster to anyone trying to get out of there. As we continue to grow this corridor if this County doesn't figure something out with the City then Dry Park will become the preferred route for going up valley. Which already is for some people and this creates problems as well because it wasn't designed for that. The part that is missing from this report and what was missing from the City's was how to deal with those

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situations as we grow we need to respect nature that we are faced with. So how do we deal with that fire mitigation issue and in the winter we talking about putting 1900 more vehicle trips on that little narrow road that goes to town and it just doesn't seem very prudent to me. I questioned the Planning Commission decision to change density levels until we do have some kind of response to this growth. I would love to say we could afford to build the South Bridge in a period of time that I think is reasonable but this is a huge project and none of us have figured out how to pull that money together, so my question is, in looking at the traffic study and the configuration of the roads was there any consideration given to extreme weather conditions and to fire evacuation situations and how this development would impact an already bad situation in that area? Larry introduced Jeff Ream from Felsburg Holt and Ullevig and Yancy and they addressed some of those concerns.

Yancy – about the Wildfire mitigation there are a lot of clear zones in the area you can go to and can evacuate and try to protect the residents of this project quite well. We've tried to incorporate this in the environment because of some of the issues we've heard about the Four Mile area. The road narrowness, when we relocate Four Mile Road the road from Glenwood Springs to the Bershenyi dip will meet all county standards, we'll have the turn lanes and road widths, etc. From there up, there are some sections that are fairly narrow. Commissioner Houpt reminded Yancy that she was talking about Midland that goes from Mt Sopris Drive to the Sunlight Bridge.

Yancy said that would involve more than just this one parcel financially. Had discussions with the City engineer and his timing on some of the improvements for instance, the South Grand Intersection with 27th which will be in construction and complete by late this year with a signal light and looking at the roundabout and trying to have it built in 2009 either a roundabout or signal light on the west side of the bridge, other comments were a higher priority was not for development, traffic impact for the South Bridge but because of the emergency issue, he was given direction and his goal is to have that bridge by 2012 but more likely 2015. This is a priority from an emergency standpoint.

Ron – despite what we see as the lay people driving the area that the straight stretch along the Red Cliff cut on Midland Avenue, that section of road is not really the traffic bottleneck in this whole arena but it's the whole areas that you talked about in the roundabout and the bridge acknowledging that the multiple access issues that will only be solved by a South Glenwood bridge but in terms of actual traffic flow, is that straight stretch is that a limitation?

Yancy – from a level of service it's the intersections and entrances, etc. The hard part there in talking to the City engineer is if you have a wildfire and that rock fall or something that closes that road or an accident and it doesn't really matter what you're density is, you still have the same issue and that's why he said he has good direction to get that Southside Bridge financing and have the RFP out to do an environmental assessment to establish the right of way, location of the bridge, etc. and some state funding. You're looking at two different things there, if the road is close during an emergency, the density isn't going to affect that. Commissioner Houpt – it will put more people at risk.

Yancy – the understanding is the signal light on Grand and 27th will be build this fall and operation in January. This is on the east side of the Bridge.

Commissioner Houpt – the traffic issue is huge. In the east meadow and view shed and not a lot of setback there, room for set backs? View from Highway 82.

Ron – it's a balance of where does distance give us the greatest amount of impact. The building envelopes at the site are significantly pulled back realizing that the terrain drops. If you study the cross sections we have a very good result in minimizing what will be seen from Hwy 82 then combined with the landscape vegetation and building height limitation we will acknowledge the landscaping will become most crucial in this area.

Public Comments:

Ken Call – 0288 Van Doran Road – 40 years- about the 5th house in the area and now there are 80 and 90 houses and thanks to the Comprehensive Plan, I've seen those 80 – 90 homes be built but it still has the effect of a rural area. When we went to the Planning and Zoning hearing, he called attention to an article in the Post of March 12 – in their application the Illinois based developers say the project would create a rural residential community that is compatible with other residential land use patterns in the Four Mile Creek Corridor. The only phase I can agree with is we are in a rural area. How can you possibility look at a zoning request that will go from 72 homes to 200 and say that it fits the neighborhood and it will still come out to be a rural area. He circulated a petition in the neighborhood and submitted as Exhibit HH to get the feeling of the neighborhood and the people that actually live there. Exhibit HH was entered into the record.

Ken – he read the conditions under which the petition was circulated and the results. The petition was circulated from the intersection of Midland and the Airport Road and went south on CR 117 to intersection of Dry Park and included the first filing of Springridge. This neighborhood stretches approximately 2.25 miles along County Road 117 and there are 145 residences in this neighborhood. This represents a reasonable surrounding area to the Reserve at Elk Meadows. The point being that we've heard a lot of discussion on the neighborhood. How can it fit if he's requesting more density change the zoning, do all the strips to accommodate this development and then say it fits. Please keep in mind that the high density in Elk Meadows has more proposed lots than the surrounding neighborhood described above. This comparison alone should raise concerns of the high density at Elk Meadows do not conform to the rural makeup of the neighborhood. County regulations, 4.07.03(1) state the PUD shall have an appropriate relationship to the surrounding area with unreasonable adverse affects on the surrounding area being minimized. We're heard about the roads torn up and all the excavation. As to the portion of the regulation that states unreasonable adverse affects on the surrounding area being minimized, how do you minimize the effect of the two density hillside clusters when the majority of the neighborhood is developed on the valley floor with no clustering? These so called clusters will occupy the only legitimate open space now on the mountain visible from CR 117. Will a roundabout or traffic light minimize an extra 1100 trips a day at build out created by allowing the high density? That won't accommodate one horse. That entire development won't accommodate one horse and a barn. Density language stated in the petition was taken from the Garfield County planning department notice. No vacant land ownership was included in this petition. Only property ownerships of record were allowed to sign the petition. Property ownership was verified through the Assessor's office and the results were 106 property

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owners out of 145 and each household represented one signature. The total number contracted represented 73% of the entire neighborhood and is a reliable statistical sample. It could have been more but there were 6 he couldn't contract; 2 were rentals; 2 were in the process of being sold; and another the couple was in a nursing home. Of the total number of households contacted, 90 signed the petition to deny approval of the Reserve at Elk Meadows PUD and no one signed to approve the development. However, 16 verbally expressed their concerns as to why they would not sign the petition. These reasons fall into the following categories: 5 were conflict of interest; 5 needed more information; 3 in difference to Bershenyi family and one just said no period. Contrast this petition to the remarks made by the developer when he said he had a love affair with the neighborhood – Ken went to both neighborhood meetings and there were approximately 10 to 15 homeowners at each meeting, more confusing because the first meeting, the building was going to occur on top, build their own homes, show the slides of these homes and the next meeting was completely reversed and the density was at the bottom. People treasure their space – this clustering, they don't even like the word cluster. I hope that you give this petition some credibility – many can't be here at 1:15 p.m. during the day; otherwise this room would be filled. 90 people signed, one per household and if two attended that would equate to 180 people could have filled this chamber. The vote of the Glenwood citizens even though it was in July 2003 deserves some of your consideration. The vote was to annex the present Four Mile Ranch which would have allowed a development of 150 homes, the idea was rejected 7 to 1. I believe with the changes that have occurred in south Glenwood since July 2003 that if the vote were taken today from a larger development right next door, the vote would not change much. Most Four Mile residents were pleased with the final outcome that produced Four Mile Ranch, especially the 2 acre per lot that conforms more to their neighborhood. This reduced the density by 90 homes and traffic trips by 900 trips a day at build out. Lower density is the surest and best plan for mitigation, roundabouts or traffic lights – reduce the traffic. If the high density at the Reserve at Elk Meadows is granted, the 900 trips reduction at Four Mile Ranch will be offset by adding 1100 trips a day at build out over the present zoning for Reserve at Elk Meadows. Where is the consistency of planning? We gained on one parcel and we add it back on at the next. An area of concern is applying clusters – it seems to me that a cluster was meant to create open space – you take a parcel of land, cluster housing in one area and you have open space – it seems to me that this development reverses that – they take the only two so called open spaces within the development plopping the homes in and then would like to see what the open space is – it is mountain terrain and would like to have that defined. Those homes will be upwards of \$800,000 to \$1,000,000. Visual impact – they took it from Glenwood looking up there, look at it from our neighborhood coming down. That would be like moving the city limits out of Glenwood another mile and a quarter. As far as the gift on top if you can't use it what good it is and all of these discussions, I called the BLM and as far as I know they hadn't been talked to and they would be the best stewards of the land, they already own land up there and the idea of citizens using that as a park and really sorry the schools haven't been here to give us their impact. Just finished the bond issue for the middle school, added on a section and it's already full. The road disturbance – I didn't understand about the phasing in but if this were to go forward in any form I hope that the phasing would start on the valley floor and not disturb that mountain until the last phase because once you start tearing up that mountain side - you don't restore it. How can you go from 72 to 200 and say it fits? It doesn't fit.

Jim Campbell – 4419 Hwy 82 – this looks like a reasonable plan for the view shed but some comments regarding the water piped in from Ruedi, will that pipeline be buried or will that be visible from Highway 82 from that whole visual corridor that goes down across there and the other question is we've had some amendments and changes made – any more contemplated? The 3rd – one of the most important – is there any assurance that this project won't become another Bair Chase – once phase I gets underway it won't become an area that is scrapped clean an area that does our valley an injustice. The 4th thing deals with wildfire evacuation and safety. We do have a route down Dry Park as well as down in the valley floor and in addition I believe there is a road through Prehm Ranch place and should be opened for safety reasons and if necessary improved enough to evacuate in that direction rather than get bottlenecked somewhere in town. He also congratulated the Bershenyi for taking such wonderful care of that area, if there is anything that says this is Colorado that piece of open land says it. They have been good caretakers.

Sandy Jackson – 4419 Hwy 82 - we are concerned about the view scape from our property and from Hwy 82 and if the setback and the height of the buildings are the same as Four Mile Ranch, it will be extremely visible, they are all very visible from our property at this point, the upper meadow will be extremely visible from everybody on Highway 82 including Westbank and the Jackson property. We heard a lot about protecting the view scape of Glenwood Springs which is already an urban city but nothing about protecting the view scape of the County in trying to protect that entrance into the Town of Glenwood. Concern about the pipeline that could be going across the Prehm Ranch and how visible that will be from Hwy 82 and from their property and up into the residential units that could be linked to the South Bridge, my family has a very vested interest in where that bridge is located and how that plays out and the Bershenyi and Jackson's have been good friends for a number of years and the developers mentioned they talked to all of their neighbors but we didn't hear from the developers.

Vern Arbaney – 28 Cheyln Road in the Cheyln Acres Subdivision, like to acknowledge the Bershenyi and what they have done with their ranch. Have lived here since 1974 born 71 years ago and has seen change, the gravel road from Glenwood to Carbondale to what we have today – I echo the petition and signed it in that increasing the density to proposed 200 is not being good stewards of the land – the other big concern and what mentioned is what happened to Cattle Creek – somehow the County needs to get a bond from the development to be done in sufficient and again once that hillside gets started and excavation begins, it will show up for years and years even if it's done at best. Suggested to be very cautious due to the very steep terrain up there and very beautiful country that would be nice to keep it that way.

Fred Bell – 3075 CR 117 – question addressed to Mr. Zancanella regarding the water and doesn't understand the concept. One of the wells is on Four Mile and indirect with his well and asked when you start pumping that water from those wells, he doesn't see how it will not affect that aquifer and especially his well and others up stream. What happens with these 200 units and his well goes dry?

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Tom Zancanella answered Mr. Bells question and basically said it would be a very low change and very difficult to dry up his well. His well is on one of the exemption lots that was part of the Bershyni Ranch and was split off under a subdivision exemption 3 – 4 years ago. The well is quite a ways up stream from where these wells are proposed and the well we have right now would probably be the highest point of the wells we’re proposing to do and we have a well field down to the Prehm property line. His well is relatively shallow and in general ground water is going to follow the same course in an alluvial kind of scenario as the creek itself and so his well is likely recharged above and once it gets down past his well for the most part, the majority of the water is going to come into the alluvial gravels and remain in that channel, so for us to dry that up would be very difficult and didn’t think that would occur. The Four Mile Creek actually dries up the creek above that property and has for years and that alluvial ground water continues to move through the alluvial deposits down past. His well is also allowed under a West Divide Contract also. Water is being released but not being pumped back.

Larry Green – two other subjects to respond to are: 1) Commissioner Houpt’s question about traffic and the narrow road section along Midland and none of us disagree with the statement of a narrow road and has the potential of a bottleneck in certain situations. Having said that, I believe the obligation on this development is to mitigate the impact presented by this development and not solve the universal problems over the last 20 to 30 years. This project has +0 mitigate it’s own traffic developments. The traffic improvements to be made on Four Mile road will help solve and mitigate the impacts of this development as well as contribute towards a more universal solution. The \$900,000 that this project will contribute to the City of Glenwood Springs mitigates the impacts that the city believes are presented by this project and contributes to the greater solution by freeing up \$900,000 to do something else with to spend on Midland and they are not going to satisfy the Garfield County road impacts requirements so that we mitigate the road impacts the code says we mitigate. But they will be a contributor toward a broader, more overall solution. Finally, as far as emergency evacuation and a fire plan concludes that fire evacuation from this project isn’t going to be that much of a difficulty. Dry Park will not be a regular access but is an emergency access and it is passable under all weather conditions and a secondary outlet. Objections in the petition were referred to and the sole objections concerns the density of the project and our response is that this applicant has followed the procedures in the your code to make sure the density proposed for this project is consistent with the Comp Plan Land Use Specification. P & Z approved an amendment to the Comp Plan and it is true that the Comp Plan amendment allowed for 200 units as we proposed them but we followed the process and the P & Z Commission approved it at a public hearing, the petitioner spoke his concerns to the P & Z and nevertheless the Planning commission agreed that the land use designations on the Bershenyi Ranch property should be amended as requested by the applicant. That decision is final and as a result the density proposed for this project is now consistent with the Comp Plan land use classifications. Pointed out that density is a confusing concept, it doesn’t seem to me the petitioners are actually objecting to the density so much as they are objecting to the lot size because the density of the Reserve at Elk Meadows PUD as you see it is less than the density of the adjoining Four Mile Ranch as stated on page 7 of the staff report. The proposed density of 200 lots on 560 acres results in a gross density of 2.53 acres per dwelling unit; by comparison this density is lower than Four Mile Ranch Subdivision which has a density of 2.38 acres per dwelling unit so density itself we’re less than the neighbors – lot size is also less than the neighbors but we tried to do that to be able to preserve large tracts of open space and instead of having a project that has consistent to having 2, 3, or 5 acre lots, which would result in greater density, we tried to be creative and come up with an imaginative land plan that will still allow the large tracts of open space in each of the development areas as well as the overall open space of 74% of the project and when you throw in the preservation of 960 acres it just doesn’t ring true to me that this project is more dense than the neighborhood of Four Mile corridor, so I believe that the density is appropriate. Commissioner Houpt – wasn’t saying that you bring the magic solution to the traffic problem but I am saying every time this Commission approves development on this corridor it compounds the problem and I’m not saying that my expectation that you would solve that.

Fred – points raised – how does the open space regulation work within the PUD; maybe this wasn’t consistent. Every PUD is required to provide at least 25% of the gross acreage to be put aside in open space but in that definition of open space it breaks out into 4 separate sub definitions and those are usable open space – defined as any land retained in an open manner having an average slope of 25% or less; recreational open space is another; commercial space areas for which a fee would be changed – park for example and limited open space which island retained which has an average slope of 25 % or greater; in any PUD you can’t have more than 40% of the 25% being in that category. We’ve looked at that and they have presented a plan that meets these guidelines. The other comment was the Planning Commission understands the overall tool – one plan that Glenwood Springs has in place that contemplates the overall growth in this area and to that end they have included the oversizing of this line in their contemplation of growth in the Four Mile Corridor and that’s in the ground with a 10” receiver for a gravity line so that is certainly on their screen. One other question about grading and Bair Chase and hopefully that wouldn’t turn into another scenario where we graded out the land and it just sits there – right now because of Bair Chase we have a grading permit in place and are trying to move forward with someone who wants to do grading prior to an approval, once an approval happens, then there are mechanisms in place for returning disturbed land back to some kind of protected or reclaimed version of what it was, but we are looking to bring a bonding scenario to the County.

At present if its Ag land this can be problematic.

Commisisoner Houpt asked about the lighting plan and the applicant responded and said they will agree and get into that a Preliminary Plan.

Will Humphries stated he values the night sky.

Commissioner Houpt asked about the scarred land in the plan.

Ron – techniques they can use to be sensitive and they will try not to disturb anyone area all at one time. Field meadows versus the hillside and will keep a balance and stated they have done that here with the clustering and open areas where minimal impacts will be made. He also pointed out in the pipeline that it will be underground and they can weave it’s way up in a very sensitive way.

Fred – only to clarify if you’re going to make a finding on the road grade so you’re standards are there and the record should be made clear.

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Commissioner Houpt – Jim Rada – mosquito letter not a condition. It’s a subdivision issue.

Page 34 – 35 per Larry Green.

Commissioner McCown moved to close the public hearing

Commissioner Houpt seconded.

In favor: McCown – aye; Houpt – aye; Martin – aye

A motion was made by Commissioner McCown to approve the rezone request for the PUD to the Reserve at Elk meadows with conditions as brought forward with the Planning commission with that have noted today specifically addressing the issue of the slope of the maximum grade changing that to a 10% slope approving a maximum of 10% in that variance; No. 21 regarding sprinkling of the Affordable Housing, applicant testified it was their intention that all housing be sprinkled and the Affordable Housing would not be excluded from that; leave No. 19 as presented today with the County not being a receiver entity for the 960 acres since we have no mechanism for that or a means to create that mechanism and suggested that those items, one that’s clearly been struck through, No. 4 that once the conditions are typed the final approval that those be excluded and not left in to clutter the issue.

Commisisoner Houpt – not agree that No. 19 should not include the County, I think that our involvement with LOVA may put us in a position of putting together some type of recreational department or district and think we should at least be on that list to be part of the discussion of what happens to this if this project goes forward.

Commissioner McCown will not reconsider that.

Chairman Martin – second for discussion.

Commissioner Houpt – say that I’m greatly impressed with the work that was done on this application; there was a lot of thought put into the ultimate product in terms of preservation and there’s a few things I’m really struggling with and they are pretty major things. I don’t agree with the Planning Commission and I don’t agree that they should have changed the Comp Plan, I don’t think this is within the character of the neighborhood as it stands right now, I agree with clustering, I think it’s a great approach to development but I don’t agree with high density in this area and I appreciate the heritage ranch and the hay field preservation and those steps you took to respond but I have to agree that I didn’t see any view shed photos taken from the County side either. This is a very large number of homes for the location that we’re seeing built out and I’ve been working on resolving that through this discussion I’m having a very difficult time with that.

Commisisoner McCown – well I just think that apparently this developer has placed more value on EQR’s for sewer by paying a sewer tape fee and giving the City \$900,000 than they do for improving a ¼ mile on Bershenyi Ranch road and giving the County \$500,000 in impact fees of which whoever buys those lots will pay ½ at building permit time, so I think we are coming out on the short end of the financial stick there but I guess the inherent values that all of this traffic ends up in the City of Glenwood Springs and they do have their finger on the trigger for the sewer system, makes it more appealing to pay Glenwood.

Commissioner Houpt – also for the record, I think that it was unfortunate that the Planning Commissioner took the County out of the discussion for the park land I would not have agreed with that.

Chairman Martin – so with the most respect that I can gather here, I want to thank the applicant for putting a good team together and a good application together, thank the staff for doing their job above and beyond call, thank you for the P & Z who volunteer their time and to review all of these documents, again thanked the Martino and Bershenyi families for the history they’ve given us and looks like it’s change in one way or another, and they have the kids to think of as well but I want to base my decision upon the facts, the rules, the application and how it was presented with the staff and the P& Z reviewed and how they are as well as I’m going to do a little balancing act and try and do the best possible for the most people and it really is a balancing act – it puts a burden on everyone. When you take the oath, that’s what you’ve got to do – you have to balance everything and come up with a true decision. Respect to all no matter how it comes out.

In favor: McCown Opposed: Martin - aye Houpt – aye

Chairman Martin – I think the traffic impacts are under reported, I think the road is in a terrible place to go ahead and do so. I think the cuts are too great; I think the view shed corridor is there, the emergency access with wildlife, etc. are bad, I think the number of lots are too great; I still think the urban growth boundaries still need to be respected at least by me, the City of Glenwood Springs, the City of Rifle, New Castle, Silt, etc. requested us to do so, and I’m going to do that – I still feel that even though the geological survey says there’s not much land movements, I still see bulges and moves that will cut off land, I still think the lots are too small for the County in a transition zone and many other things that I’ve seen, but other than that it’s a great development not in that particular location and the other thing is we made a conscious decision to preserve agricultural land in this County and we said we would do the very best – this is prime agricultural land and hate to put houses on it and I have to sleep with myself at night and I have to look at the ceiling and I can’t say yes because of that. So that’s what I’m coming up – those are my findings.

Now I need a motion with findings to say no.

Commissioner Houpt made a motion that we deny this application based on the primary finding that it’s not in character with the neighborhood or the transitional zone and many other – the traffic issues and many of the other issues that John mentioned that I’ve mentioned today.

Fred – go to page 51 – there are ways to do this in addition to what your finding is by inserting the work “not” into some of these. 1) you could say that the practical function of notice was okay, 2) that the hearings were extensive an complete – all matters and pertinent facts issues were submitted and all parties were heard; 3) would be that for the above statement and other reasons the proposed PUD is not in the best interest of the health, safety and welfare – I think is a way to do it.

Chairman Martin – any decision on a negative must have findings and those are the findings supplied by staff.

Fred – on Number 4, the application is not in compliance with the Garfield County Zoning Resolution.

Chairman Martin – with the amendment added to the Comp Plan and the Zoning Issues, etc. I think that this is okay.

Commissioner Houpt – well I would say that it’s not in the best interest of the health, safety and morals, convenience, order, prosperity and welfare of the citizens of Garfield County. Also Fred read off in reference to the staff report making it a negative instead of a positive.

Chairman Martin seconded it for discussion.

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Commissioner McCown – I certainly support all parties here today and their very strong emotional positions on this development but I think this clearly has made a statement as far as the future growth patterns and what may occur in the Roaring Fork Valley in Glenwood Springs and I think that this Commission has to be very careful in going forward and saying that there’s a housing shortage in this valley and that Affordable Housing is one of our primary concern and we spend \$1.5 million to it yet we do not follow the allowed density in PUD’s when they are brought forward so I see this becoming Pitkin County and would urge that all of you folks in this valley enjoy it and just please don’t come before us in the BOE when your property values tend to soar and your taxes follow along, so the price of homes as you all know is controlled by the availability of homes and the availability of homes is controlled by the availability of land and as far as I know this is probably the last single large or significant parcel on Four Mile Road, so I think the precedent has been set today and hope the Bershenyi’s can make a good and prosperous living off of those two hay fields but I don’t think that’s likely. I think this decision today probably created a certain financial devastation for them.

Chairman Martin – I understand your position and you’re right and I also said it takes intestinal fortitude and political will to go ahead and do that in reference to affordable housing, etc. and I think housing could be allowed on this particular piece of property but I also said we would respect the urban growth boundaries and that if this kind of density does come forward, that the cities need to step up and annex it and supply it and make the reviews etc. with their impacts and to have it acceptable within their cities, not a city outside of a city based upon all of the different cost attributed to it as well just as another example of Edwards, a good example is that more people would be in this development than on the rest of Four Mile at the present time only tells me that that is going to be a City and that needs to be within the City of Glenwood Springs. That’s my stance and it’s not that the applicant did anything wrong, they have a good application but I still have to respect my position and that is this density, this size, this close to the City using city water and city sewer and needs to be a city.

Commissioner Houpt – well and I’m going back to the compatibility with the cultural of the neighborhood. And the transition notation, I really think that this is a good application and I think development will occur on this ranch but the density, the high density is not compatible with what – I know Larry you went through the process of the Comp Plan change with the intent of that has been different and it’s always hard to vote against a project that so much has gone into. But as a Commissioner in this County I think it’s really important I pay attention to the values that we hold so dear to this area and be careful about how we approach growth and development in this area and throughout the County.

In Favor: Martin – aye Houpt – aye Opposed: McCown – aye

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

JUNE 18 , 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, June 18, 2007 with Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Marian Clayton Deputy Clerk & Recorder. Chairman Martin was absent.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

CROUCH PROPERTY – MISSOURI HEIGHTS - Louis Butner – As you know I’m representing Ms. Crouch on Missouri Heights. I just stopped by for an update on what the council has decided on the road encroachment on her property.

Commissioner Houpt – We decided to move forward with some surveying and I believe there were letters to her sent out.

Don DeFord – There were, there was communication with the County Surveyor consistent with the boards direction at your last meeting: to obtain a title opinion concerning her property as well as communication with Commonwealth Title on that issue. There was communication with the County Surveyor to establish the on-ground location for 162 & 162A. Those results then would uphold the title work and survey work.

Commissioner Houpt – Did he give you a time line?

Don – The title work should be completed this week. No I have not received a time frame.

Louis – Mr. Martin gave me a copy of that letter to Mr. Aibner. I’d like to point out that the road encroaching on Miss Crouch’s property was surveyed back in 2003. I have a copy of it if you would like to see that. I’d also like to point out there is no 162 road. There has never been a dedication on that. Also, well I don’t see how the surveyor can survey something that doesn’t exist. Unless you want to start claiming driveways as roads.

Don – That would be contrary to representations that Miss. Crouch has made to this Board on at least two occasions in which she asked this Board to take official action on exemption request based on the existence of 162.

Louis – There again the private surveyor made errors on that. In November, ‘94 the Commission Board voted on an approval of the Crouch exemption amended. After the correction of the descriptions and such on that there was also a letter to Mark Bean from the Deputy County Surveyor pointing out there were errors in the descriptions and the plat.

Commissioner Houpt – Okay, so Mr. Beutner you have done a great deal of research, now we are trying to do our part and we will wait for the determination from our surveyor and then we can come up with a response and we can meet with you and hopefully resolve this.

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Louis – Well, I didn't see the 1913 road on the surveyors list here to look into. Eight weeks ago I gave the Board a sample of the boundary agreement on where that was. After 6 weeks the County Attorney looked at it cursory and said that he didn't like a couple of items that were in the document because it had been finalized. All my direction is to present you with final resolutions to these problems and then I get side tracked for long periods of time.

Commissioner Houpt – Well unfortunately some things do take time and I apologize for the time. But I do want to say, the county is moving forward with research and we ask you to bring solutions but we are not going to immediately adopt a resolution without doing our research as well. Please be patient with us, this is in the works we will stay in contact with you through out this process.

Louis – I also wish to point out that the road encroachment was pointed out to the Board over four years ago and it was pointed out again recently.

Commissioner Houpt – And we have had a lot of discussion about this, there have been hearings on this and some testimony and there have been decisions made on this. So now we just need to pull everything together and resolve the cloud on her title commitment and I hope that will resolve the concerns that she has. Because when a lot of the issues you're bringing up have come up, application hearings, different decisions what we are trying to do now is to get our surveyor and have an update on that. Building and Planning has been working on this and we will bring everything together.

Louis – I wish to apologize for coming in and bothering you every week but when I contact County Staff I do not get any reply. Apparently they're using their voice mail as a screening aid and just rattle me off. So I will be coming back and asking you folks each week if necessary on what's what.

Commissioner Houpt – Your welcome to come in any time you want to.

Louis – Well as I said we don't get any response from County Staff, a yes or a no and so the only way we can get any response to what's going on is coming in here and ask you folks directly. I wish to thank you.

Commissioner Houpt – Absolutely and sometimes the responses are slow in coming because progress can be slow. But we will do our very best and you're welcome to come.

Louis – Well as you said earlier I have done a great deal of research on this and if the County Surveyor would care to contact me, I can enlighten him a great deal I believe. –

Commissioner Houpt – You're welcome to....

Louis – As a surveyor we are required to follow all avenues when we are doing our surveys and I think I am one of the avenues that the County Surveyor might like to contact. So anyway, I wish to thank you and that's it.

Commissioner Houpt- Anyone else who has anything to comment on that is not in the agenda?

COUNTY MANAGER UPDATE – ED GREEN

A. M + PARTNERS SOFTWARE CONTRACT – UPDATE CAROLYN DAHLGREN

Ed Green – The first item we have had some deliberations on this already, this is the software program.

Carolyn – I had a long conversation with the contractor and he was willing to make all of the changes that I requested. He left out one phrase and one paragraph in which I had said that we had jointly agreed to defend any claims or lawsuits brought by third parties and I added in which we were named as defendants. Both of us were named as defendants. He's left out that one phrase so I would ask to have one more telephone conversation with him to see if it was a mistake on his part or if his lawyer gave him advice not to include that. Otherwise he accepted all of the language that I suggested regarding Colorado law.

Commissioner McCown – Could we, with that correction, place it on consent agenda for or next meeting?

Carolyn – That's what I'm asking.

Commissioner Houpt – Yes let's do that.

CR 204 - PROVIDING ENGINEERING AND DESIGN SERVICES FOR COUNTY ROAD 204 (ROAN CREEK ROAD) – JEFF NELSON

Garfield County Engineering Department solicited bids for Engineering/Design and Construction

Management Services. The estimated budget range was set at a maximum of \$1 million dollars. The review committee narrowed the selection process to two prospective firms. Post, Buckley, Schuh and Jernigan (PBS & J) proved to be the winning firm for the project.

The project schedule:

- o Engineering and design services June thru September
- o Construction phase from December 2007 thru June 2008

A detailed scope of services and methodology for the professional services selection process was attached as Exhibit "A".

The Engineering Department recommends the awarding of the contract to PBS&J for a not to exceed amount of \$681,367.00.

Jeff Nelson – As Ed mentioned we had quite a battle with that design build and we went to the traditional method that we normally used here at the County. We had quite a bit of response, we had nine proposals, very professional and we narrowed it down to two really quick. Those two were very close and very good proposals, well within our price range. We estimated early on that it would take about a million dollars. The two proposals were within the schedule and within our budget. What I would like to say is, the advantage of going this way, we are still within our schedule. We have been trying to fast track this from day one.

Construction costs are escalating every month. We put a huge emphasis on that and we plan on beginning our engineering design services as soon as possible. June through September and then go into construction in December of this year with moving utilities and some drainage infrastructure to get the project rolling and then full construction, 2008. That's the general schedule right now.

Commissioner Houpt – Who is anticipated to use this road?

Jeff – Anticipation of course is the energy industries.

Commissioner Houpt – So this needs to be upgraded because of the increase in energy use on that particular road?

Ed Green– Absolutely! That is the principal reason for this road and we had discussions with Chevron. They basically had agreed to pay roughly 80% of what we envision as the estimate for this road. It turned out as we said the bids came in more than double what that original estimate was. What we are hoping is that with a better understanding of the engineering we will better be able to project what the construction will cost and

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then enter into negotiations with Chevron for the ultimate split. Chevron wants us to contact other energy companies and have them share in the costs as well. What we had originally envisioned is that the County would contribute its \$1.5 million plus up to about \$1 million dollars out of Road and Bridge to equate to roughly 20%. I think that is still our intent. That would get the total cost of the project up to about \$12 million dollars. But with the costs escalating we may be faced with more.

Commissioner Hought – How much of this planning engineering phase are they paying for?

Ed – I think it is going to be a straight 80/20 isn't it?

Jeff – I believe we all agreed verbally upon an 80/20.

Commissioner Hought – Shouldn't we have that in place before we agree to a contract?

Don DeFord – Several weeks ago Chevron committed only to consider application of our payment for engineering to our 20% share. But that is not in writing. There is no commitment to pay this part of the contract.

Commissioner McCown – And we can pay for this contract.

Don – That's another question I have as to whether or not the amendment has been made to the DOLA grant to allow that we apply for engineering services.

Jeff – Yes, I've been in contact with DOLA and they said engineering & construction. Jack Kirkland was actually.... And I actually e-mailed him about a week ago saying hey where's the actual contract because we have been back and forth getting it amended due to our process change.

Commissioner McCown – Are you dealing with Jack Kirkland?

Jeff – Yes, Jack. It's an out of cycle, it's not a typical in-cycle grants competing against other grants. It's a \$1.5 million; it's actually at the end of 06 that we were notified.

Commissioner Hought – The problem I have with this is that we suddenly went from agreeing on a maximum amount that we would put into this road to an unknown and with that unknown we're willing to move forward with almost a \$700,000.00 contract for engineering of a road that needs to be improved going to an unknown for growing industrial use and the whole discussion was having the industry pay for the impact to the road, for their use and I don't see anything in place that protects that commitment. Unless it is completely contingent on, you know I'm not agreeing to an 80/20 split on the road until I know what the cost of the road is going to be.

Commissioner McCown – But we won't know what the cost of the road is going to be until we do the construction design.

Commissioner Hought – So we have nothing in place.

Commissioner McCown – DOLA is paying for the construction design.

Commissioner Hought - Okay if we can off set that from the original \$1.5 million

Commissioner McCown - And DOLA has indicated that once we get to the construction phase if we need it there will be other funds available to do the construction phase

Commissioner Hought – I just don't want to....

Commissioner McCown - This is no different than the South Bridge. We're contributing money to studies there and we have no idea what it's going to cost.

Commissioner Hought – The use is more diverse for the South Bridge, you're right we have to do a study first.

Commissioner McCown – Same scenario.

Commissioner Hought – But then I don't want to quibble over a couple hundred thousand dollars. So help me understand the contract that we are going to have in place if we agree to go forward with this.

Don- I don't anticipate a contract with Chevron unless there's some other negotiations that I'm not aware of, I have received nothing.

Ed – No we have a letter of commitment that they wrote to us earlier, \$7.5 million and I think they are willing to go further with that. Certainly not until they see what the design is and get an appreciation through the design phase as to what the total estimated cost is.

Commissioner Hought – So I just want to understand this because I've heard from Jeff and Ed that they were agreeing to an 80/20 split on the engineering but from Larry, DOLA is going to pay.

Jeff - We are going to count our contribution for engineering towards construction and verbally in all the meetings we have had with Chevron they were fine with that. We're fine with that if you count it later and just take care of the engineering now.

Commissioner Hought – So basically we do the engineering but we're not done negotiating?

Jeff – Absolutely not.

Commissioner Hought – Well and we may not have a road because of that.

Jeff – To be honest with you, verbally the verbal negotiations we've had with everyone is on the same page. There really isn't a disconnect right now.

Don – If the cost of the road remains at a level that neither the County nor Chevron wants to proceed with construction, then the cost of this will be paid by DOLA? Is that what you're saying?

Jeff – Yes.

Don – So that reduces DOLA's \$1.25 million Grant?

Jeff – \$1.5 million, yes.

Don – I thought you said \$1.25?

Commissioner McCown – So today you are looking for an award for PBS&J?

Jeff – Yes, I'm recommending an award of the engineering and design and construction management services to PBS&J for not to exceed amount of \$681,367.00.

Commissioner Hought – Marvin did you have something to add?

Marvin– I just wanted to voice that Chevron is pretty committed about having that road. Through our negotiations, if it doesn't work out something I'm concerned about is they'll build another road right beside ours. And I would hate to see that, two roads serving the same purpose.

Commissioner Hought – Why would they do that?

Marvin – Just to make things

Commissioner Hought – Wouldn't that be more expensive for them?

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Marvin – I don't know, they own all the land and everything. And they're committed to do their portion; they want the road built in a bad way. So if it's strung out here and this happens to not happen then it will be built right beside our road and I just wanted to throw that out there.

Commissioner Houpt – I'm fine using energy impact grant money as long as we are not committing ourselves blindly to a percentage of the cost of the road.

Ed – Hopefully this engineering study will get us closer to understanding why.

Commissioner McCown – I make a motion we approve the engineering design and construction management service to PBS&J to not to exceed \$681,367.00. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - Absent

ROAD AND BRIDGE - PAVEMENT STRIPING COUNTY ROADS – MARVIN STEPHENS

The Contract Administrator received a request from the Road & Bridge to issue a formal request for bids. Specifications were prepared and a legal advertisement was placed in the Post Independent. Two responsive bids were received with Patriot Highway Markings, LLC submitting the lowest responsible bid of \$68,357.00.

Recommended Board Action: Award Bid to Patriot Highway Markings, LLC, Inc. for a not to exceed price of \$68,357.00

Marvin – I think we visited once before the time that we do striping. My concern is I don't want to do it too early because the paint will be off before the school starts and the buses are out on our roads. It is delayed somewhat so that we have brighter stripping when school starts and the buses are running.

Commissioner Houpt – Did you include turn lanes to be added, it's not just stripping?

Marvin – It's a pretty big contract, it's got turn lanes and a lot of stuff. I do have a little saving in there in case we need to touch something up.

Commissioner McCown – I make a motion we award the bid to Patriot Highway Markings, LLC, Inc. for a not to exceed of \$68,357.00.

Commissioner Houpt – When will this begin?

Marvin – Probably just as soon as we award it, I haven't talked to them to see how early they could start but they're anxious to get going. They did stripping for us last year and did an excellent job I felt. It took very little direction from me. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - Absent

ROAD AND BRIDGE - PROVIDING 3/8" CHIP SEAL OR 2" ASPHALT MATT TO VARIOUS COUNTY ROADS – MARVIN STEPHENS

The Contract Administrator received a request from the Road & Bridge to issue a formal request for bids to provide 3/8" chip seal or 2" asphalt matt over new ¾" chip seal. Specifications were prepared and a legal advertisement was placed in the Post Independent. Two responses were received; United Companies submitting the lowest responsible bid of \$652,918.69. No bids were received for 2" asphalt matt.

Performance and Payment Bonds will be provided as part of this bid.

Recommended Board Action:

- Award Competitive Sealed Bid to United Companies to provide and apply 3/8" chip seal throughout the County

Marvin – I guess we have all the numbers down there. I guess it's what you folks would like to see what happens.

Commissioner Houpt – So this would mean there would still be a ¾" underlay.

Marvin – The first would be a ¾" chip and then they would come back over it and do 3/8" with another company. And then we go from there and probably fog seal it as well. Actually the streets will look just like they do out here in front of the Courthouse. The surface will be about the same it may be just a little bit rougher but the 3/8's will probably cover all voids and make it a smooth slicker surface in the winter time.

Commissioner Houpt – I guess I can understand your rational on traction.

Marvin – Right and hydroplaning; I have concerns about the traffic hydroplaning and about traction in the winter time. Evidentially you guys have some concerns about some of our people. This is the price list. I guess I'm here to get directions from you, the way you would like to see it go.

Commissioner McCown – Is that a temporary or are we looking at upgrading that this year.

Marvin – 204 is above where the upgrade we just talked about. We've tried to do a couple miles every year.

We haven't matched our goals at times but the last several years we have done it.

Commissioner McCown – Well it definitely puts us under budget.

Commissioner Houpt – We are responding to the needs of the constituents.

Marvin – It depends on what you're doing and what you want to achieve.

Commissioner Houpt – Historically don't you agree with that most counties go with the 3/8"?

Marvin – They use 3/8's a lot to seal coat asphalt. Asphalt that's already been down and maybe two or three inches whatever it is and maybe it starts cracking on top. They will go over it with the 3/8's. But when we build a lot of county roads it's built out of the ¾ chip, so we go in there and gravel it and prep it and get everything done and then we put ¾ chips on it. We have more oil and more aggregate so you have just a little bit better for your base. If you put a 3/8's on just gravel you probably defeating the purpose of all of it because you don't have as much rock, oil or structural strength in it

Commissioner McCown – Might as well leave it magged.

Commissioner Houpt – It's an interesting discussion. Is there anyone in the audience who would like to speak?

Paula Step introduced Jim Gibbons and Jim Gaunt – We just want to respond a little bit. Jim can address the road part issue because I'm not a professional on how you make roads or how that goes. We're just concerned because there is a growing traffic of road bikers who use these roads and a good part of the economic base of this County is tourism and I know Ride of the Rockies is coming through. We would like to make these roads a little bit more usable, we know you can't do every road to make it usable for recreation but we would like to see some of them and it's really the only place we can go as road bikers. So I would just like to put forth that if we could find some kind of compromise that we could see a road list and may be find some roads that we could use that have the 3/8" covering on it as opposed to just using ¾" that would increase where we could go. I find more and more people who are in the biking community here in the

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County are using bikes as a means of commute. We're using it to get to work especially as you all know with the price of gas increase and that type of thing and I'm talking going from Glenwood to Carbondale or that type of stuff. I'm not talking just getting from your house to downtown Glenwood. So I would just like some input as far as finding a way we can find a compromise to find the roads that are most used by bikers and maybe look at something we could do different.

Jim Gibbons – The one thing that I would like to do would be to ask the commissioners to consider setting specifications for future chip seal projects that would include providing a surface that would be suitable to all users. I think there's, at least general agreement in the community that the ¾ aggregate does not provide a surface that is suitable, at least for road biking. There's some discussion that it may not be suitable for all vehicle traffic too. So it's a pretty rough ride. I know this year being over budget as we have just heard, I think that if we could maybe prioritize a few of the roads and possibly do some test sections and see how it holds up. I understand from Road and Bridge their needs to provide a surface that lasts longer than maybe the 3/8's would also provide more friction, but I think it would also be good to have a few test sections done and see how it actually holds up with the 3/8's overlay.

Jim Gaunt – To quickly say that one who enjoys riding around, the ¾" very uncomfortable. You should try it some time you'll see.

Marvin – One of the things I want to be careful about is on the picking and choosing. We have people that do ride a little on every road that we have I suppose. And I don't want to have to deal with the people who didn't get a 3/8's chip over somebody like in Carbondale or Glenwood or the surrounding County roads in there. I have some concerns about picking & choosing areas. If it's good for one biker it's good for all.

Commissioner Houpt – I would agree with that. I would also say that we are looking at a lot of roads that are going to be worked on and we just finished the conversation about a road that is going to cost a good deal more, one road will cost a great deal more than sealing all of these roads.

Marvin – Yes, something I just learned at CCI, that's the conference we just came back from last week, is that C-DOT may be giving roads back to the County and that we may be losing some of our highway users trust funds to work on our County roads. A little bit of something is the funding issue and maybe having to take back C-DOT roads is something we may think about. What I'm trying to say is we need to be cautious of making a final decision right here today for the upcoming years.

Commissioner McCown – We're not going to make a policy decision today.

Marvin – Okay

Commissioner McCown – Well next year for instance, if this is going to be the application where we would apply ¾ and then 3/8's over, it would allow us to do about 60% of the roads. That would be the allocation, so 40% of those roads that were on the schedule would go unattended for that year.

Marvin – Right.

Commissioner McCown – And we would be carrying it further for another year and as that pyramid would escalate a few years out we are going to have a great number of roads that would deteriorate back to the stage of a complete rebuild.

Commissioner Houpt – Part of this discussion has been the fact that this type of treatment will prolong the life of the road as well. And so that needs to be factored into it as well as the fact that we find creative ways of funding things through energy and grants and other funding that is available to us. And I think we can do that for this time.

Marvin – One of the reasons Garfield County has a lot of chip seal roads is just the dollars. There wasn't the money there to build a heavy haul road or a better type of road, the money wasn't there to construct them or build them up to a higher standard.

Commissioner McCown – And that was done with oil shale

Marvin – Yeah a lot with oil shale money. It's either dust or old gravel roads or a chip seal road. You could do about three miles; I don't know what it is it's probably not that much now, but you could do three miles of chip seal to one mile of asphalt. It's not always the right answer or the best thing to do but that's what it was.

Commissioner Houpt – I think it's still the most practical.

Marvin – For sure the cheapest.

Commissioner McCown – How many lane miles is this approximately?

Marvin – Oh, did you figure that out Tim? I don't guess we have that total number. I can find out for you if you wish.

Commissioner McCown - We have to be cautious in awarding this bid, because if we award it it's awarded in its entirety if I understand correctly. We don't have the funds in our budget to pay for that.

Commissioner Houpt – Well we can identify those funds if it becomes a priority.

Marvin – I'll have to appear in front of you once again I think to get more funds to finish the project.

Paula – How long have they been using ¾" as opposed to 3/8" aggregate in the County?

Marvin – In September I'll be here 34 years and they were doing it.

Paula – But it is a changing county I mean I just tried to walk in the County Commissioner building and we had to get searched now. It's a different community.

Marvin – I've seen it go from a rural community to where you see cattle out on the roads all the time and people horting cows on the road and it went from a ranch type to what it is now.

Paula – So we're looking at a different world than it was 34 years ago.

Marvin – Well to some people you are some you're not. I run into people who still drive cattle up and down the road and ranchers and they have their opinion as well as you.

Commissioner Houpt – Okay, lets see if we can't make a decision today, we will have to bring this issue back, is there a time issue

Marvin – We need to do this fairly quick. My concern is now if it doesn't happen fairly quickly, because we are going to go into the year too long and I don't want to go into it when it starts frosting very much and then do chipping. One of things it does if it gets wet and starts freezing it will lift the chips up and that's my concern if we go too late.

Commissioner McCown – I would suggest, if there is a specific group of bicyclist in the County, let them look at this proposed list and pick a couple of roads for a test. And then next year when we start our talks or you start budgeting if that is going to be the direction you are given to build the roads with ¾" and 3/8's on

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top then submit your budget accordingly and I realize it will be 1/3 less than what we are looking at this year. If that's going to be the directions that will be a choice we will have to make.

Marvin – Right, next year I planned on doing just that Larry and then maybe adding a 2" overlay and we'll have a wide range of prices there and different procedures to build our road.

Commissioner Houpt – I'd like us to really research how everybody is doing it differently now. The only change after that is I want you to look at all of these roads and indicate to us which ones are important for the 3/8". I want to know which roads are used regularly.

Marvin – Funding is a real issue for bicycles; it's nice to have all this but where does the funding come from? I would like to see something put to the voters or something that we could raise some revenue.

Commissioner Houpt – I would love to see that too because I want to see bike lanes. I want to see safer routes. In the meantime we need to find a way to accommodate the different modes of traffic. So let's reschedule this for the next Monday.

Commissioner McCown – Are you familiar with roads in Battlement Mesa?

Paula – I'm not real familiar.

Commissioner McCown – They probably should be brought into this.

Commissioner Houpt – You should find somebody from all areas.

Commissioner McCown – First week in July?

Marvin – First week in July.

SKID RESISTANT SURFACE FOR RUNWAY 8/26 AT THE GARFIELD COUNTY REGIONAL AIRPORT – BRIAN CONDIE

The Contract Administrator received a request to issue a formal request for bids to provide saw-cut grooves in runway 8/26A. Peter Muller, P.E. from PRT Consulting, Inc. prepared plans and specifications and a legal advertisement was placed in the Post Independent. Two responsive bids with Cardinal International Grooving submitting the lowest responsible bid of \$96,500.00. Performance and Payment Bonds are part of this bid.

Recommended Board Action:

- o Award Bid to Cardinal International Grooving for a not to exceed price of \$96,500.00

Ed – We had some discussions last week regarding measures to mitigate the possibilities of airplanes that are landing. One of those was the skid resistant surface.

Brian – We did have the bids in already and the bids were still valid. I have placed one before you for the runway grooving for the \$96,500.00. As I mentioned I put in a request to the state aeronautics board to support us in funding. I asked for 50% of this, have not heard back; they meet in July. But the initial response is very favorable because it is a safety issue. But if they don't help us, then we would be funding the whole cost on that

Commissioner McCown – Did they groove the entire runway or just the last 2,000/3,000 critical feet?

Brian – We had a meeting with the FAA last week, the first 300 feet of runway 26 is not in the plan. That's not the touch down zone. The last 300 feet of runway 26 was not in the original plan, but they have asked us to include that. So we will include the last 300 feet so everything but 300 feet of the runway will be grooved up until 10 feet from the edge of the asphalt.

Commissioner McCown – And that will still include the landing from east to west?

Brian – Yes

Commissioner McCown – The new directive in adverse weather landing from west to east has nothing to do with this grooving?

Brian – No because its up hill and we still have our precision approach to 08 yet, were still working on that.

Commissioner McCown – I know, right now but the grooving is not done right now either. What's the timing on the grooving being completed and getting precision landing on the way?

Brian – The grooving will be scheduled to be completed right after, well probably within a month. This company is going up to groove Aspen's runway. We will get them right after their done with Aspen in a couple of weeks.

Commissioner McCown – And we don't know how long precision landing on 08 will take?

Brian – Right now it's scheduled for December 20th of this year.

Commissioner Houpt – So then we will need to add grooving again?

Brian – No

Ed – Now Brian, was any of the grooving included in the original budget for the year?

Brian – No

Ed – So this will come out of the 423 projected.....

Brian - Yes

Commissioner McCown – I'll reluctantly make a motion that we approve the bid from Cardinal International Grooving in the amount of \$96,500.00. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - Absent

COUNTY SHERIFF UPDATE – Lou Vallario

WILDLAND FIRES CLINIC/WORKSHOP

Lou Vallario and Mike Piper were present

Lou – I wanted to bring up a topic just to touch base on this morning and maybe set another date for a workshop clinic where we could spend more time discussing some of the details specifically with you all and the county attorney. The topic is reinstitution for fires. For years the feds and the state have been threatening to charge us for their participation and resources and now they are. Mike Morgan from the Rifle district received a bill for the Savage fire last year. About \$30,000.00 and change. It brings up this topic that has sort of been discussed, never really been clarified or finalized, cost sharing how much of that is the fire district, how much of that should be the county? Is the sheriff still responsible for fires regardless of fire districts? What other counties and fire districts do as far as cost sharing and quite frankly how much of these bills do we pay and we don't pay? For example in this particular bill there is a 23% administrative fee in there. To me it looks like the state and the feds are trying to get in the black. I have a couple of points of contention on the itemized bill as well. So I just wanted to begin a discussion about the fire districts, the county those areas

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outside of the fire districts with the sheriff and the associated cost because it looks like the state and the feds are going to live up to what they have been throwing at us and charging for some of their resources.

Mike – I think that is accurate and part of the thing, a work shop might be the best environment. I think this is a dialogue that should take place between elected officials on what are the management practices, if you will. The state statutes that are out there, there's a lot of different interpretations of what those mean and I think to kind of sum it up, we felt in talking about and we are hearing it more and more at the AOP meetings, that we are going to start seeing some more bills and that from a lack of better terms in cost containment perspective is that we should get together and formalize and create some better working plans amongst us as locals within the county, and get some direction where we can agree on what the county or the sheriff is responsible for, what the fire districts are responsible for and then branch out. We have had some work shops in years gone by and talked about some things, what about the incorporated areas and let's get a working relationship now vs what appears to be coming down the pike from the feds and the state is that you are just billed for everything and I think we can work a lot smarter than that.

Commissioner McCown – On this particular fire, are we looking on going back to the source?

Mike – We need to talk about it a little bit. Total of bills was about \$42,000.00. They submitted a bill directly to us last year, which we paid. Then mysteriously, nine months later, eleven months later I guess it actually was, we got this bill from the state that came addressed to the sheriff's department and so we sat down, Lou and I and all the other fire chiefs, we sat down and started talking about it. It's more of a, for a lack of better terms, philosophical discussion, how do we best manage these as local government without this big bill exchange. I think we need to come up with a working practice; there have been a lot of moves. Is the sheriff's department really responsible for wild land fires? I think the County Sheriffs Association thinks so. Logically for us as a county, let's establish a working relationship so we don't get into this bill exchange thing, we have all had very good relationships in the past. As far as the Savage fire, like Lou alluded to the state had 23% administrative fee, I don't think that is realistic. I think part of it too is that it has been an education process, I just happened to be at the National Fire Academy when that fire occurred and I got back and we were talking about all these bills and had some discussions with the feds and the state about, before you start paying bills and working on these things, we need to sit down and talk. There is a whole other layer of mutual aid systems in place that the feds aren't really a part of. That didn't happen and all of a sudden we got this bill, about a month ago, all the fire departments were already paid or there were ways we could work around this.

Commissioner McCown – I think we could definitely sit down on a local level, but I don't think we will ever get the state and the feds to that level of cooperation where eleven months later you're still going to get a bill.

Mike – Exactly and I think you're absolutely right, and we talked about that in great lengths, we have got to make sure that the Sheriff's department and the fire protection districts and the county that we know, you call, we'll come, we'll do our best to do whatever we can to help each other out. Locally I think we can do a better job in management.

Lou – We have a local agreement amongst the district and sheriff's office for 24 hour mutual aid and we don't hit each other up for a lot of money, basically food and gas, and we're covered. On this particular fire when we called for the type three team to come in they had just wrapped up another fire, brought all their resources with them and the clock started ticking. But one of those just happened to be Carbondale Fire who normally we would have gotten 24 hours free out of them but because they were already assigned as a resource that fire and they dragged them over into a type three the clock started running right away. So those are the things we have to look at locally. I think where the other piece is, I agree Larry we're not going to get feds and state to change although I think we could as an organization, be it the Sheriff's, fire combination of commissioners, whatever; have them look a little more reasonably at their billing and their administrative fees and things like that. But technically this bill came to me, because the state doesn't recognize the fire districts, the sheriff is responsible for wild land fires, the sheriff has the ability to call up those resources. So technically this bill came to us. So I handed it to Mike and Mike says were not going to pay it because it came to county and county is like but it's a fire district that on a private property. So those are those things we want to work out a head of time. I guess like I said it's in our lap right now because again the bill comes to the county sheriff not the fire district and this particular fire was totally on private property, totally within our district so our thought would be it's your responsibility as a fire district. The other thing we looked at, we are in a better position now with the experience and the personnel we have where we can handle any type three fire in the county. Rather than just saying let's go ahead and call in outside type three group and these costs start incurring now we're in a position to say no we can manage this with our local resources. We can pull Mike in on a fire; we can pull Ron Leach from Carbondale to help on a fire, so we're better prepared to do that at a type three level. Once we get into those type two and type ones than yes it's a whole different ball game.

Commissioner Houpt – I agree we need to sit down. I would sure hate to burn any bridges on this. But part of that discussion, how do we capture the attention of the state?

Ed – In terms of billing, what would be fair is to isolate fixed and variable costs. Usually administrative fees like that are fixed costs. Another words, they would exist whether the fire happened or not. It doesn't make sense for us to be paying for that. It's something the state would incur regardless whether there is a fire or not.

Lou – It looks like it was basically to cover the cost of the accountants who spent the winter generating all this and I agree completely. Ron Leach told me the relationship he has with Pitkin County Sheriff is they pretty much do a 50/50 split on everything. And so those are just the options we want to look at. And even legal issues, you know Don has a better handle on this than I could ever figure out. We have statutes from the 1890's we have statutes from the 1900's and Attorney General opinions in 2000 and so we have this whole variety of stuff out there regarding this. All we are looking for is to set a date that works with you and everyone's calendars and sit down and discuss a little more in depth in a public meeting.

Commissioner McCown – Second week in July too soon?

Lou – I don't think so, obviously we will get as many fire chiefs as we can. If we waste too much time trying to work on everyone's calendar we'll never get it done.

Commissioner McCown – Maybe Tuesday the 10th.

Lou – Works for me.

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Commissioner McCown – Don would that be something, I imagine your department would have to be there?

Don – I’ll be there.

Commissioner McCown – 9:00AM?

Lou – Sure, confirmed July 10th, 9:00 AM

Mike – Are you guys aware of the discussion about BLM’s having taking the helicopter out of Rifle?

Commissioner McCown – We heard the rumor.

Mike - There is a plan, where it is actually at I’m not real sure, but there is a lot of discussions taking place with the BLM about taking the helicopter out of Rifle and putting it in Craig and then turning it into a national resource, instead of the local. What that ultimately means is if they make that a national resource then that helicopter is in Georgia when we need it. Which is a bad thing for us and I’m sure you are aware that that helicopter is part of the mutual aid system with the Feds and it’s a free resource for 24 hours.

Commissioner McCown – You say the first day is free, right? So actually if they move it to Craig as long as they don’t put it on the feds schedule, we still get 30 minute travel time?

Mike – The reason why it’s a free resource to us is because it’s based here and it’s part of the mutual aid system in Garfield County. I don’t believe all the counties have that luxury. If it goes to national resource and goes to Craig, it comes off of that mutual aid system.

Lou – So it would be like ordering up a seed or anything else?

Mike – Right, so if we call up and ask for a helicopter, it could be coming out of Moab.

Commissioner Houpt – Why are they looking at moving it?

Mike – My understanding is they are looking at acres of burned. I have nothing against our neighbors to the north but you can burn five or six thousand acres of sage brush in northwestern Colorado and it doesn’t even make local news so to speak. We have much larger exposure, a lot more life and property values at risk and I would ask if you would consider, the county fire chiefs have all written letters and all the fire districts are writing letters and the sheriff is writing letters and I think it might be good given the history of our county and some of the incidents that have occurred here that you might be considered maybe playing in on the topic too that we would like to keep that as a local resource.

Commissioner McCown – I think local BLM would weigh in on that as well.

Lou – They would appreciate it whether or not they have taken an official stance. Partly to answer your questions too Tresi, Mike is right, they look at map, they look at statistics, the difference being they have a suppression policy in Garfield County, Moffat County doesn’t, they allow things to burn. So they’re going to burn up more acres and they have less population and less exposure to residence, gas wells, things like that so we find the need for the helicopter locally is much more imperative for us than moving it and making it a national resource. We’ll never see it. They’ll never see it in Craig either. That’s the ironic thing about it, they’re going to move it to Craig but they’ll never see it there because it will be off on fires all over the country.

Commissioner McCown – And that would be decision in Washington

Lou – We’re going forward with a letter writing campaign and explaining the value and the need of that helicopter and how much we have used it. It’s just an imperative piece of equipment that we need here. We have a draft of one that I can e-mail you if you want to tweak it, change it, do whatever, just copy it.

Commissioner McCown – I make a motion we authorize the chair to sign the letter supporting keeping the helicopter in Garfield County area. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - Absent

LANDFILL AND ROAD AND BRIDGE - OUT-OF-STATE TRAVEL

Ed – Marvin needs approval for out of state travel

Marvin – This is on the land fill; they have developed a pellet machine that they sort trash and put a lot of wood products in it. It makes a big pellet, you may be aware of it Tresi. They are inviting a couple of counties within a couple of states around to come and look at it and Greg and I wanting to run up to Cheyenne this week.

Commissioner McCown – Do they have a market for it?

Marvin – Yes they do, I guess the power plants buys the pellets. It has a lot of BTU’s in it. I don’t know a lot about it.

Commissioner McCown – When you’re there check on it, on where it goes so we don’t run into a storage problem.

Marvin – It’s a fairly large machine.

Don – Do you need authorization then?

Commissioner McCown – I make motion we authorize the out-of-state travel for the Pellet Machine in Cheyenne. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - Absent

FINANCE - GATSBY STATEMENT #45

Ed Green– Patsy has prepared a letter and passed out.

Patsy – A couple of weeks ago when I was here at the table on a different issue, Commissioner Martin asked a question about Gatsby statement 45 and the impact it may have or may not have on Garfield County. The request was made that I go and research and come back to you with information regarding this statement.

Gatsby is the government accounting standards board and that is the entity that gives direction to governments, among other things as to how financial information should be appear on reports. And the way that they give these directives is through Statements and so this statement is the Gatsby Statement #45. And it’s related to post employment benefits. Up until this time governments have handled post-employment benefits on a pay as you go or they just expense it. A post employment benefit would be a government that provides any type of benefit whether or not it be health insurance, paying for life insurance, but any type of a benefit that they may have had as an employee of the county, that when they retire they will still enjoy those benefits and the county will pay for it. That’s what a post employment benefit is. In the past they were just foot noted in the financials and expensed out each year to those retirees. This is a big deal for those governments who have post employment benefits because now an actuarial evaluation has to be done, not only on the current retirees but on the active employees and what it would cost if all of these employee retired and carried forward these benefits and then it actually has to be booked as a liability on the financial

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statements. And so it is a big deal and so the concern whether or not it was going to have a big impact on having to carry this as a liability in Garfield County, it did need to be researched and I did need to come back to you with this information per your request. And the bottom line is no it does not impact Garfield County because Garfield County at this time does not offer post employment benefits.

Commissioner Hought – Thank you

Commissioner McCown – Thank you for your research.

COUNTY ATTORNEY UPDATE – DON DEFORD
CONSIDERATION/APPROVAL OF IGA WITH THE CITY OF RIFLE RE: WHITERIVER AVENUE

Don DeFord – We have actually discussed this in the past and in concept the Board has approved the expenditure of \$200,000.00 set forth in this resolution. Now the written document is in front of you and we’re asking for approval that would confirm that if and when Whiteriver Avenue is annexed into the City of Rifle the County pays \$200,000.00 to the City of Rifle for the purpose of maintaining or improving that road. The City agrees to consider the annexation of Whiteriver Avenue between the blocks of 10th Street and 16th Street as part of the Rifle Heights Annexation pursuant to the Rifle Municipal Code and the Municipal Annexation Act of 1965, set for public hearing before the City Council on June 6, 2007. In the event the City does not approve the annexation of Whiteriver Avenue, this agreement shall terminate and both parties shall be relieved of any obligations contained herein.

In the event the City annexes Whiteriver Avenue, the County shall pay to the City \$200,000.00 to be used solely towards the reconstruction of Whiteriver Avenue. The County shall make such payment upon notice from the City that the Ordinance and Annexation Map annexing this portion of Whiteriver Avenue has been approved and that the Ordinance and Annexation Map have been delivered to the Garfield County Clerk and Recorder’s Office for recording, and prior to the County Clerk and Recorder recording the Ordinance and Annexation Map. The City shall separately account for this payment to be utilized for the future reconstruction of Whiteriver Avenue. If the City does not provide notice to the County of the delivered Annexation Map by December 31, 2007, this Agreement shall terminate and both parties shall be relieved of any obligations contained herein.

Commissioner McCown – I make a motion we approve the City of Rifle/Garfield County governmental agreement. Commissioner Hought seconded.

In favor: Hought – aye McCown – aye Martin - Absent

TREASURER - CONSIDERATION/APPROVAL OF RESOLUTION CLARIFYING TERMS OF RESOLUTION 96-54 (RESOLUTION APPROVING SALES TAX) AND REPEALING RESOLUTION 2000-081 – PATSY HERNANDEZ AND GEORGIA CHAMBERLAIN

Don DeFord – Historically the way the sales tax came into place, the County Commissioners passed an extensive resolution that set out the method of distribution of revenue from the sales tax, distribution of, for a lack of a better term call excess revenue that is over 5½%, basically 105% of the preceding year and that is the simplest description of it. Also, we attempted to define the terms net revenue. We were early in the days of Tabor at the point where that sales tax came into play, so some of the terms that we used and some of the considerations that we gave to excess revenue in that resolution were not entirely consistent with the way that we need to determine net revenues today.

Commissioner McCown – Don, actually correct me if I’m wrong deBruce at the same election that’s ...

Don – Yes, that’s correct Larry we and so for County purposes we weren’t concerned with the so called excess revenues. Nevertheless, the resolution set out a methodology by which amounts over the 105% of the preceding year would be returned to the county and there was some concern that agencies receiving county funds needed to be concerned with excess revenues on the table. That was only one of the reasons for that excess revenue. In 2000 we passed a resolution that attempted to clarify that term, net revenues, for the purpose of calculating excess revenues. That same resolution, also in writing, we find the method of distribution for the portion of the sales tax devoted to human service agencies and operations. Since 2000 I would say at least for the past two years we have not been following the directions of that resolution concerning the distribution of funds to various human service activities and I would say also that in view of that resolution, Patsy and Georgia comparing it to resolution 96-54 we were probably not in compliance with that resolution. With all of that said the three of us had a meeting to discuss how we would reconcile some of the issues that are out there. We also had a meeting, I will say with communications authority and their attorney to discuss some of their concerns and out of that we decided, first of all that we needed to repeal that resolution 2000-81 and just get it off the table completely. We thought that the resolution 96-54 really did not need further clarification in terms of the human services activities, but it did need to have a much better definition of net revenue to comply with the actual intent of the original sales tax resolution. That’s my summation of the purposes behind the proposed resolution that is in front of you today. But I think Patsy and Georgia have other comments.

Georgia – I think he explained it pretty well and we were trying to be as simple and straight forward as we possibly can. As the sales tax collections increase it’s very important to be very strict on the way that we are handling that money and the distribution of that money and to be in agreement and to have what we have as resolutions to be very explicit in the way that we handle the money. And so this is the first step. There will be more things Ed will come up during the budget time that we will have to address. I think Larry you are more aware than some others as far as what we need to do.

Commissioner McCown – Am I seeing an increase in the treasurers fees in this resolution?

Don – Yes, I’m sorry I forgot that actually. The treasurers’ fee has been collected at the 1% level that has been done in error. By statute the treasurer is required, actually we look closely at that language and the word is shall collect a fee of 2% for what is called other tax revenues. Because it’s a sales tax and not a property tax, it falls into that category. Under the treasurer’s fee section of the statutes there is, each county is categorized for that statutory purpose Garfield County is a Class III County. So therefore we should have been collecting 2% rather than a 1% fee.

Commissioner McCown - And are those funds in there?

Don – The 2%

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Georgia – No, the 2% goes into the general fund and the county can spend that how ever you all see fit.

Don – That’s where we are and I’m asking the Board to approve the resolution.

Commissioner McCown - I make a motion that we approve the Resolution to clarify terms of Resolution 96-54 and appealing resolution 2000-81. Commissioner Hout seconded.

In favor: Hout – aye McCown – aye Martin - Absent

COMMISSIONERS - CONSIDERATION OF IGA FOR JOINT FUNDING WITH CITY OF GLENWOOD SPRINGS FOR ENVIRONMENTAL ASSESSMENT, THE SOUTH BRIDGE CROSSING AND THE INTERSECTION AT STATE HIGHWAY 82

Don DeFord – The purpose of this IGA we have discussed again in concept. It is to assist in funding an environmental study and site designation for the South Bridge which would be an extension of Midland Avenue as it’s connected to Highway 82. This IGA would require the County to pay the City \$200,000.00 within 90 days to be applied exclusively for purposes of assisting and funding the environmental assessment that’s estimated to be no less than \$2 million dollars by the city. The city would contribute a similar amount and the remaining amount would need to come from both state and federal sources. A couple things I wanted to point out again in the IGA. The first actually I’ve hit upon and that’s our need to pay the funds to the city within 90 days the other is, let me stop on that. Karl Hanlon and I talked a little bit about whether or not it would be more appropriate to have the billings actually come to the county and be paid rather than running into the same problem we have in the past where we contribute funds and some or all of it doesn’t get spent for the intended purpose, then the city has to account back to us. The problem with that is a TABOR issue really because the EA is anticipated to take 18 months to completion and because of the County cannot technically commit to TABOR next year for those billings. Now of course you could do a renewed contract which we do fairly routinely. But at least for discussion purposes and to get it in front of you, we decided to go this route rather than worry about having to do another contract at the end of the year, but I wanted to know if you wanted to take a different approach.

Ed Green – Did Karl and Jeff talk about this because Jeff was pretty adamant that he wanted to do progress bills to avoid a situation.

Don – I can’t tell you what Karl and Jeff talked about. I know that Karl and I talked about this issue because of the TABOR problems and this was the end result of that discussion. Whether he discussed it with Jeff or not I don’t know.

Commissioner Hout – So are we working together in raising the rest of the funds or has that been approached?

Don – I haven’t been involved in that.

Ed – The rest of what funds?

Commissioner Hout – To pay for this?

Commissioner McCown – The rest of the \$2 million dollars?

Ed – They’re the lead on the project.

Don – The other thing I wanted to point out, if you’ll look on the second page it’s Roman numeral one, section 5 toward the top of the page. I had mentioned this to the board, but it’s been several months since we talked about this. One of the things that I am looking for out of this is after the EA is completed that there will be preferred alternative selective. You’ll remember in talking to the board I think you had difficulty determining how you would select this preferred alternative based solely on the EA without some idea of the cost of each potential site. And so the city has agreed a cost analysis would need to be done before either the city or the county would select a preferred alternative. This paragraph provides that we would share equally in the funding of that cost analysis. The actual amount of that cost analysis is not known at this time its anticipated to be, verbally Karl has told me in the vicinity of \$50,000.00 total. That’s why it’s not in here is because it’s Karl’s best guess he just doesn’t know. This provision is subject to the appropriation language that’s in the contract, if for some reason it goes back and is way out of line the board would certainly have to say we have no appropriate funds for that and were not going to pay for it. But it is anticipated by the city that we share equally for the cost of that.

Ed – Will the process include multiple alternatives in the first estimate?

Don – That was one of the reasons Karl thought it would not be that high because much of that work has been done already. They looked at the sites already.

Ed – One question is the alternative related to the airport. Is that still viable?

Don- As far as I know that is still viable. I agree that there are reversion issues there but that’s the city’s property and they’re going to have to finally make a decision on what they think their title interest is.

Commissioner McCown – Where will the county be in the final alternative selection? Will we have a seat at the table? Is this a city project if we chose one alternative and the political will of the city is to choose another one at the end of the day where will we be?

Don – This agreement carefully does not commit the county to any future funding. So, I would assume without discussing this actually with they city, they would have to take the county’s position into consideration if they expect assistance in funding.

Commissioner Hout – I had the same question, paragraph 6 that same section you were talking about. It seems to me that these collaborative efforts work better if in that phase of identifying preferred alternative the two entities work together. This keeps all of the discussions separate and potentially could end up with no body is happy with. This is the only paragraph that I would question; I think it’s really important for us to be working together in funding the study. I think it’s important that both entities see themselves as partners in this. But if the city first picks their preferred alternative and then we get to respond to that, that doesn’t make us equal partners. What I’m almost getting from you is that we don’t want to be.

Don – The direction I got from the board earlier is that you wanted nothing in this agreement that committed the county to participate in this project beyond the environmental assessment.

Commissioner McCown – That’s true, that’s the direction we gave.

Commissioner Hout – When was that? I don’t remember a formal direction of that because I remember a meeting in Glenwood Springs town hall that indicated that we would move forward with this project and start out with this study.

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Don – After that meeting I brought this to the Board for discussion of the original IGA together with an IGA for the improvement, I would just generally say of the area around Sunlight Bridge. The direction I got from the board after discussion of both of those bridges was that neither did the county wish to be committed to funding those projects beyond the design.

Commissioner Houpt – We’re talking about selecting a preferred alternative.

Commissioner McCown – That will be developed by the city.

Commissioner Houpt – Well I obviously disagreed with it, we shouldn’t be involved beyond this. It only makes sense that we are a partner all the way through. That aside this is a different IGA covering a different topic. I would just hope that in the end the city and county would work together on a preferred alternative because that truly is the only way that we both will be partners through this process.

Don – There are, if you look at the way it’s structured we’ll do an EA first then we have to come up with a preferred alternative then there has to be design based upon that preferred alternative, that’s a substantial contract.

Commissioner McCown – And you probably have land acquisition and condemnation and things of that sort that will take a significant amount of time.

Don – Then there is a third phase, which is construction itself. The second and third major hurdles in this are by far the most expensive. If the city and the county can not reach an agreement it seems unlikely this project will go forward.

Commissioner Houpt – That’s why I’m hoping that some of this preface will be facilitated so that we can come to some consensus on how to move forward. Because without that I think historically we have seen that we haven’t had much success moving forward on issues. At the time that I would see a good facilitated discussion would be before either one of us decides on what our preferred alternative is. I’d like us to meet with a facilitator and figure out what works best for all of us and see if there isn’t one that fits in there in such a manner that will engage both the city and the county.

Commissioner Houpt – There is a provision in here that say the county will not be responsible for payment of any alternative. Is that in here? Any alternative that includes airport land.

Don – I don’t know

Commissioner Houpt – I read that this week. It’s not in here?

Don - No

Commissioner McCown – It says that the county shall not be applied to any work which is specifically identified as related to maintaining general aviation operations in Garfield County.

Commissioner Houpt – Counties contribution shall not be applied to any work that is specifically identified and to me that was in response to our statement that we have made at a couple of meetings is the point Ed is making that if the city decides to go with an alternative that’s more expensive to keep the airport open we will pay the difference.

Don – If one of the alternatives that they are analyzing was solely for the purpose of making sure that the airport was going to operate, that’s what that’s directed to. My perception is that would be difficult to show. There will be a number of alternatives. One of the purposes might be to maintain aviation, but I would imagine there will be other purposes as well.

Commissioner Houpt – It could get down to a basic discussion of what route, which road will be more expensive today. Because if you don’t maintain the airport, that’s what those other alternatives will show that was considerably less expensive. And so the difference between what it would cost to go across that land or what it would cost to go under or around would be the city’s cost.

Ed – That was the original agreement.....

Commissioner Houpt – And this is assuming that we are moving beyond just this phase.

Don – This IGA remember is primarily exclusively concerned with developing environmental assessment. It could also very well be that the environmental assessments will demonstrate that an alternative that does not impact the airport from the environmental perspective is the preferred alternative. So that’s where I’m going, there are other reasons that airport that the environmental assessment may land on that. But that’s what we’re doing with this but, as I said, my direction was on this issue, environmental assessment, to make sure that the contract did not obligate the county beyond the EA. If you don’t want to take a different approach then.....

Commissioner Houpt – I’m not sure why that affects paragraph 6. Why can’t we have a paragraph that says the city and county together will identify a preferred alternative instead of having two.....

Don – Well I think that Karl and I desired to have an actual outcome of conclusion. While you may have a facilitated meeting at the end of the discussion, the boards have to actually vote. You just want a sentence in here that says we will participate with the facilitated meeting?

Commissioner Houpt – I want something that states that together we will identify the preferred alternative. Otherwise we could be arguing over this for the next ten years.

Don – The City Council and the County Commissioners do not vote as a group. They vote independently.

Commissioner Houpt – Well absolutely that’s true, but it doesn’t mean you can not have a process that allows you to come to consensus but then allows the city council to meet and have their discussion and their vote and then the county comes together and has their vote.

Don – So what do you want? What are you envisioning for a process? A facilitated meeting or?

Commissioner Houpt – To come to consensus on a preferred alternative.

Don – Alright, consensus, is that, this is the problem that you’re talking about when you have two separate elected boards. Does consensus mean all members of each board agreed? Or the city council by vote agrees with the county by vote? Because you have legally distinct entities not individual members.

Commissioner Houpt – The ultimate decision would be through vote. By vote separately. But I’m talking about a process on how we get to that.

Don – I understand that but I’m struggling to find out how you want to do that. Do you want to have a facilitated meeting; do you want to have just a joint workshop?

Commissioner Houpt – I’d like to have a facilitated joint workshop so that we can work through these alternatives. Understand what each others needs and concerns are and the ultimate goal of that meeting....

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Commissioner McCown – Well, before we get to that point Tresi, will the alternatives come out of the EA or will they happen after the cost analyst is done? To me the cost analyst has to play into the alternatives. So they won't even come to fruition until that's done.

Commissioner Hought – But it's named, it's identified.

Don – If the EA results in a preferred an alternative that's what will come out of the EA. Then you would do a cost analysis and then the city and the county would select a preferred alternative from the various alternatives that the EA recommends.

Commissioner McCown – After the cost analysis, that is when you do your meetings once the cost analysis is done. Not in this process.

Commissioner Hought – Well that's what it says though, it says upon completion of the environmental assessment and cost analysis.

Commissioner McCown – But we haven't even agreed to the cost of the cost analysis. The only thing we have agreed to is the EA

Commissioner Hought – I only want to tweak this paragraph.

Don – Right, let me try this, upon completion of Environmental Assessment and cost analysis, the city and county shall conduct a joint facilitated workshop, after which the city shall make a recommendation to the county.

Commissioner Hought - Why is the city making the recommendation to the county?

Don – That is what the city wanted to do. They wanted to have the first chance to make a recommendation.

Commissioner Hought – But if I'm giving money and I, if I decide it's important for us to be equal fiscal partners, I want to, do we want to have a lead entity on this?

Don – Somebody's got to lead this project.

Commissioner McCown – It can't be a Garfield County/City project.

Ed – It's no different than in Rifle.

Commissioner Hought – It is but we have been making recommendations together. Okay if you add that language.

Commissioner McCown – With the changes, that wording, I make a motion we approve the Intergovernmental Agreement depending on the environmental assessment, the South Bridge Crossing in intersection Highway 82.

Commissioner Hought – Second, any further discussion?

In favor: Hought – aye McCown – aye Martin – Absent

**WATER - COLORADO RIVER WATER CONSERVATION DISTRICT -
CONSIDERATION/APPROVAL MEDIATION COST-SHARING AGREEMENT &
MEDIATION/FACILITATION AGREEMENT**

Don DeFord – I did not bring a document down, this actually I was in the office last week and Mary Lynn brought it to my attention. Tresi has some awareness of this. I do not have a lot. This relates to the negotiations that we discussed at least twice with representatives of the River District when they appeared in front of you about the discussions there having with the Denver Water Board and other front range communities on developing an agreement for use of Colorado River and this is to participate in mediation with the head water counties.

Commissioner Hought – John and I were, after they came and did their presentation, John and I both went to a meeting at the River District and it was in the meeting when the River District was here I believed when we discussed the importance of us being at the table. As a partner at the table we are expected to share in the process of mediation. Don, is this something we can talk about at the first meeting?

Don DeFord– I can't answer that?

Commissioner Hought – I think what I would suggest is that we let them know, yes we made that commitment to be a partner but we haven't had an opportunity to look at the paperwork.

Commissioner McCown – I've not received anything on it, I haven't even heard anything from our River District representative that this is to the point of where they need us there at the table.

Don – What I will do is, I will go ahead and put it in your packets for the second if there was some urgency to it.....

Commissioner McCown – Do we want to call Chris or Dick and have them at the July meeting and see what's needed?

Commissioner Hought – Well we could or we could bring this information forward.

Don – Why don't I call Chris and find out.

Commissioner Hought – I think there is some interest.

Commissioner McCown – Strength in numbers.

**EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE – DIRECTION AGREEMENT
COUNTY SURVEYOR, UPDATE; DDS - LEGAL ADVISE PROPOSED DEVELOPMENT AT
SUNLIGHT SKI AREA**

A motion was made by Commissioner McCown and seconded by Commissioner Hought to go into an Executive Session; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Hought to come out of Executive Session; motion carried.

Action Taken:

Don DeFord – I would like the Board to consider authorization to sign agreements with Scott Aibner, County Surveyor to conduct a centerline survey on County Road 242 otherwise know as JQS Trail to run from State Highway 13 through the western boundary of Rio Blanco at a cost not to exceed \$4,800.00.

Commissioner McCown so moved; Commissioner Hought seconded.

In favor: Hought – aye McCown – aye Martin - Absent

CONSENT AGENDA

- a. Approve Bills
- b. Changes to Prior Warrant List

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- c. Authorize the Chairman to sign the Resolution of Approval for Special Use Permit for Storage and Material Handling of Natural Resources. Applicant is the Estate of William F. Cough – Fred Jarman
- d. Authorize the Chairman to sign the Second Amendment to the Subdivision Improvements Agreement for Springridge Reserve PUD Phases I & II. Applicant is Springridge at Glenwood Springs Development Corporation – Fred Jarman
- e. Authorize the Chairman to sign the Amended Plat of Lots WP7 and WP9, Final Plat of Aspen Glen Planned Unit Development, Filing No. 3 – Applicants are David and Linda Weiss – Fred Jarman
- f. Authorize the Chairman to sign a Special Use Permit for an Accessory Dwelling Unit on a property described as 5352 County Road 233 – Applicants are Bruce and Betty Collins – Craig Richardson
- g. Authorize the Chairman to sign the Final Plat for Building B, Lot 24, Valley View Village Phase C and D, Battlement Mesa PUD – Applicant is Grace Homes – Craig Richardson
- h. Authorize the Chairman to sign the Final Plat for Building C, Lot 24, Valley View Village Phase C and D, Battlement Mesa PUD – Applicant is Grace Homes – Craig Richardson
- i. Liquor License renewal for The Guzzler located on Battlement Mesa, Kum & Go #929 located on Battlement Mesa and Valley Liquors located in Glenwood Springs – Jean Alberico

Carolyn Dahlgren– on Springridge at Glenwood Springs Development Corporation, this is an extension to August of their completion date time. I did not look at the treasurers deposit agreement to make sure that the cash security that have in place is extended along with the SIA. I would ask you to pull that one off so that we could have a little further discussion in a separate motion.

Commissioner McCown – Would that be handled today?

Carolyn – I have to go upstairs and get it.

Commissioner Houpt- Can we agenda that for next week?

Carolyn – Either that or if the chair can be authorized to sign it as long as I find out the security is there.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a – i, excluding item D until further researched; carried.

Carolyn Dahlgren – The approval this morning was conditional on there being security in place. As it turned out the cash deposit in the Treasurers Office did not extend through the appropriate six month period of time. Mr. McConnahey has put together a one page amendment and Ms. Chamberlain has agreed to sign it. So it can stand as you approved it this morning, I just wanted to let you know we did get the security taken care of. We would be asking that the Chair or the Chair Pro Tem be authorized to sign both the extended Treasurers Deposit agreement and the extended SIA.

Commissioner McCown – So be it.

Commissioner Houpt – Second.

HUMAN SERVICES COMMISSION

Sandy Swanson, Executive Director **FAMILY VISITOR PROGRAMS** present. In terms of our health group, we have decided to present the commissioners with information on a monthly basis about various aspects of health issues and some we might need help with, some are more informational. We are going to start with pregnant ladies and young babies, which is why I'm speaking. I sent you some stats and I looked at the entire county as well as some of Pitkin County, because our families have a tendency to be very mobile especially with young children. They are usually not families that have the resources to buy a home. So therefore they are subject to whims of the rental market. They may think they are secure in their housing and they are not. So they move around a lot. As you know the population is growing and the number of children is also growing and our births are increasing. Unfortunately the health department does not have the 2006 births up yet, so we can just project in the region we will be well over 1,000 births. And in the county, according to the hospital things haven't dropped off any. So we are probably looking at well over 900 just for Garfield County. Our rates among the Latino births have been increasing on a yearly basis and we are expecting that to continue with about 45 –47%, last year it was 45%. We always track the three risk factors on birth for the county because that gives us a pretty good idea about families with young children who are most suitable and most at risk. Unmarried woman who are under 25 with no high school education are of concern to us because they have few resources. The state rate in 2003 kids count may have come out with a 2004 rate; it was higher in Garfield County. It was at 9.4% and the state rate was 8.3%. We're not expecting that to decline in the least. Birth to single women seemed to be declining a little bit. Births without high school diplomas are definitely increasing. Our major concern right now among pregnant women is the number of very very young teens. That seems to be increasing; we are much higher than the state rate. The rest of the state of Colorado except for a couple of pocket areas is decreasing among teen births and we are increasing. Where it is most worrisome is in that area of 14 and 15 year olds. If any of you have any idea of ways we can approach this problem in the county we would love to hear about it. We have approached the schools, we have approached different groups. And most of these teens are keeping those babies. We have very few adoptions.

Commissioner Houpt – As the parent lay person, I watched my kid's progress through health classes and I think the ages of when it's appropriate to teach kids isn't what it should be. I almost think we are teaching them later than we should be. We need to reach them earlier.

Jenny Lindsey, Administrative Director **Roaring Fork Family Resource Centers** – We actually, at least the family resource center is looking at elementary school, you know fifth grade. Because when they are getting into 6, 7th and 8th grade they are starting to develop some risky behaviors. The time period when they become sexually active is younger.

Sandy – Teens bring their own problems in terms of low birth weight, inadequate parenting, insufficient health care for the kids, it just goes on. All the research is there. Another issue that we're looking at is in terms of mental health issues. Among pregnant and parenting women and thanks now to seven years of funding from various foundations, family visitor programs has been able to purchase services for women that we screen that appear to be depressed that don't have the financial resources to pay sliding fee scale of

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Colorado West, which is over \$55.00 per visit. Or have insurance or to have the co-pay. We help them out with that because one of the things that the foundation grants have calculated is that this is a good investment. It's a great investment to give a woman who is depressed a few visits, if she needs medication she can get on that and we have great outcomes. Because the consequences on the child are, all sorts of delays there cognitive, their physical delays, their social delays, they have disruptive behaviors so in maternal consequences are that you just can't do much with them. You come into that home and you know they're depressed and they have missed work, they have suicide attempts, they have lack of joy in the child and there's social impairment. But we're only a small piece of this puzzle in this county and mental health issues are certainly a problem and continue to be a problem especially among bilingual health therapists. Currently Colorado West has one bilingual person from Aspen to Parachute. With translators and with some emergency staff they are filling in. But that certainly doesn't allow for the type of mental health coverage that we need. And their statistics are showing from Rifle and Glenwood Springs offices that the number of children is just increasing. Annualized this year they are expecting to see 626 children and three years ago that was 294 children so that has doubled. Prenatal care is definitely in place that is working. At times it would be great if providers didn't necessarily abandon everyone to that system. But, we work on it and sometimes its take time to get people into another system. I think that is a credit to the commissioners. It was over 10 years ago that the commissioners set up a task force to look at prenatal care because it was a crisis. Based on a little push from Garfield County Commissioners we were able to get the medical staff, the health care facilities all talking. There were some solutions that were hammered out and those particular meetings are still effective for the county. Dental care is still a problem, still an issue. Very few providers, it's a problem for adults and children. One of the things we thought we would definitely say in terms of this is that it would be helpful for, well I'll let Jenny do Family Resource Centers.

Jenny – The Family Resource Center is often for people who are under or uninsured and these children are in the school district, often times with more serious needs. We receive, I would say in Glenwood Springs alone, three referrals a week for mental health. Whether they play out, whether we actually go somewhere with it you know remains to be seen. That's usually how many times I'm contacted within a week for child mental health issues. And the dental need is just unimaginable, people come in and the child has a \$3,000.00 plan for work he needs and it's impossible to raise that kind of money. That's a constant challenge that we face. It's huge and we have all talked about it in dental task force that comes up and I think there are some people right now that are working on getting an indigent dental clinic. That would certainly be a huge help because if people are in pain, their mouth hurting, especially kids, they can't learn. As far as the students that we see, in Garfield County 16 have CHP+, 52 have Private health insurance, 79 Medicaid, this is for the past school year, 251 were uninsured. Most of those kids would qualify for Medicaid or CHP+ if they applied. That's a challenge that we have is getting people on these plans. One think that we decided at Health and Human Services that was a concern for us was there just aren't that many providers who take CHP+ and Medicaid. We would sure like to see those numbers increase. Because what happens is that with Mountain Family Health being the only provider in Glenwood Springs, when they're booked up or if we have a new patient a child that hasn't been seen before, we can't get a child in for two weeks. What we do we end up using our resources to send them somewhere else because it's a need that has to be met. So that is an on going concern for us. I'd like to introduce Candace Talkington who is the representative in this region from CHP+ and she is going to tell you a little bit about that and what they did in Grand Junction to increase the number of CHP+ providers.

Candace – I'm actually the **OUTREACH CHP** outreach co-coordinator and I cover northwest Colorado, 14 counties. CHP+ is the state child health insurance plan also known as the S-Chip Plan. We are federally and state funded and the people who are on CHP+, these are hard working families. These are families who make too much money to qualify for Medicaid but still cannot afford health insurance. We all know kids should have regular health care and dental care have less missed days of school and are just more productive children. CHP+ does cover of these things. We also have a pregnancy program that covers pregnant women who don't have other health insurance and again that covers vision, dental, health, mental health all of those things. The program is a great program and we're so glad to be able to, I love talking with families and I have families who have been saved by the program. But it only works if we have providers that are willing to accept CHP+ as a health insurance plan. Because it is a state benefit plan like Medicaid, the reimbursement rate is a little bit lower although the reimbursement rate for CHP+ is higher than it is for Medicaid; some providers are still a little reluctant to CHP+. But it comes down to being a community issue. The more people we have in the pot accepting CHP patients, the more spread out those patients are so that facilities like Mountain Family and Castle Valley Children's Clinic don't end up seeing all these patients and then finding themselves not being able to run the rest of their business because they have more than 50% of Medicaid and CHP patients. One of the things that has really worked for us in Mesa County and the only reason I speak of Mesa County is that's actually where I am based. I've been part of CHP+ and Medicaid for about 10 years and I've seen what's happened and what we have been able to do and the other counties as well. And I have to say first of all I'm so impressed with Garfield County and the collaboration that goes on here is to amazing to me to see these people, everybody has an interest and making sure that these kids and pregnant women are getting what they need. I wanted to be able to share a little bit about what has worked for us. We also had a collaboration called the Medical and Dental Committee. Sounds to me it's a little bit like your committees. What we did was we just approached providers, we got them together at the table and said here's the deal, here's the issue, we have the support of our local government that said we're in support of this as well. Now we have 100% of our pediatrics providers and 100% of our OB providers who take CHP+ and Medicaid. And I think it was just having that; oh we really didn't realize there was that much of a need and having the local government support really did help us. We actually did just get through doing a survey, Medical and Dental Committee with the providers and asking them what are their challenges with CHP+ and what's working and what's not working. One of the things that was overwhelmingly positive about taking CHP+ is that we have, and I don't want to get too complicated with HMO's and all of that, but I will tell you we have an HMO auction. Rocky Mountain Health Plans administer CHP+ for all patients in Mesa County. Rocky Mountain Health Plans offer something that the current anthem program that you have here Garfield County, they offer several things. They have case management, preventative outreach and support; they have a

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different billing system. Many providers say that is the reason why they continue to take CHP+, not only is it a community issue and they want to help the kids and pregnant woman, but they also know they have the support of an HMO. There are several HMO's available in Colorado. There are five. Rocky Mountain Health Plans is one of them. How you get an HMO in your county is to know that your county is supporting you. That means local government is getting the providers together, if the HMO's know that the providers are interested then they can present and they need to have a larger number of providers and that number varies based on the HMO. A large number of providers that are willing to say okay I'll take CHP+ we'll take Medicaid if you administer the program and here's the contract leads and they work on that. I did talk with the state just last week and asked them what is the possibility, what do we need to do to get Garfield County, they already have so many great players, what do we need to do this. The state already said at Health Care Policy and financing, hey we're in for it, lets get it. If we have your support and the support of your community, I think we could really get some positive feedback from these providers.

Commissioner Houpt – What do you need from us?

Laurel Little – I'm with Garfield County Public Health and I also serve on the Human Services Commission representing public health needs. We're looking at **HEALTH CARE** for all age groups, but in looking for health care for children, we have identified since we have all these children who do qualify for these program but aren't getting on and sometimes it's a matter of getting through the process and actually submitting the application. The client does have the responsibility to do that. But then once they get on having a provider to do it. In public health we do a lot of, our only direct services really with the children on a regular basis are with the immunization program and we've had wonderful immunization rates with the kids we see. Most of the other direct service we have gotten out of in public health so we do a lot of public information referral and so we see how many people who come through our offices that would qualify, we give out the application we have them apply. But then there's really only a couple of places where they can go and these places are being, the ratio between CHP and Medicaid and private pay is just too high for them to often to take that many. We would love to see a more even distribution and get the providers on board to see it as a community issue and I'll take kind of their fair share. So what we are asking is for you today and what we think we need from you is just support from the county government. Articulated in what ever way is most effective to the community, yes this is important and to get the providers attention. This is an issue, it is very important we'd like to see people come to the table and how ever it can work. Whether that be dedicating some staff time from public health to try to pull together a task force on this and start inviting providers to the table and then hopefully HMO's to the table as well and do some real aggressive education and it's been on the back burner for a while in our county for a while I feel. We'd like to get the ball rolling again and Candace has been wonderful to come and share their experiences with us and is also willing to help our county in looking at all these different options and how we can provide care to more kids because we just keep getting more kids.

Commissioner Houpt – Well you've looked at what works in other counties, do you need a letter? I'm really not sure on what you need from us.

Sandy – I think when we did the task force on prenatal care and that is a good example, there was commitment by the County Commissioners through staff time within the county and this a Garfield County Commission appointed task force and you heard back. You heard back in various different ways. There was an interest level. We as health and human services can call together a meeting and whether anyone shows is sometimes doubtful. If this is an issue for the county in terms of kids and families and being able to assist us with that and making this a formal task force and giving formal information back to you and hopefully after a couple meetings we can say its resolved, its done. Right now I think that would be really helpful.

Commissioner McCown – Can you assemble that list and get it back to us? It's real easy for us to assembly a task force if we have those folks that are willing to serve. If you would get that list back to us by the first of next month; we won't guarantee any results. The key is the providers. We have no leverage over them nor would we want any. They are the key players I would think.

Commissioner Houpt – As you go thru this process if there is anything else that you need, bring it up at the next meeting as well. It is such an important issue. I'll bring some information to you I got from the National Association of Counties on prescription drug assistance for everyone. It's a free service, but we also have to get somebody in from the community as well.

PUBLIC HEALTH: HEALTH PRESENTATION – Regional Community Overview-2006 Children & Families

BOARD OF HUMAN SERVICES

Lynn Renick and Diane Watkins were present.

APPROVAL OF MAY EBT DISBURSEMENT SUMMARY

For the month of May 2007, client and provider disbursements for allocated programs totaled \$246,812.40. Client benefits for Food Assistance totaled \$115,017.30. Total EFT/EBT disbursements for May equaled \$361,829.60. A copy of the certification summary has been included in the Commissioners packets and the Department is requesting Board approval and signature.

Commissioner McCown - I move we approve EBTs for a minimum payment of \$361,829.60. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - Absent

APPROVAL OF CORE SERVICES PLAN

The Board of Human Services presented the Core Services Three Year Plan for their consideration and approval. The County received a 1.5% COLA increase in the 80-20% allocation for SFY08. Garfield County's total allocation totals \$271,597.00. The four-county (Garfield, Eagle, Pitkin, Summit) Mental Health and Substance Abuse Services allocations remain the same at \$169,998.00; Garfield County will continue to be the fiscal agent for these funds. The department plans to utilize Colorado Works/TANF dollars (\$63,074.00) in order to serve the TANF-eligible population in the areas of life skills and sexual abuse therapeutic services. Also in the plan, two county-design, evidenced based programs are being proposed to serve high risk families; the programs are Multi-Systemic Therapy and Functional Family Therapy. The Plan is due to the State on July 13, 2007.

Lynn – This is an approval for the Core service Plan. This is a yearly plan for mental health, substance abuse as well as internal core services. We also have some specific County design contracts this year, one for

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mediation services and then we are also looking for MST Multi-Systemic Therapy as well as Functional Family Therapy contracts with Griffith Center. Even though they’re closing their residential program here they are still looking at providing community based services from their Grand Junction office. So the core services plan actually needs to be approved by you so we can send it to the state for approval. We already have our allocations for those core services again mental health and substance abuse we are the fiscal agent for four counties. It’s Pitkin, Eagle, Garfield as well as Summit counties. Except for 1.5 Kola, I think on our 80/20 line with core services our allocation amounts typically stayed the same year to year. We are requesting your review and approval on that plan; I’m a little tentative because they have not actually sent out the letter saying do this. But they also sent out a letter stating it’s due back by July 13th. We’re not anticipating any changes in the application form, it has been sent out in draft.

Commissioner McCown – We have several individual contracts here and then we have one for \$441,594.00, is that all encompassing?

Lynn – Yes, there’s two plans here; one is the approval of the plan itself. That’s the 441 and that’s not really a contract it’s just your approval of the state plan for input to the state. If I get the plan approved then I’ll be talking to you about the contracts.

Commissioner McCown – I make a motion we approve the core services. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - Absent

APPROVAL OF CORE SERVICES CONTRACTS

The Department has prepared the major core services contracts in excess of \$10,000.00 for the Board’s consideration. The contracts requiring Board approval include the following:

- Colorado West Mental Health Center – Substance Abuse \$26,675.00
- Colorado West Mental Health Center – Mental Health \$92,150.00
- White River Counseling – Substance Abuse \$14,550.00
- BOCES – Adolescent Day Treatment \$65,000.00

Lynn – We are trying to be as proactive as we can, because otherwise if we don’t we get into billing problems with some of our contractors. We have put into your packets four large core services contracts and that is listed above. I don’t know if you need to have separate requests in on those but those are four of our large contracts that exceed \$10,000.00

Commissioner McCown - I make a motion we approve the contract with Colorado West Mental Health Center in the amount of \$26,675.00. Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin - Absent

Commissioner McCown – I also make a motion we approve the contract with Colorado West Mental Health Center in the amount of \$92,150.00. Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin - Absent

Commissioner McCown – I make a motion we approve the contract with White River Counseling in the amount of \$14,550.00. Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin - Absent

Commissioner McCown – I make a motion we approve the contract with BOCES for Adolescent Day Treatment in the amount of \$65,000.00. Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin - Absent

RECLASSIFICATION OF FRAUD INVESTIGATOR POSITION - WE ARE REQUESTING CONSIDERATION AND APPROVAL TO RECLASSIFY THIS POSITION FROM LEVEL 6, NON-EXEMPT STATUS TO A LEVEL 7, EXEMPT POSITION. A MEMO AND UPDATED POSITION DESCRIPTION HAS BEEN INCLUDED IN THE BOARD PACKET.

Lynn – Reclassification request, it is in your packet a memo as well as an updated job description. We have had this out on our website as an opening since January, 07 I believe. We have reviewed this and taken a look at the job and what it entails internally. At this point in time we are requesting a reclassification from a Level 6, non-exempt status to a Level 7. Exempt status. We really are looking at this person doing more development and implementation of controls both internally and externally. If you have questions I’ll be happy to answer.

Commissioner McCown – Are you getting any interest?

Lynn – We have someone that we are actually interested in at this point in time.

Commissioner McCown – I make a motion we approve reclassification of the Fraud Investigator position to a class 7. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - Absent

APPROVAL OF OUT OF HOME PLACEMENT CONTRACTS

An Agreement to Purchase contract is required to be signed on an annual State Fiscal Year basis with any placement provider that I is utilized; however it is not child specific and does not specify a not-to-exceed amount. A Child Specific Addendum that references the general Agreement to Purchase must be completed on each child/youth I placement, and denotes a not-to-exceed amount.

Board approval and signature is required on the general Agreement to Purchase contracts with providers as well as the Child Specific Addendums per Garfield County’s procurement policies; Child Specific Addendums’ under \$10,000.00 will be signed by County Administration.

An updated list of all out-of-home placements and the child specific information with ID numbers and estimated not-to-exceed for the amounts during SFY08 includes the following:

Ariel Clinical Services	Children’s Ark
Children’s Network	Daybreak – Princeton
El Pueblos Boys’ & Girls Ranch	Griffith Centers for Children
Griffith Centers for Children – CPA	Hands Up Homes for Youth
Kid’s Crossing	Loving Homes
Lutheran Family Services	Mount St. Vincent’s San Juan Youth Works
Friends of Children – Tennyson Center for Children	

Lynn has submitted full amounts through an attachment.

Lynn – The state fiscal year will begin July 1st so we are in need of redoing all of these contracts. The second page of the written report is the spreadsheet. We are requesting the approval of the agreement to purchase

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out-of-home placement services on the list on page 2 on the written report as well as the child specific addendums that are listed for renewal as of July 1, 2007 through June 30, 2008.

Commissioner McCown – If we referred to all of those as the list as shown and the contract number and state ID number would that be adequate for the records?

Lynn – I believe so

Commissioner McCown – I make a motion that we approve the list. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - Absent

PROGRAM UPDATES – Lynn Renick

Lynn – Just a few program updates, as far as I know the Child Advocate Center Facility should be potentially finished as of the end of this week. I know child health is coming up to put in some computers at the end of this week. The ribbon cutting ceremony has been scheduled by their board for July 14th I believe. Invitations should be coming out.

Commissioner Houpt – John and I will both be out of state at meetings.

Lynn – I will let them know. Only other thing I want to mention, you might be receiving a letter of invitation from the state department of Human Services to attend a meeting for kick-off for stake holders in regard to the child and family services review. The CFSR, the feds coming in doing a state review of the states child welfare system and their getting prepared to do again. They did it in 2002/2003, actually it may be a little before that. It's a very significant event for the state and they are also looking at the local counties to be involved in that. We will be hosting, well actually not us but one of the regional stake holder meetings for the Western Slope is in Glenwood Springs. It will be the week of July 23rd. I don't know the specifics yet. There will also be another regional meeting in Montrose and another in Durango. More to come on that.

BOARD OF HEALTH

PUBLIC HEALTH: APPROVAL OF TB CONTRACT WITH CDPHE (COLORADO DEPARTMENT OF PUBLIC HEALTH & ENVIRONMENT)

Mary Meisner – This is for the tuberculosis program for \$4,500.00. The amount is based on activities around tuberculosis control.

Carolyn Dahlgren – Miss Houpt, this contract is based on a master contract so we don't have the issue this time that we have had with a couple of Mary's contracts in the past where the state changes the special provisions on us without letting us know they have done it.

Commissioner McCown – I make a motion we approve for \$4,500.00 for TB. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - Absent

Program Updates – Mary Meisner

We have filled several positions, in the audience we have Christine Roberts, she is our new public health nurse in the Glenwood Springs office. We also have Kerry Goades who will be joining us in July as our health education and special projects co-coordinator. We are in progress with our environmental specialists. I wanted to let you know we had an audit done by Homeland Security it went well and everything was approved. We also had a site visit from HIPPA on our EPSDT program and it went well. One of the things I wanted to bring to your attention was the Governor's 2008 Committee that is working on health care reform. There are four plans that are being proposed and they're reserving the right to look at a fifth plan that might pull all the pieces of the four plans that they reviewed. They had a number of proposals, like 13. What I would like to do is have each of you review the preliminary information. I will email that to you, I know there is a lot of work that is being done throughout the state.

Commissioner McCown – Is your planning mechanism in place?

Mary – That's all being looked at, right now there doing panels throughout the state. We had one in Glenwood last month, one in Grand Junction. They're bringing all the information from across the state together and they are now choosing members to be able to continue on. So there were a number of people who put their names forward.

Commissioner Houpt – Have you had an opportunity to review?

Mary – It's going to be a challenge. I think there will be a push from the national level as well. I think that the state is taking a proactive stance by looking at things within the state and what the state needs. I think it will help work into that process. Depending upon the elections and what comes to the forefront as concerns.

Commissioner McCown – It's a tremendous program but getting your arms around it and funding it are the two, its overwhelming nationwide health program would cost.

JUNE 18 , 2007

PUBLIC MEETINGS:

GIS - PREFERRED HAUL ROUTE MAP

ROAD AND BRIDGE – PREFERRED HAUL ROUTE MAP– Jake Mall and Rob Hykys

Jake Mall - We've come before you to have the new map adopted and you adopted the originals in a resolution back in 2003. And I've been working with the industries and after several safety meetings and on an individual basis with different trucking companies and limited people, we found out some things that we needed to clean up and make easier to read. Marvin and I sat down and put some information together with input from people in the industry that use our roads specifically as a preferred haul route. We put some maps together and got hold of the Guttentburg of the map department for Garfield County and had Rob whip us out some different ones. First thing we did we got a hold of Don and Carolyn and found out that the changes we were asking for would have to be adopted by you as a Board of Commissioners since the original haul route map and weight limit maps were adopted by the Board. So a couple of things, one in the verbiage on them, on the old maps we had verbiage that stated the white roads were not restricted they were county roads, not restricted. With some incidents that have happened, one fairly recently, this was giving people impression the roads could be used for anything. Even though the preferred haul routes were well identified and it's in green color. We sat down, with Robs input the new roads that are all white are still county roads but those highlighted are not a preferred haul route. The way Rob has this map put together and the additions we have

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added and a few changes I think it's going to be a very simple form and there shouldn't be anyone who can't pick one up, read it and abide by our preferred haul routes. Now the roads we have in red that we state for no trucks those can still be used on specific request which we do all the time. We have an incident or an emergency or for some reason they need to go in there, these are subject to change and all they have to do is call us. We look at these on an individual basis. These roads are the roads that we prefer to have the main traffic on for limited residence. The roads are in better condition than some of the others and some of the new roads that are being added on are being built by the energy companies now. We'll have another new haul road, 5 ½ miles of it by the end of July. The weight limit map we have not changed it so to speak. We would like to just readopt as it is.

Commissioner Houpt – I have questions. I was very new when I looked at this last time. What qualifies a road to carry that weight?

Jake – Construction of the road.

Commissioner Houpt- Because almost all of our roads are considered heavy hauled. If you look at your legend, unless I'm not reading this properly, most of the roads in Garfield County are considered roads that could carry really heavy.

Jake – 80,000 is your standard highway for interstate weight 85,000 is secondary highway. We pretty much stuck with the 80,000 when we all sat down and we just kept the 80,000 interstate weights.

Commissioner Houpt – What's the criterion for 80,000?

Jake – Actually it could be anything as long the sub weight is subject to hold it. All of our roads basically should hold 80/8054 without any problems. The roads that we have that are deteriorated isn't caused by legal loads, it's caused by the extreme weights that have permits, by annual permits or individual permit basis.

Commissioner Houpt – Describe an 80, I mean what?

Jake – 80,000 pound would be say one of these ranchers would come in and haul a load of cattle out of their shoot. Standard weight on that truck is usually 80,000 pounds.

Commissioner Houpt – What about construction trucks?

Jake – Yeah, all of our chip seal road are basically structural enough to hold that without any issues.

Commissioner Houpt – All of the roads that are in green on this map are chip sealed?

Jake – No, a lot of those are asphalt. In fact County Road 315 that's a 5" mat. That road was built to heavy haul standards.

Commissioner Houpt – Some of them are dirt roads?

Jake – Oh no there is a lot of those that are gravel roads. 319....

Commissioner Houpt – I'm not trying to be argumentative here but you just said chip and seal can carry the 80,000. But you're also saying gravel roads have the right base.

Jake – Oh yeah our gravel roads will carry 100 to 150,000 without any problems at all and they do on a daily basis.

Commissioner Houpt – So when do you determine the weight restrictions come into play?

Jake – If you will notice everything up in this end of the county has no trucks, we have different weight restrictions on some of those roads up there because of the nature of the road. Those were requested when we put the weight limits on the map and that's why there on there.

Commissioner Houpt – Do you put weight restriction on any roads that are in green?

Jake – If we need to, you bet. And we maintain the right to use the frost law anytime. And frost law is a generic term it's actually CRS 142 which give the county over anyone of your commissioners, Marvin can designate anyone of us to do it. We can at any time put a restriction or totally close that road for up to 90 days. It doesn't have to be frost related that's just a generic term. If we have weather related, say all of a sudden we have a major input into that area of heavy vehicles, the road starts to deteriorating we can put that in there until the road is brought back. We have things in place that we can use to protect the road.

Commissioner Houpt – How often do you think our roads are being used by trucks that are heavier than 80,000 pounds?

Jake – Everyday! We issue annual permits up to 100,000 pounds and those are daily.

Commissioner Houpt – Then why do we have the 80,000 weight restriction in the legend?

Commissioner McCown – That's a local load, it does not require permitting on the state highway system.

Jake – When we issue our annual permit that lets them run to 100,000. Anything over 100,000 requires a single trip permit. Between 100 and 200,000 pounds that good for one trip in and one trip out. Over 200,000 require an extra legal permit. What we have done is adopted the safe standards of state highway.

Commissioner Houpt – Do we have any protections in place that; I mean do we follow these permits so that we know whether they're damaging the roads?

Jake – That's how we know what vehicles and what's running on what road. That's how we can track our road damage. And everybody that runs on these, like the main energy companies we have to have a letter from them telling us, unless the company that's running has their own \$500,000.00 bond in place, we have to have a letter from the companies telling us what companies can work under them running on their bond. And every time a permit is issued it has the road designated from start to where they are going. And what the load is, what their hauling, what the weight is. I look at them every morning and that's how we track them and how we know what road damage and what companies are working on those roads and if we need to get with them. That's how we know what companies are working on a road when we go to appropriate dust control to the individual companies, how many of them are using a certain road so that we can get the money split out for everybody. That's who we know to call for water trucks when we go to re-grade a road or maintain it.

Commissioner Houpt – Are they pretty much paying for the use of the road with the process we have in place?

Jake – By all means. Then the companies that are coming in like Williams, the 25th they will be completely rebuilding a little over 5 miles of road to a heavy haul road. That's going to be a 5" asphalt, all paid for, all the dig outs, all the re-constructions, all paid for by Williams Production.

Commissioner McCown – Given certain roads on here, I'm sure there is exceptions to every rule, Timber Harvest they have to use 241, 245, they have to get off there someway, even though it is not a preferred haul route it does after you get down to the lower end, do we require permits for those folks? 117 is a good example.

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Jake – We can't permit anything like logs, sand haulers, water haulers, those are divisible loads, we can't permit them over legal highway standards.

Commissioner McCown – where we've got a road denoted as not a preferred haul route but it's the only way of getting off 4 mile road, what do we allow?

Jake – Yep we have to, we cannot supersede the state. And when we get a comment for a logging deal from the forest service, then we put in what we need. Whether they have to help us with dust control and we reserve the right if we see damages to utilize the law I was telling you about.

Commissioner Houpt – What if there are safety issues?

Jake – We look at all of that, we make our comments we may tell them they can't run during school bus hours. That they can run only one truck every 20 minutes apart. We can restrict them to how many loads they haul during the day time, what hours they run. Those are all privileges we can put in on our comments and we reserve the right to do that. We've worked with Don on several logging contracts where we have enforced those.

Don – Well the logging – we could require them to break it down.

Jake – What ever our weight limit is posted that's what they have to drop it to.

Commissioner McCown – I don't have a problem with weight limit as a visible load, but some of these roads are marked not preferred haul route and there is no other access out of those areas other than those roads.

Don – I was concerned about that too particularly in the eastern part of the county where you have no designated haul routes.

Jake – Every road has to have the option to be used, if we don't the state will come in on us.

Commissioner McCown – But there is not a particular activity in the east end that would create a demand to designate... But 117 would be a designated haul route on the Baylor blow down.

Don – Will your new regulations allow you to specifically permit an activity such as logging for instance to designate a haul route as part of this special use permit, that would also be addition to designated. Jake I had a couple questions, I wanted to point out it seems to me you have included some roads that are within municipalities? Since we don't control those roads I question whether those should be on a designated haul route and specifically looking at the area south of Silt, looks like 335 right about the area of New Castle which I understand a portion of that is in the city limits.

Jake – It is, if your reading there is no trucks allowed?

Don – Maybe I just can't read this on my map.

Jake – From 312 over, now from 312 out from the New Castle interchange we can delete that out but that is a specific route we use to go into Garfield.

Don – I understand, but since we don't control those right-of-ways it seems to me we should not be designating those as haul, just like we don't designate state highways.

Commissioner McCown – If you were a trucker that got this map and looked at that and saw a white line that says not a haul route, but you come down to the end of 312 and you can't go left because trucks are prohibited, how would you get up that road or down that road. If we took that section, being the fact that it's a city street or whatever, if we took that off and you were a trucker that picked up one of these maps at Road and Bridge and you had a delivery to make up 312 how would you get it there? Because you can't go left on 335, how would you get out of New Castle to get up to 312, up Garfield Creek?

Don – Well it's a city street, I would check with the city and see what they were designated.

Commissioner McCown - I don't think we are doing a real good job of designating city limits.

Don – We probably should do that because you will notice in Rifle and Glenwood Springs for instance but particularly in Rifle and the town of Parachute, we stop our designated haul routes apparently at the city limits. Which is appropriate and that forces them to check with the city to make sure that they can also use the city streets. I'm just suggesting with the town of Silt and New Castle on those roads we shouldn't indicate that we have control over the use of those roads. I think it is misleading.

Jake – I wanted to leave more for information. A lot of the truckers don't show up when I go down to do these quarterly safety meetings. I understand where Larry is coming from and I see your point too Don, but it shows them how to get out of there because we get guys in here in the middle of the night, out of Wyoming.

Don – The problem with that is they will look at this map and assume they can use that road and they can't.

Commissioner McCown – Unless the town restricts the weight limit. But right now there is not a weight restriction so it is preferred haul

Commissioner Houpt- But we're suggesting it's a county preferred haul route. I think if we put in a legend maybe another color saying city street.

Don- I don't think you should stop your other haul routes at the city limits, because some you stop and some you haven't.

Commissioner Houpt – I think you need to stop all of them.

Don - Either they all go through the city or none of them do.

Jake – Now if you notice one on Rifle that comes down on 319 and turns back on 346 under the airport hill, that's the reason it doesn't go into the city limits because that is actually the haul route, it stays within the county right back to I-70 at the Mamm Creek interchange. So that's the reason you're not seeing anything at Rifle.

Don – I'm just pointing out that the county has no authority to designate a haul route within the municipality.

Jake - We can put another color on there designating it's within a city limit

Commissioner Houpt – I think that anyone who uses a road and has questions should contact the appropriate government.

Rob – Rather than defining anything going through a municipality maybe we should put a reference to contact the individual municipality and not try to define anything.

Commissioner McCown – And that will be great but a sand truck coming out of Elk Creek at two in the morning is not going to call New Castle to see if its okay to drive to the interstate.

Rob – True and probably most of these cases though there is really only one logical way to go.

Commissioner McCown – But he knows he can't go left because trucks are prohibited.

Commissioner Houpt – That's going to be true regardless of what color you have on that map. Or whether you have it designated. But this way we are not claiming to have control.

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Don – When the haul route map says trucks prohibited, is that all trucks or trucks over a certain weight?

Jake – No, we prefer all trucks, the reason is there are narrow road sections and most of it is because of safety. If there's a cattleman in there that got a load and shoot, needs to get a load of cattle in there, he's got to get in there. And even the big trucks we had to do some exceptions because of emergencies to get these guys out. And that is available. That's why Rob has on there to contact Garfield County Road and Bridge. Everything in here you have to have an exception somewhere to provide for unknown situations. What we are trying to do is make it a really easy simple route that gets these trucks away from the heaviest rural areas back on the roads that are better equipped to handle them. Narrow road sections we have tried to get them out of there. Mostly it's just safety and the issues involving the roads are the reasons it was put together the way it is.

Commissioner Houpt – Over the years there have been alternative roads that have been designated over roads that could potentially hold a truck. Are those indicated in here?

Jake – No everything right now is completely updated to the way we would like to have it now.

Commissioner Houpt – But in consideration of those communities....

Jake – Are you talking about Battlement Mesa? If you notice Battlement Mesa, Rob has it all red right now. The haul route goes around the four lanes, stays completely out of there.

Commissioner Houpt - Mamm Creek, isn't there a preferred haul route that goes around the back instead of up the face of West Mamm?

Commissioner McCown – You're thinking 319. But you have to go up 319 to get to Grass Mesa. That's why you don't see any in that whole block between 319 and 315. See that whole block is Grass Mesa.

Jake – And then we have the Shaffer Road open three or four years ago now so 322 is a tie in.

Don – One other thing appears maybe as an omission, on the map that is eastern portion of the counties on the extreme northwest corner up north and west of the Roan Plateau area, I believe there are a whole set of county roads up there that aren't showing at all.

Jake – We don't have anything up there, we don't maintain them.

Don – But they are county roads?

Jake – Yeah, this one shows 276, that's Skinner Ridge Road.

Don – Yes they did used to show on the previous map and my only concern is they are county roads. They should probably remain shown as county roads.

Commissioner Houpt – I guess that was my question down below too. Are we going to have one master map that shows all of the county roads?

Rob – That would be the HUTF and see one of these maps doesn't sink up with HUTF; it is missing a block of roads in there. I'll put those back in, I thought I got all of these maps.

Commissioner Houpt – But this one map has all the 400 roads?

Rob – Yeah, and if it's in the HUTF it should also be in all of these maps.

Commissioner Houpt - Are we in a time constraint to get this passed?

Jake – I'd like to get it passed so Rob can go ahead and make the changes and I'm going to set up meetings with everyone of the companies so we go around and sit down with each dispatcher. At the next quarterly safety meeting we will put this all out again.

Commissioner Houpt – Can we do that at the next meeting?

Jake – If you look at the back side of the weight limit map you will see the block of roads Rob is talking about that will be put back in. Right under where the legend is.

Rob – On the western half of maps you can see northeast corner there the whole 400 which are actually on Forest service land I believe or is that BLM?

Jake – BLM. If I'm not mistaken they have private contractors that maintain those.

Commissioner Houpt – Are there any routes on here that you made preferred haul routes

Jake – No, actually we deleted a couple. That was 220 and 221. We got rid of those because it was misleading since we are not letting the industry in there for industrial parks. We left it on 223 road which it should have been. And Rob has added the new change even though everything is not final it's showing that new road up behind the Reservoir. That will actually be on there once all the paperwork is done and we take in that new road.

Commissioner McCown – That will be 290?

Jake – Yes it will be an extension.....

Commissioner McCown – Will this just be a continuance of 244?

Jake – Yes a continuance of 244.

Don – It also appears Divide Creek and Dry Hollow have been removed.

Jack – Actually those bottoms were the white parts we were talking about that said not restricted on the previous map.

Don – The previous map I have shows both 331 and 311.

Jake – On the original map.

Don – This one shows them as haul routes and now they are shown as no trucks.

Jake – Yes and that is because of the narrow sections on both roads. That way they know they have to go out and stay on Mamm Creek Road which was built specifically for that.

Don - One of the questions I have is on Dry Hollow; I thought we were improving that to be a haul route?

Jack – We are using it as a haul route if we close off one of the others, but we prefer to maintain the 315 and keep them off there because that is not a five inch overlay.

Commissioner Houpt – It was being improved for safety reasons.

Commissioner McCown – Where the improvements took place is up in the area that is an improved haul route.

Jake – Where Jenkins Cut-off comes in.

Commissioner Houpt – Any other discussion?

Commissioner McCown – Other than showing the roads, when they hit the city limits. I'd say with those corrections I make a motion we approve the map.

Commissioner Houpt - Second, any further discussion? I really want to see the final product.

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Jake – Rob said he could have one for you here today. I'd like to get this done; some of the new companies we're having issues with them on the white stuff.

In favor: Houpt – aye McCown – aye Martin - Absent

GARFIELD COUNTY HOUSING AUTHORITY UPDATE ON MULTI-JURISDICTIONAL HOUSING AUTHORITY AND REQUEST – GENEVA POWELL AND SUSAN SHIRLEY

Geneva Powell and Susan Shirley were present.

Geneva - We have the existing three agencies, Mountain Regional Housing, Roaring Fork Community Housing Fund and the Garfield County Housing Authority. What we have done is brought those three together under Valley Housing Partners to work together. It's kind of a one stop shopping for housing we hope and become better service here. We have an existing IGA that the Town of Basalt, the Town of Carbondale, the Town of Glenwood Springs and the County signed which was to form the housing fund and it is the multi-jurisdictional housing authority. What we are proposing to do is to expand that, that the multi-jurisdictional housing authority is not just the fund but indeed is the Valley Housing Partners, which we are all a member of. Not regional, the housing authority and place the fund in that. That is what has happened right now anyway but it is not formally done. I have talked to Don DeFord about the IGA that we had with the fund and we need to talk some more about how we can change and make the whole Valley Housing Partners the multi-jurisdictional housing fund, multi-jurisdictional housing authority instead of just the fund. We think the fund is too restrictive to carry administration and the issues of a multi-jurisdictional housing authority can have. In doing that we would expand our services as a multi-jurisdictional housing authority and we would also expand the participation and try taking it down valley. Geneva presented this with the Board through a paper power point.

Susan Shirley – I think there are key words that tell what we are trying to do here. It's the facilitation and implementation of local and regional, the entity of partnership. Which is also some housing solutions, it's time to get building and to set targets and have definable goals. We know there is every evidence in places where they have done that. So the bench marks as part of this we think that will play out for you are important and I think the idea of combination is to keep the efficiency effectiveness and not create something very huge and duplicated. Our role is in leadership and I think that has been demonstrated in the work we have done in the last number of months to build an actual housing development fund. So the structure we laid out for division, two existing offices Rifle and Glenwood here and as you recall the City of Glenwood Springs has gifted us this office space this year. Hopefully we'll continue that as it has been wonderful. We have staff in place and we don't see any expansion there. We see when we have functions we can't do to outsource so as not to grow a large bureaucracy. We have four existing competent programs in those divisions. I think the focus however of our efforts in the next year or two are going to be in the development area and in the, to say to support the changes is to do a little more effective marketing; the name change, the branding and that kind of thing. We're working in partnership with local government for services provided; these are essentially what we are offering; Quasi housing staff to all the towns and the county. And in conjunction with Eagle County as well that area within the Roaring Fork Valley. We assist as we can and we've assisted with the housing regulations. Assist in bringing to towns that may not have examples of what works elsewhere. We will be back to you when the code revisions come in with respect to our recommendations on housing and we already have programs in place we're doing 100 deed restriction, administration of 102 units. We have about 360 - 380 HUD vouchers which are for managing home buyer classes on a monthly basis. We have over 600 graduates now. We have 18 loans active most of them are in the western part of the county averaging size about \$8,000.00 a loan and there are no defaults. In fact we have several turnovers but again the program we really needed is to focus on the revolving loan for development of housing units.

Geneva – Continuing with slides, showing different tools they have for affordable housing, we have the free market, exclusionary zoning and that's what has given them 102 units. Some of the jurisdictions are looking at maybe a commercial linkage. We are talking to people about land trust and land banking. We feel the part of the tool that is missing is designated funding source. We are aggressively trying to grow this housing fund so we'll have the dollars to put into the development. With that we certainly want to acknowledge and to thank you all for your contribution to affordable housing and your involvement and your willingness to help fund that. On page 4, it's come to how will the fund be developed. And our goal is to try to find five to ten million dollars in the next three years. We have several sources that we are looking at and one of them is through the government is an EDI Grant. We are going to request five million dollars and hopefully we will get at least three. We have been involved in a grant like this before and have been successful.

Susan – The best example is in the regional revolving loan fund for down payment assistance. A lot of HUD programs don't work for us here because of our high cost of land. And so the strategy is to go to HUD for a direct line item to say because a lot of your regular programs do not work and fit, we are asking for special assistance in a high cost area. It's essentially a letter writing campaign particularly aimed at our congressional representation. We have had preliminary discussions with Fanny Mae and ideas how to do this. We were able to get \$1 million for this revolving loan fund; our request was three or four years ago. The five communities in that coalition include the ski resort, Eagle and Garfield Counties. We feel that will be something we will request of you, we can provide the format and we will shepherd that from now until budget, 2008. Primarily this is something we can make a pretty strong case, HUD defines us as a very difficult to develop area. We believe there is some evidence we can get rolling there. We see that the corporate sector would be interested in stepping up, particularly the financial institutions. We would expect they would be leaders there but the large employer as well who have a vested interest in having units produced in all of our communities in the county. We expect foundations to be responsive. I was in Leadville last week, talked to a number of foundations on the Front Range to define this fund and say would you be willing to help us see this and grow it? We expect individuals might be motivated eventually through a number of ways. Either gifts of land, which could be developed through this non-profit entity. Eventually as Summit County did we may examine a voluntary tax score, a housing development. I think we are a long way off on that one. So that is how we see the fund growing on an initiative.

Commissioner McCown – What would it do for your program if you had someone that would come forward with a parcel of land that was valued.....

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Susan – If they gifted the land, you can put the land under the project and that is huge.

Commissioner McCown – What if there were some stings on the land?

Geneva – We don't have any cash dollars right now to put into development and that's what we're trying to build this fund to do. But there are grants and the land is such a valuable commodity here that it would be used as matching.

Commissioner McCown – My point being if we get the land and it came with restrictions on who can reside there or the intent of the donation would be to provide housing for law enforcement, county employees, school teachers, city workers whatever. Would that take you out of the element? Remember on the Meadows issue if there is any federal money involved, there can't be any restrictions.

Geneva – There can be preferences on that but no restrictions.

Susan – I think the issue you are talking about is a pertinent one and I believe we could work it. It would limit us in certain kinds of funding but having the land would release us from one of the huge challenges. We can work with the scenario and we expect to because these are the entities that are most challenged right now with critical workers, emergency, fire, police, schools and so I think we can work within that format.

Geneva – HUD would be out of that scenario but Division of Housing might not be.

Susan – And those are the type of things that within HUD funding we can prescribe our own rules and regulations and then how does this fund work. Similarly we are a revolving loan fund grant from HUD for down payment assistance, we define the area it could be used in the type of citizen, the income which was way above what HUD was, it was up to 160% of income. I think we can define a flexible enough use that perhaps even HUD funds can be used in this pool. So we see contributions coming in they can be pulled from pool from maximum investment returns. This is an example where we are using an out sourcing with a CDFI (Community Development Financing Institution), Funding Partners For Housing Solutions it's based in Fort Collins, they work all over the state. They hold about 24 million in housing development funds right now. They can manage these for us but what would be the governance of that particular loan fund would be made up of the contributors to it. Who would have a vote and who would prove the policies of projects that are funded? It would be managed and invested by Funding Partners under the regulations we define. Another advantage to that aspect, CDFI is governed by the US Treasury. There would be an ability perhaps to go out and double our money based if we could put together this three to five million funding. Partners have indicated they will try to go back to treasury and see if they can't match that. So we would see that invested and then under strategy proposals it could come forward from either for profit or non-profit developers to put units on the ground. I also went to a meeting last week on needs assessments, division housing has put together 625,000 for needs assessment for the county. I think what we would ask them to do is help to develop a strategy plan for units.

Geneva – Currently it has Garfield County, the Town of Basalt, Carbondale and Glenwood in there. We've been to council for the Town of Parachute, City of Rifle and the Town of New Castle; they are very interested to be a part of this. We are not on the agenda yet for Silt and Eagle County coming up next week. We are leaving this to see what comes out of the case meetings to see what partnership and collaboration that any of the other districts might want to have with us. But Eagle County is in because of the part of Eagle County that we serve and that includes Basalt. What we wanted to do today is to let you know what we are doing and to also say we are still working with the developers of the Meadows. We met with them last week and looked at some additional sites in Glenwood so we are still looking at bringing that tax credit rental development to town. We have other developers we are looking at trying to work with also. The question keeps coming up about the \$1.5 that the County has put forward and I guess a suggestion to you would be, would you consider putting it in the fund? If you're not comfortable with that would you at least consider holding it for developments we hope are coming?

Commissioner Houpt – I believe it's being held at this time it's still being held for that purpose. I guess my question to you would be will it limit its availability and it's use if we put it into the fund at this time?

Susan – I think the best answer is it would not limit, I think what we would suggest if you put in the fund it helps make the idea of the fund real. It could be prioritized for the Glenwood Meadows project until they find a location. I think this would be typical of a lot of investments in the fund. We actually have an equity investor outline which allows an investor to define their scope.

Commissioner McCown – Is the Glenwood Meadows developer looking for a site outside of Glenwood Meadows and it will still be called Glenwood Meadows?

Susan – They are separate and apart from anything going on at the Meadows.

Geneva – They are still looking for a site for the 120 units.

Commissioner McCown – Back to the statement that the money is still being held, the money has not been spent but I think it was ear marked for a very specific project. I don't know if it's being held. It would have to go back through re-appropriation process because it was earmarked for a very specific project.

Commissioner Houpt – It would have to be and we can't speak for John today. We haven't as a commission talked about what we are doing with that money and so we probably couldn't give you an answer today.

Geneva – I guess the request and appreciation that you were willing to put \$1.5 million forward for affordable housing and that development didn't work, so our request is to put it some where for housing at some point in time to continue that thought.

Commissioner Houpt – I certainly support that and I think that we as a commission need to have a more formal discussion; it probably needs to be an agenda item.

Susan – It would be nice to have you as the lead key owner to the fund and if it could be it could be restricted. We envision that certain donors would say this is restricted for this or a town which we see two kinds of gifts to the fund, one for administrative services which all the member entities give based on their size and the formula. And the second would be sources of funds that are available to each jurisdiction. We would assume units of government would want their monies restricted to there towns.

Commissioner Houpt – Why don't you send us a letter and we will put it on the agenda.

Susan – We hope to have the final members of the expanded IGA done by the 15th of July and we will bring you back a document, working with Don, change of name, expansion of scope and we'll put the request in writing to you.

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Don – I’m assuming from what I am hearing though to actually accomplish the re-structure we would see a new IGA?

Geneva – We will take our guidance from you. We have the existing IGA that has the Roaring Fork Community Housing Fund and establishes it the multi-jurisdictional Housing Authority. I guess we want to expand in how the Valley Housing Partners define how that partnership is to be the multi-jurisdictional Housing Authority and the fund lie within that.

Don – If you’re going to change the services to expand the scope of services, change the name and change the members either we need to have a drastic amendment or a new IGA. I guess my concern also is your intent to form a multi-jurisdictional Housing Authority and to put the current Garfield County Housing Authority out of existence.

Geneva – No, we already have a multi-jurisdictional Housing Authority that’s called the Roaring Fork Community Trust Fund and we think that is too restrictive. If we are going to use the legislature to have a multi-jurisdictional Housing Authority we would like for it to include what Valley Housing Partners is doing and not just a funding source. It includes all of the development, the section eight (8) homebuyer’s education classes.

Susan – If you read the document as I read it, it actually says all of that. I think your suggestion to, it does exist, you have founding members adding there would be additional members, which are not yet identified and simply would be a name change instead of Roaring Fork Housing. We would like to put a meeting with our lawyers and you together, would that work?

Don – I think we probably should it’s just not clear to me yet. If its going to perform all the services that the Housing Authority does today, in terms of Section eight (8) programs and so forth. How we are going to have both operating in the county?

Geneva – Our Board, Garfield County Housing Authority Board struggles with this too because we don’t want to lose our identity as the Garfield County Housing Authority. You established us in the 80’s, the Board of County Commissioners and that’s why we thought if we brought all of the housing entities, I guess one of the things we are also struggling with is that there is so many different housing entities and there may be more coming on the horizon. We were trying to consolidate all those in some way and we thought Valley Housing Partners and we still have our individual structures as Mountain Region and the Garfield County Housing Authority we haven’t done anything legally to dissolve either one of those organizations. I guess it’s almost like we are looking at dissolving the fund as it exists today and adding it in as a component as a multi-jurisdictional Housing Authority.

Commissioner Houpt – We have a wealth of tools in this region and we need to figure out, with the help of our attorneys how to put them to use. I don’t think anyone is trying to phase anyone out this group is just trying to figure out how to put all these amazing tools that we have together in place, so we are not working at separate ends of the issue.

Geneva – We certainly want your input on how we do that.

Susan – Our lawyers are probably asking the same questions and so we think that is probably the next step. We have our 3rd joint board meeting coming up and we’d like to get this all wrapped up the summer.

Don – The last comment is for the board that goes to the \$1.5 million, remember that money cannot come from property taxes and also our sales tax revenue as you know is very much earmarked already. If you are going to set aside that amount for housing issues you need to designate the source of those funds by statute.

Ed Green – I think we went through that calculation, I think we had about \$3 or \$4 million in there that was clearly okay to designate.

Susan – One tiny thing more, John particularly and Larry had asked about private activity bonds, we’ve arranged on a later date to come back with CHAFA to do some real basic 101, we can all learn together.

AIRPORT - STM HANGARS, LLC PROPOSES TO CONSTRUCT 10 T-HANGARS AND TWO BOX HANGARS ON EXISTING ASPHALT PAVED AREA - CONTINUATION OF PUBLIC MEETING WITH JOHN SAVAGE – BRIAN CONDIE

Carolyn Dahlgren – This is actually both a continued public meeting and a public hearing. The continued public meeting part of it has to do with the long term lease. The continued public hearing which is a noticed public hearing didn’t get on their agenda properly. The continued public hearing is an operating right under our airport rules and regulations and minimum standards so we need to do both of them. But we do need a marker in our notes that one is a continued noticed public hearing and one is a continued public meeting.

Commissioner Houpt – Can we do that since it wasn’t noticed?

Carolyn – The topic is there, it wasn’t put on properly. This is one I think the risk is low and the initial notice was appropriate. Yes this is a question for you. It was continued to a date certain last time around. This is not a situation where we have to notify individual property owners it’s a notification by publication under our minimum standards. Which makes most sense to the two of you, do you want to hear the lease first or do you want to hear the operating rights? Or do you care? We will need a motion for approval of Mr. Savage as a private hangar operator and we will need approval of differences in the lease agreement. Brian has a list of those differences.

Brian – I’ll do the lease first, if we can agree on that we can go to the operating rights. In your packet it gave us a completion date a start date in October and completion date in November and I’ve clarified that is 2007 and it is. The building will get put up in about a month and the asphalt is already there. It’s a 10 unit T-Hangar with two box hangars associated with it. It’s in our general aviation area which we will build to the light aircraft standard. He has included his declaration for a condominium association in the packet as well with the associated cost at the very end. Getting into the actual lease, it is listed as STM Hangars LLC; they can fill in the blanks there. On page two of actual lease a few things have changed there. On number three he is not required to put in parking but he is doing that as a benefit to himself and his tenants. On page three, optional fuel storage by the grant assurances we are required to let them sell fuel, that has changed to the aircraft owners have the right to sell fuel. Page 15, we talked about water and sewer, decided to put in public restroom by our self fueler so that for 24 hours a day not only for the T-hangars but also the other patrons can use. Everything related to water and sewer it will be specifically know that it is not available in that area. The other issues is the access road relocation and installation, this is in all the lessees it is the perimeter road

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that goes around the entire perimeter of the inside of the fence. Right now it is gravel we have to maintain that and Mr. Savage knows it is gravel and that it is scheduled for asphalt in 2010. We can't promise that to him, as long as he knows it is scheduled and we will try to get it in. The cost sharing of everyone that will be out there we will have to deal with that later. It says we'll come to terms and conditions to be mutually agreed upon. Page 17 B, C, D and E we leave those in so we know the engineering and the asphalt or the apron base is sufficient and it's already in and we had the airport engineers built that to spec. We'll take that out and put as existing. Not that we didn't comply with our own standards but they are existing and we designed it so hopefully we designed it to meet our own standards.

Carolyn – There will be some weed management behind the box hangars?

Brian – On E there is a little section of dirt behind the two box hangars so that will be the only weed management that will be required. It's all asphalt.

Carolyn – John I haven't looked at the decks yet so I don't know if the weed management is going to be a property owners association responsibility or not. But we need to clarify that.

John – I'm pretty sure it is.

Brian – On page 19 it comes to utilities again and we have already addressed the water sewer that it is not available and so on section three it says industrial waste we can take out the portion about sewers. But he will have industrial waste collection sites. Same thing on page 20, B at the top we will take out the reference to the water. On the bottom of page 20 we agreed that he is able to hold this property, the lease interest so that section will change to allow them to do that.

Carolyn - What Section was that?

Brian – Ten

Carolyn – Okay on mortgage allowed, financing allowed.

Brian – On page 22 we discussed allowing one letter of credit and then one partial release so that will be a change.

Carolyn – Section 18 the assignment for financing to go along with right to mortgage.

Brian – On page 29 we had discussed the aircraft can be used for commercial operations for flight schools, aerial photography, for charter just not the hangar. The aircraft can be commercial but there will be no commercial operations out of these hangars. And that was the one I had listed specifically for this project.

Any questions or comments?

Commissioner Houpt – Any questions?

Commissioner McCown – So you need a motion to approve the lease agreement?

Carolyn – You can do it after we hear the operating rights, you can do it all together. One's a public hearing but in order to draft the final document we have to have an approval of both the lease provisions and the operating rights.

Brian – Now we go back beginning of the lease document. We have discussed this in concept and this is the development phase of the plan. Where he actually comes in and tells us how he's going to do it. The completion date is this year. He shows us his design and do you want to tell us a little bit about the hangar, who's providing it?

John – The building guidelines that the County has for the airport are fairly detailed and are more applicable to bigger more complicated projects so I tried to fit this application into it. One the asphalt, the hangar, the taxiways were there so there's really no development plan the only thing we are talking about is the actual hangar construction. It is a ten bay T-hangar and two box hangar configuration from the steel. Once we get the lease in place we can order the steel. It has been a challenge to get the engineering done. Competition dates and construction dates are contingent on steel and concrete and work. Brian has been real supportive of this project. It is a pretty straight forward minimal development.

Brian – I have gone over this application and find that it is in compliance with airport rules and regulations and minimum standards. I made my recommendation that we extend the operating rights to John Savage and STM Hangars and also that we approve the lease that has been presented to you.

Commissioner McCown - I make a motion to close public hearing.

Commissioner Houpt – Second; motion carried.

Commissioner McCown - I make a motion that we approve STM Hangars LLC as a private operator and also approve the lease that was presented to us today with noted corrections.

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin - Absent

PUBLIC HEARINGS:

ASSESSOR - ABATEMENT FOR GARY AND BEVERLY SPEVERE (07-171) – LISA WARDER

Lisa Warder – It is a commercial building in Rifle. The petition provided income evidence to the assessor that the 2005 and 2006 values were excessive for the transitional neighbors and they requested abatement for 2005 and 2006 taxes and the commercial appraiser agreed. The tax amount for 2005 is \$1,633.19. For tax year 2006 it is \$1,627.50.

Commissioner McCown – Is this the doctors office?

Lisa – Yes

Commissioner McCown – I move we close public hearing

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – Absent

Commissioner McCown – I make a motion we approve the abatement for the year 2005 in the amount of \$1,633.19 and 2006 \$1,627.50. Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – Absent

BULDING & PLANNING ISSUES

CONSIDER AN AMENDED PLAT FOR LOT 1 AND 2 OF CLUB LODGE WITHIN THE PUD OF ASPEN GLEN – APPLICANT: PCA, LLC – David Pesnichak

David Pesnichak was present and presented a very straight forward presentation.

BACKGROUND AND DESCRIPTION OF THE PROPOSAL

This is an amended plat application to change the lot line between Lot 1 and Lot 2 of “Club lodge” within the Aspen Glen PUD. According to the Applicant:

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Proposed Amendment to Lots 1 and 2 of “Club lodge” within the Aspen Glen PUD

STAFF RECOMMENDATION

The Applicant has provided all required documentation and has satisfied the applicable standards for this plat amendment. Therefore, Staff recommends the Board of County Commissioners **APPROVE** this amended plat request with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. All plat notes from the original Final Plat of Aspen Glen PUD shall be shown or referenced on this amended plat.
3. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder’s Office of Garfield County.
4. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.

David – Staff is recommending approval with the standard three conditions for amended plats.

Commissioner McCown – I make a motion we approve the amended plat, basically a lot line adjustment with the three conditions as proposed by staff.

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – Absent

CONSIDER REFERRAL OF A SPECIAL USE PERMIT ALLOWING AN INDUSTRIAL SUPPORT FACILITY OPERATED BY PETROLEUM DEVELOPMENT CORPORATION ON A PROPERTY OWNED BY CHEVRON USA, INC. – APPLICANT: CHEVRON USA, INC – CRAIG RICHARDSON

Craig Richardson present and presented a slide presentation.

BACKGROUND:

Garden Gulch Compressor site is an existing compressor station located north of the Town of Parachute on County Road 215. Currently the site is improved with two (2) compressors, multipale tanks and processing equipment.

REQUEST:

The Applicant has submitted a Special use Permit to allow alteration of the existing facility. The following items will be removed:

- Flare
- Glycol regenerator
- Discharge separator
- Above-ground tank and meter

The Following Items will remain on-site:

- Ajax compressors
- Separator
- Meter
- Tanks and emergency vent stack

New equipment to be added includes:

- Two gas driven compressors
- Third future compressor
- Glycol contactor
- Glycol regenerator
- BTEX unit
- Pig receiver
- Inlet separator
- Discharge separator
- Fuel and gas scrubber
- Enclosed flare
- Associated above-ground storage tanks

Proposed site plan

RECOMMENDATION

Staff recommends that the Board of County Commissioners direct Staff to schedule this item before the Board and not refer the application to the Planning Commission. The request is an alteration to an existing facility and will utilize the existing footprint for the proposed expansion.

Craig – Staff recommends that the Board not refer this item and schedule it to be heard before the Board of County Commissioners.

Commissioner Houpt – Your recommendation is because it’s on an existing facility

Craig – Yes it’s an existing facility it’s just altering on the existing footprint.

Commissioner McCown – If we had an amendment process we wouldn’t need this. Let’s go ahead and schedule this before the BOCC.

Commissioner Houpt - Second

In favor: Houpt – aye McCown – aye Martin - Absent

BUILDING AND PLANNING: CONSIDER A REQUEST FOR A WORK SESSION WITH THE DEVELOPMENT TEAM FOR THE FUTURE DEVELOPMENT OF SUNLIGHT SKI AREA – REQUEST IS MADE BY BALCOMB & GREEN – FRED JARMAN

This is a follow-up from June 11, 2007. The purpose is to discuss a proposed development plan for Sunlight. Exquisite Development is the contract purchaser for Sunlight, Inc. and has had a development team putting together an application for a PUD approval for the Sunlight base area properties. That application is now approaching completion.

Fred Jarman and Larry Green, Balcomb and Green were present

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Fred Jarman – What is in your packed is a letter from Balcomb and Green requesting a work session with you all. They asked staff to have this agended so that Larry can walk through his letter with you.

Larry Green – I was here one week ago with a development application up Four Mile Road that was ultimately denied by this Board and in the course of discussing that application it became crystal clear to me that there are a few major issues involving any development up Four Mile. All of those issues are going to have to be addressed in consideration of a land use application for development of the Sunlight Base area properties. I believe that it would be appropriate if we could come in a work session setting, it's a public meeting so the public would be invited to attend. I don't know that it would be appropriate to take comment from them but I would defer to you. And to be able to discuss not so much the land use plan for Sunlight but how a development of the size that we are talking about will relate or – how it would have to be considered in the context of some of the big issues we talked about last week in connection with the Reserve at Elk Meadows. I'm not asking for a straw vote on any particular land use application. Just the opportunity to present this to you, let you see the scale of it and then get some feed-back not so much on the plan but as much on well your going to have to deal with traffic issues. It's a much more generalized discussion I'm seeking than any feedback on any particular plan.

Commissioner McCown – I guess I have a reluctance to move forward with this since we are ultimately the entity that would have to hear the application in its final form. I wouldn't want to give anyone any presumed approval or disapproval prior to the actual public hearing process Larry because of legal ramifications both ways in fact. There is a process set forth and I know you went through that process on the last exercise you brought forward last Monday. I guess I would be reluctant and I don't know how there could be an insulated barrier placed around us enough entering into a work session talking theoretically about things that specifics wouldn't enter into it. I wouldn't feel comfortable I would rather wait until the true rubber hits the road of the process and bring those issues forward at that time. I know it's a significant expense and risk to the developer but I think that is the only process we have available to us.

Commissioner Houpt – I have heard of other counties doing this. I don't know how they do it without opening up the concern of having a straw poll or leaving the applicant with information that would guide them in the wrong direction and have them come in and be blind sighted in their minds because they had that previous meeting and then something didn't go their way on the vote. Have you seen this work in other places?

Larry Green – I have not participated in one in other places. I am aware they are done in other places. I am aware that Eagle county will do work sessions from time to time with various applicants. I think it goes on frequently in the Front Range but I don't practice over there so I don't know the ground rules for the work session setting. I understand what you are talking about and your concerns but I mean maybe an approach is not to even bring in a land use plan but just talk about how are we going to solve the South Bridge issue? Is it this Board's position that no development is going to happen up Four Mile until the South Bridge or some other way out of Four Mile is made?

Commissioner Houpt – And that is something we haven't discussed as a commission so I don't know where this commission stands on that it would be a valid question.

Commissioner McCown - Today it might be a split vote.

Larry Green – Would that be a question you would be willing to consider in a public meeting?

Commissioner McCown - I don't know that there is a venue to talk about that without bringing Glenwood Springs to the table because they are clearly going to be the lead agency. They clearly need to be in the conversation if the South Bridge is going to be the topic of discussion.

Larry Green – I can tell you that there is no development up Four Mile that will be able to afford to make the South Bridge a reality. It is just not an economically viable thing. You could build a city the size of Grand Junction up there and maybe then they could generate...

Commissioner Houpt – It's a very expensive project. It's a project that has really got to be accessed and we are beginning that process right now. But if you look at the infrastructure configuration for all the people that recreate and live up there and the proposed numbers to live in the corridor as well as the South Glenwood area we haven't kept up with the infrastructure. It's the Cities responsibility, its CDOT's responsibility we haven't come to the table and put together a viable partnership to get that going. We are at the beginning stage and I'm hoping CDOT will come back to the table with that as well. Our staff is really the voice of the county through the application process. I would love to sit down and talk about the vision and the communities and the county but the process makes it difficult.

Commissioner McCown – This morning we approved funding for an environmental assessment that is taking place on the South Glenwood Bridge after that several alternatives will be proposed including a cost analysis. Your looking at several months out before the best case scenario can happen. Even the talking stage on the bridge is almost premature because we don't have the EA's back and we don't have the cost analysis back which will include the alternatives. I don't know that our talking about it would speed anything up because all of those have to happen prior to it being build anyway.

Commissioner Houpt – I still think there is value in creating a level of commitment and I don't know, I think it's great to have developers at the table for that as well. But I would agree with Larry it has to include the City, has to include CDOT as well. I don't know if that would help you, the questions that you have for us.

Larry Green – I don't know that it would either. It's a very challenging question because I firmly believe the application that this Board saw last Monday met all of your PUD requirements it was consistent with the comprehensive plan and yet it was denied. We are gong to try to do the same thing with Sunlight and for a project of that magnitude my clients are spending several hundred thousands of dollars to put the application together and to then come in and bring in application which we believe satisfies both the letter and the intent of your code and your comprehensive plan, to have it denied because of this bigger issue of traffic is very frustrating.

Commissioner Houpt – There were other issues involved in that but that was last weeks discussion.

Larry Green – That's correct but if in fact it is the consensus of this board that we just can't approve development up Four Mile, I guess I don't understand the basis for denial last week other than people saying it was too dense and it generated too much traffic. I'm telling you the Sunlight application is going to be for some where in the neighborhood of 750 units. And so it's going to generate four times the traffic that the

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Reserve at Elk Meadows application development would have generated it. And it's going to put it all the way up to the top of Four Mile canyon. If the answer is going to be no because the road problem needs to be solved, I'd sure like to hear that now instead of waiting.

Commissioner Houpt – I think there was a lot of discussion last week and I don't want to get back into this but there were a number of reasons why the application was not approved and this commission, I know each commissioner on this board spends a great deal of time looking at applications independently. Without knowing what your application looks like and what the conditions are how could we possibly tell you that it is not going to be approved unless we adopt a formal moratorium which we haven't done at this point.

Commissioner McCown – I don't know what else I can tell you. And I don't know what you can tell your clients.

Larry Green – Continue down the road I guess. So I guess the answer is no on the work session?

Commissioner Houpt – I would love to have a work session I've wanted to have work sessions since I was elected into this position because I think it's important for our decisions as well but because of the way the process is established in this county there is not support in our legal department for that and I haven't heard anyone else say they would be willing to do that. The reason I think it would be valuable, I would kind of flip who would get to talk at that meeting I think the public could talk but we probably wouldn't be able to say anything. It does allow I think for some pretty decent open planning and there potentially could be some questions we could answer. But in this county we haven't found a way to do that.

Commissioner McCown – Any opportunity we have we would certainly keep you in the loop with our discussions with the City of Glenwood as far as what is taking place on that corridor. I think that is the least we can do.

Larry Green – I appreciate that. I think I know fairly aware of what's going on because of the discussions we've had with the City of Glenwood Springs for both the Elk Meadows applicant and the Sunlight application.

Commissioner Houpt – I think our staff is fully aware of what's going on as well from the counties perspective and you always have access to them.

Larry Green – Yes, okay thank you.

PUBLIC HEARINGS:

BUILDING AND PLANNING: CONSIDER A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT LOCATED SOUTHEAST OF THE CITY OF GLENWOOD SPRINGS OFF COUNTY ROAD 115 AND DESCRIBED AS COX PARCEL #5 – APPLICANT: FINLEY, STEVE – DAVID PESNICHAK

David Pesnichak was present and passed out a letter from Steve Finley; it's used to indicate that he would like to withdraw this application. His building plans include a unit that is too large for our 1,500 square foot requirements so he is going to make the unit his primary dwelling unit instead of doing the ADU.

Commissioner Houpt – So he is completely withdrawing?

David – He has.

BUILDING AND PLANNING: CONSIDER A CONDITIONAL USE PERMIT FOR A BOARDING HOUSE ON A PROPERTY DESCRIBED AS 0635 COUNTY ROAD 106 – APPLICANTS: SEGAL, LINDA, RICHARD & REBECCA – CRAIG RICHARDSON

Craig Richardson, Jason Segal and Michael Howard, County Attorney were present.

Michael Howard reviewed the noticing requirements for the public hearing and determined the applicant needed to obtain proof of the certified letters being relieved and also a copy of the notice in the Post Independent. He was not able to get a copy of the notice in the Post Independent. It will be up to the Commissioners.

Carolyn Dahlgren – Explained to applicant we had to have proof.

Michael – Where you able to obtain proof of publication?

Jason - I was not.

Commissioner McCown – I think under the circumstances and the fact one adjacent property owner alleging failure of notice that the applicant had better re-notice this issue and bring it back before us. I know that may be an additional expense and a bit of a hassle but I think in order to keep things legal it will protect you if you had all of the required documents.

Jason – We were just trying to move forward in this summer season.

Commissioner Houpt – We have to make sure everything is legally in place before we proceed. Gave back exhibits. So do we want to set up a day?

Craig – We need to give them enough time to get it in the paper and send out the letters. I'll work with the applicant.

Carolyn – Since this is your first go around please remember that the posting has to be done it needs to be up the morning you have a hearing. Don't take down the posting.

BUILDING AND PLANNING: CONSIDER A REQUEST FOR A REZONING TO PUD FROM AL AND ARRD AND PRELIMINARY PLAN FOR THE RAPIDS ON THE COLORADO – APPLICANTS: RAPIDS DEVELOPMENT CORPORATION, THE RAPIDS ON THE COLORADO HOMEOWNERS ASSOCIATION AND HILTON, GENE R. & MARY JO – FRED JARMAN

The Memorandum of Understanding (MOU) has expired and the Town would like to have a new discussion with the developer on the current proposal. The Town has submitted a letter, dated June 13, 2007, to request a continuance of the public hearing. Staff agrees with a continuance to allow a more informed discussion to occur which will benefit all who are concerned and recommends the Board continue this matter to a date certain. The earliest the matter could be heard would be August 6, 2007. Staff also suggests the Board require the applicant to re-notice this hearing.

Fred Jarman- You have a request before you from the applicant as well as the Town of New Castle to continue this matter from today to a date certain. Staff has suggested to you the date of August 6, 2007, it's the soonest date on the agenda that makes sense. It is about a month and a half a way. To the issue of the continuance in the Town of New Castle you may or may not be aware this property is located within what is called the area of urban influence of the Town of New Castle. That is important because we as a county have

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an IGA together with our jurisdiction if we are looking at a project that nearer to your town we'll send a copy because it is important to you and what impacts may affect your town. That was the case and has been the case with the Town of New Castle for a long time. In fact they had entered into a memorandum of understanding with the developer and that discussion has come due, it has expired. There is a letter in your packet from the town specifically requesting a continuance so they have time again to revisit this. We have provided them with the materials but the way their board schedule falls they hadn't had a change to meet as a board and discuss this issue to provide good comments back to you. Staff agrees. The same is true with the applicant before you.

Commissioner Houpt – Do you think this is enough time to re-notice?

Fred – It's really right on the line. You have had developers re-notice, just so the public stays in tune. Month and a half is not that far away and it's really up to you.

Commissioner McCown – I think probably looking around the crowd, recognizing some familiar faces and most people that have direct interest are here today. I don't think notice will be needed for the second hearing. I would like to make a motion that this be tabled until August 6 2007 at 1:15 PM time period

Commissioner Houpt – Second and I would agree with that.

In favor: Houpt – aye McCown – aye Martin – Absent

Fred – May I ask one other question while we're here, there maybe a question of time frames and when you were actually required to hear this matter from when it was heard with the planning commission and if there is an issue with time frames I'm asking that the applicant simply wave those times so we can have this hearing?

Carl – With Leavenworth and Karp – So waived and if the legal department would like a conformation in writing we can do that.

Fred – That would be great

BUILDING AND PLANNING: CONSIDER A ZONE DISTRICT AMENDMENT FOR PROPERTY LOCATED WEST OF SILT – APPLICANT: SNODE, BRUCE – CRAIG RICHARDSON

Bruce Snode and Craig Richardson were present.

Carolyn Dahlgren – This was actually a continued hearing. We opened it up last time around. It's my understanding however; the applicant property owner is sitting to the right of his attorney. My understanding is that the agency letter, the letter of authority that was given to the contract purchaser has been removed.

The applicant desires to go forward, the applicant is actually the property owner, and the property owner wishes to go forward with the application as is with the contract purchaser being out of the picture. There is no letter of authority. So that's the situation we are in now.

Commissioner Houpt – Does this change the intent?

Carolyn – Under our regulations the applicant is always the property owner. So if authority is given to somebody else to proceed, then somebody else can proceed. So here the property owner is proceeding on his own.

Commissioner Houpt – But it was, isn't there some concern or question that originally the application was brought forward by someone else for a particular reason?

Carolyn – With the permission of the property owner. So the property owner will have to speak to whatever the reasoning was.

Commissioner McCown – And it may or may not be relevant why that person is no longer here if the property owner wants to go forward.

Carolyn – That's why our regulations require the property owner to be the actual applicant even though they can authorize somebody else to speak for them and to proceed for them. But I don't know the particulars of it. They will have to address those.

Bruce Snode – To try to answer your question, the person who had it under contract terminated that contract, since then it's gone under contract with another individual with a like use. So the zoning is necessary in the exact same context that it was presented to you in the first place.

Planner Craig Richardson submitted the following exhibits: Exhibit A - Proof of Publication, Exhibit B – Garfield County Zoning Regulations of 1978 as amended, Exhibit C –Garfield County Comprehensive Plan of 2000, Exhibit D – Application, Exhibit E – Staff Memorandum and Exhibit F – E-mail from Julie Hanson, representing Bruce Snode, Owner, dated June 6, 2007. That is the letter of authorization withdraw.

Chairman Martin entered exhibits A – F into the record.

The speakers were sworn in.

Craig said, the applicants are Bruce Snode and Albert Stark, owners, location is County Road 184. Size of the property is 8.95 acres and the current zoning is AI.

Planner Richardson explained and showed a slide presentation.

REQUEST

The Applicants request that the Board of County Commissioners (the Board) rezone the subject property from Agricultural Industrial to Commercial General. The Applicants believe the requested rezoning is warranted due to the location and character of the area. Four (4) contiguous parcels located to the north of the subject property located within Garfield County are zoned Commercial General. The Planning Commission unanimously approved an amendment to the Garfield County Comprehensive Plan designating the subject property Commercial (from Outlying Residential) consistent with the existing designation of adjacent parcels.

The subject parcel is adjacent to the Town of Silt and is designated Agriculture/Conservation in its Comprehensive Plan. Staff addressed this issue with the Applicants during a pre-application meeting. The Applicants have represented that a meeting with the Town of Silt concluded with the request to reserve a portion of the property for mixed development for possible future annexation into the Town. Staff referred the application to the Town no comments were provided.

PROPERTY DESCRIPTION

The 8.95 acre property is situated between I-70 and the Union Pacific right-of-way. Currently, the property is used for agricultural grazing (single horse observed on-site) and is relatively flat. No improvements are located on the property.

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PLANNING COMMISSION RECOMMENDATION

The Planning Commission recommended the Board of County Commissioners rezone the property from Agricultural Industrial to Commercial General finding that conditions of the neighborhood have changed to such a degree to support the requested zone change.

STAFF RECOMMENDATION FOR ZONE DISTRICT AMENDMENT REQUEST

With all of the above factors taken into consideration, Staff recommends approval of the application for rezoning the subject property from AI to CG finding that there has been a change significant enough in the conditions of the neighborhood that supports the requested zone change.

Commissioner Houpt – Does legal staff have any comments before we go to the applicant?

Julie Hanson – Hi, I’m Julie Hanson, Beattie and Chadwick. I represent the owner, you met Bruce and this is Al Stark the other owner. Bruce and Al can answer any questions regarding the use. It will be used for a mini-storage as the previous buyer also intended to use the property for. So they can answer those questions. Any of the other legal questions I’m happy to answer.

Commissioner Houpt – Would you like to add anything about your application?

Bruce Snode – I think it’s pretty well covered other than answering any questions you might have.

Commissioner Houpt – Do you have any questions for the staff or applicant?

Commissioner McCown – I have none.

Commissioner Houpt - Anyone in the audience have any comments or questions on this applicant? Yes sir?

Kevin Michaelson – Myself and a partner had this property under contract previously. I’m interested in challenging that the applicant is always the owner in this situation. In your Garfield County Code, Section 10.03, submittal, each land under application for amendment shall be in the form of a written request to the County Commissioners identifying the applicant, blah, blah, blah. I don’t necessarily; I believe this was our application and I don’t think it’s appropriate that we lost it in this situation. We were trying to work out with the owners a means to pass the application to them. But that conversation didn’t go as planned, so I don’t think it’s appropriate for these guys to continue with the application without us handing it over.

Commissioner Houpt – Could you comment on that?

Carolyn – I can only say that consistently throughout our zoning resolution, it’s different than subdivision; the applicant is always the owner of the property and any permits issued by this Board run with the land. The contractor purchaser can in this instance, can only function as a representative or an agent of the owner of the real property.

Commissioner Houpt – So it’s more of a civil issue?

Carolyn – Yes, any disputes between the contract purchaser and the current owner is a matter of civil dispute across the street. The interpretation of the contract or some other legal theory that may allow that fight to go forward. It’s not anything that the Board of County Commissioners can fix. Under our subdivision regulations, the applicant has a wider definition but not under zoning. And that is consistent with the general common law principals of zoning because a permit is an added on a property right that belongs to the property itself and thus to the owner of the property.

Commissioner McCown – And we have in the past had folks other than the owners come forward but they have done it with a written decree from the owner that they were acting on their behalf.

Carolyn – Yes, I think our application forms probably call if a Letter of Authority.

Commissioner McCown – Yes

Carolyn – And in this case that’s been of the owner.

Commissioner Houpt – My sense is it is a situation you were trying to work out that you know obviously we don’t have the tools to, but you probably have a pretty valid, not speaking under any legal authority but you probably have a pretty good argument if you spent money on an application that was turned over to the actual applicant that was the property owner.

Carolyn – Depends upon the terms of the underlying contract and we don’t know that and we can’t act on it.

Commissioner Houpt – Well we don’t know that but it does put people in an awkward situation and I’m a little surprised that we have a process that doesn’t have some kind of remedy for that. It could have been a large, a really large expensive application and

Carolyn – That’s to be worked out between the applicant and the contract purchaser.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing.

Commissioner McCown – I would recommend the approval of the application for re-zoning the subject property from AI to CG finding that there has been a significant change in the conditions of the neighborhood that supports the zoning change.

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – absent

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

**JULY 2, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, July 2, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

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PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

Dennis Davidson with the **BOOKCLIFF CONSERVATION DISTRICT** – regarding the CR 137 fire debris area. This has to do with the Watershed Protection Program; it is time to use the program on the New Castle Fire and protect the homes below the road that are in the area that has potential for debris flow. Dennis said they are willing to be a sponsor and asked Garfield County for his assistance for the DEB Program. Damage or flood issue; Dennis said he wasn't sure but did want to get the ball rolling with the State Conservation District.

Chairman Martin stated we learned from the Coal Seam that mud slides.

Dennis said he needs a 25% match from someone other than the DEB program and this could come from Road and Bridge or the homeowners.

Dennis submitted the letter of request for funds on a disk and it didn't include an estimate on the cost however it did show that 12 homes on the County Road were at risk where the back burn was done to keep the fire from spreading.

The Board favored being a partner.

Release letters will be needed from the landowners.

Dennis requested action and a signature from the Board on the sponsorship letter. He said re-seeding will be done this fall. The fire was 75% on federal land and 25% on private land. Two ditches are a concern.

Commissioner McCown made a motion to be a sponsor. Commissioner Houpt – seconded.

In favor: Houpt – aye Martin – aye McCown – aye

COUNTY MANAGER UPDATE – ED GREEN

ROAD AND BRIDGE: PROVIDING 3/8” CHIP SEAL OR 2” ASPHALT MAT TO VARIOUS

COUNTY ROADS – KRAIG KUBERRY

Ed Green, Tim Arnett, and Kraig Kuberry submitted the bid.

A Formal request for Bids from qualified individuals or companies were prepared and put into a legal advertisement in the Post Independent. Two responses were received; United Companies and GMCO. United Companies was the lowest responsible bid of \$652,918.10 for 3’/8” chip seal. The other was from GMCO for \$738,774.15. No bids were received for 2” asphalt matt. Performance and Payment Bonds were also provided as part of the bid. Our remaining chip seal budget is \$462,700.00. Amount not in the budget is \$190,218.69.

A number of citizens were present in support of the 3/8th chip seal. \$190,216 unbudgeted.

Cost of doing the roads will cost an additional \$652,918.69 to put the 3/8th on top of the 3/4th – the 3/4th is for structural. And \$1.1 was the cost for putting down the 3/8th additional. A list of the roads was submitted.

County Road 102; County Road 103; County Road 113; County Road 137; County Road 204; County Road 226; County Road 243a; 243b. The amount not in the budget is \$190,218.69.

County Roads 102, 103, 113, 226, 137 & 243 were the County Roads the group suggested.

Public Comments:

Paula Stepp – 26 year resident and enjoys bike riding. Asked the Board to reconsider some of the roads.

Survey was done. Over 70 responded. 6 or 7 roads were listed.

Commissioner Houpt submitted two e-mails; one received June 27, 2007 from Kenneth Wilson with regards to his feelings on the County Road Chip Seal project. He stated he would not be able to attend however; he has been riding bikes since 1975 on our county roads and feels they are the worst he can ever remember. He feels the size of rock being used now is larger than used in the past. He feels there is a safety issue, the smoothest part of the road where this chip seal is done is in the wheel tracks of the automobile traffic, and the county is forcing bike riders further into traffic than is normal. He feels there is not a good engineering reason to use rock as large as Garfield County uses. The second e-mail was also received June 27, 2007 from Bruce Christensen, he appreciates the attention Tresi is giving to the chip and seal issue. Mr. Christensen stated he spoke to three civil engineers regarding safety/traction issues. He recommended the Board award competitive sealed bid to United Companies to provide and apply 3/8” chip seal throughout the County.

Commissioner McCown mentioned that Bruce Christensen stated in a previous hearing that he feels there are a number of chip and seal options that could work better for everyone and would appreciate it if the County could explore these.

John Hoffman – uses the County Roads a lot for bicycling and this is about commuting in and out of town.

This form of transportation is increasing every day. He would like to add 106 Road to the list.

Jim Graw – 108 Road west of Carbondale. Riding a bike is a great thing to do. Riding 28 years and 3/4th is dangerous. Winter safety on Thompson Creek Road has proven no greater accidents. 108 Road has a steep hill and traffic going up Spring Creek Road. Encouraged to make all roads chip and seal bike friendly.

Frank Martin – 1981 in the valley and asked the Board to make a judgment on the roads. Taxpayers are bikers and they use the road and this Board needs to make a judgment and make the roads safer for bikers.

Susie Ellison – Road 100 – likes to commute to work. The 3/4th rock are not safe. Roads on Missouri Heights are not pleasant.

Nancy Reinish – 25 year resident – believes the roads should be available for all types of transportation.

Cycling is part of the culture in Colorado. She reminded the Board of the event” For the Love of the Bicycle in June”.

Bernadette Juliech - a lot of kids are riding the roads.

Steve Carter – rides bicycles. He's a rural road rider and stated that many other counties do make roads safer for bicyclists. The roads in Garfield County are worst in the area to ride. 2nd point is that he has frequent flat tires riding on our county roads. A better approach would be to have smaller rock.

Rifle needs improvements and he submitted the list of roads that are in this area.

Nancy Stevens – 6 years – Women's Triathlon and her favorite road is the Westbank Road but it is scary to ride on CR 109. Please use smaller chips in the road.

Jeannie Golay – 17 year resident. She understands the interest in the ¾” gravel. However, the demographics are changing. More families want to ride bikes.

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Dale Ahrens – Missouri Heights resident; he pointed out the Ride the Rockies and he promotes bike riders and how it brings tax dollars into the community. Most riders will spend \$1,000 to \$2,000 and they pay sales tax and property tax for business owner.

Larry Evers – a biker and lives in the County; found the condition of the roads to be less than bike friendly. He rides 2000 miles per summer for his health and fitness.

Jim Githens – keep in mind that the roads are multi-use roads. Eagle and Pitkin use smaller aggregate on the roads and bikers have no problems on their roads. He encouraged the Board to use the 3/8th overlay.

T. Lincicome – lives in Sutank and rides Highway 82; one thing, the rough road will wear the tires out more.

Tom Clark – in area since 1972, lives in Carbondale since ‘82 and cycling since ‘76. Smoothness of the roads is for safety otherwise you have to shield yourself from the flying rocks. Look at the long term costs. Eagle County on Prince Creek Road– road planners have looked at this and looked long term. Encourage to use the smaller rocks.

Jonathan Shamis – safety and economic issues are valid. Vision – the County is changing and it’s important to recognize the population the county is serving. As the County grows we should maintain the quality of the roads.

Chris Harris from Carbondale: 1) safety is important and being able to ride in a safe manner; 2) other options 3/8th is half or 5/8th and you can be safe by putting down 3/8th instead of a second overlay of 3/8th. All across the county the population is increasing and there are more people interested in riding bikes.

Jock Gold – he bike races at age 72 and he’s in good shape. He lives in New Castle and rides the road to Harvey Gap in New Castle. He had a rock hit him and broke sun glasses. Get smart, use 3/4th but we need to have a bicycle lane of 1’ on the side for the bikers.

A motion was made by Commissioner Houpt to award the bid to apply 3/8th chip seal throughout the County in an amount not to exceed \$652,918.69 for United Companies.

Commissioner McCown seconded for discussion.

Commissioner Houpt – thinks it is really important to award the entire contract and can’t just look just piecemeal around this County and expect to really be serving the general public on an issue that is more of a safety issue than anything else. I have asked numerous people in different areas and counties about the size of rock used on their roads and perhaps because of my stature and sex, but when I said we were using the 3/4” rock and asked their opinion on it, it was a “little lady you don’t know what you’re talking about, nobody uses that size rock on a road.” When my road was repaved, I had to stop walking my dog on the road because his pads were bruised. I think there are issues that as we continue to grow as a County we need to adjust to and this is one of them. This solution may not be the best long term solution; I think we really need to look at how we approach the maintenance of roads in the future without doing a ¾ and then an overlay because it does get very expensive. But I’ve also heard that it’s going to last longer. In the long run we have to balance that out as well. I strongly believe that we need to award this bid and do it throughout the county.

Commissioner McCown – some comments that were made today and I want to thank everyone for coming and voicing your opinion but there’s a misnomer that Garfield County has changed how we’re chip sealing our roads. We have not; to my knowledge in the last 11 years nothing has changed on the prepping and chip sealing of our roads. We use ¾” aggregate and have since the first road in Garfield County was chip sealed back in the early ‘80’s. That’s when most of the roads that used to be gravel, farm to market roads all the sudden became chip seal with the oil shale money that was available and had to be expended or we would lose it. That was all 3/4” chip seal. We have since then used ¾” chip seal on all of our roads and the primary reason is because of the structural integrity it allows. Most of our roads are farm to market roads with very little sub base under them and without some structural integrity on the surface, you’ll be driving back on a graveled road in no time. The 3/8th alone does not allow that structural integrity that the ¾” does. Now, I heard a list of roads today that were a priority; if this is going to be a pattern that is going to be a pattern, I would like to see you bicycle enthusiasts and you did a good job of filling the room today, but probably with far less than that 10% of the population of Garfield County you’re asking us to expend an additional 60% of funds that we would normally use to chip seal our roads. I would like to see you pick and choose bike routes throughout the county. There are roads that are on this list that would get 3/8” chip seal if this passes that have not had a bicycle on them in 20 years – they would have to haul a bike to it. I would like to see a preferred bike route if that’s going to be the task that we’re given and then we would only put the treatment on those roads. Everybody’s most important road is the one in front of their house and we’ve heard that the bike paths that are being provided are not adequate, now we want roads. The roads are primarily designed and built for vehicles. We do not have right of ways that allow us a bike path besides those roads where we can extend the roadways out and give you a safe riding area. We do not have the right of way so that is going to take acquisition of land to allow a safe riding area or you will have to share that riding surface with the vehicles which these roads are designed for. I’m not nor plan to be a biker but I do know that bicycles have the availability of the different tires that you can put on for different terrain. I see people hauling bicycles to Moab, Utah all the time and they aren’t riding on smooth paved roads when they get down there. You can put different tires on your bicycles that will accommodate our roads and they will not give you carpal tunnel from holding onto the handle bars, they will not give you a bulging disk – they are designed to handle that vibratory ride. Now, the responsibility lies with government to provide a place to recreate to me that is your bike paths; the county roads are still our primary duty if you will is to ensure a safe road that will last as long as they can for the motoring public because that’s what those roads were built for.

Commissioner Houpt – and much of what I’ve heard today would apply to vehicles as well if we’re seeing a lot of rocks being kicked up so I again would think that we would want to lean toward the safer surface.

Chairman Martin – I’m looking at this list of roads and how many people have ridden Roan Creek. There’s a 30 million dollar project that’s going to tear that all up and look at asphalt, I think that would be a waste of chip seal money.

In favor: Houpt – aye Opposed: McCown – aye Martin – aye

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Chairman Martin offered a second solution to the bid and that is to select the four roads out of the five that were mentioned to do 3/8" chip and remain the other on ¾" as we have done in the past, Road CR 102, 103, 113, and 137. Those were the ones on the list scheduled to be chip sealed, etc.

Commissioner Houpt - 226 and 243.

Commissioner McCown – this bid is for all of these roads and we are going to void this bid if we just pick out those specific roads as that will drastically reduce the amount of the project.

Tim Arnett – the way we set that up we can pick the roads that we want.

Chairman Martin – we could select the roads that we put the 3/8" chip seal to make sure there is a compromise to see if it is even going to work.

Commissioner Houpt – that's fine but I think we're representing then a small portion of the county and people that live further away haven't had the opportunity to be here.

Bobby Branham – some of these roads like 113 road, what we had budgeted for this year does not include the full length, so in interest of your compromise, we could put ¾" on the section that we have has already gone up for bid and been approved and then perhaps the full length on the 3/8" as opposed to what's in the documents.

Commissioner Houpt – it would make sense on certain roads where you just doing the ¾" on a partial portion of the road but that road is being worked on and it would make sense to complete the full road with the 3/8".

Commissioner McCown – what's that going to do to the structural integrity of the rest of that road that's going to be on the schedule next year.

Bobby – not so on 113 because we've done 113 over the course of 3 years in three segments and this is the last segment.

Commissioner McCown – this motion is only for that 1/3rd portion.

Ed said the number one priorities were 102, 103, 113, 137 and 226.

243 is on the secondary list.

Ed said that is \$266,947.35.

Commissioner Houpt – plus whatever 113 would cost to complete.

Bobby – I have the same issue with CR 103. Last year we did the lower half and this year we intended on doing the upper half of CR 103. So if we did the upper half, it stands to reason that we'd want to do the full length of the road.

Tim suggested negotiating with United to see what they do with these roads.

Don suggested that perhaps the Commissioners could direct the staff to negotiate with United on certain roads and come back next week with a fixed price.

Don said this is per road and you will need to negotiate on a fixed price.

Chairman Martin's motion died for lack of second

A motion made by Commissioner Houpt to go back to United Companies and get the bid for 3/8th chip seal rock for CR 102, the entire sections of CR 103, CR 113 and CR 137, CR 226 and CR 243A and CR 243B and bring that back to the Board.

Commissioner McCown – seconded.

In favor: Houpt – aye; McCown – aye; Martin – aye

TRAILS AND TRANSPORTATION - RFTA - REQUEST FOR FUNDING INCREASE FROM ROCKY MOUNTAIN RAIL AUTHORITY

Commissioner Houpt provided a letter along with a 2007 & 2008 Budget Statement from Harry Dale, Chairman Board of Directors at Rocky Mountain Rail Authority giving an update on RMRA's progress. They had a Board of Directors Meeting on June 1, 2007 and signed the RMRA Establishing Contract documentation and became members of the RMRA organization. They have secured the help of Summit Development Group LLC to develop the scope of work for the high speed rail feasibility study and the request for proposal documents that they will be releasing for the Planning and Systems consultant work for the feasibility study. This is a critical step in the study process and is required before RMRA can sign a contract with CDOT for the SB-01 Transit grant funds and begin the bid process for the study consultants. Their expectation is that they will need in the neighborhood of \$20,000.00 more than they had budgeted for under Administrative Expenses. SDG has been working on the scope of work for the past five months without any compensation or reimbursement of travel expenses. They are asking all their members and potential member jurisdictions to consider an additional \$500.00 contribution to RMRA's efforts in 2007 to help secure the funding to complete the critical feasibility study scope of work and RFP documents. Mr. Dale is asking their larger member jurisdictions to consider up to a \$1,000.00 contribution for this purpose. Since this work is necessary prior to their grant contract with CDOT, they cannot use CDOT grant funds for reimbursement of these expenses.

Tresi – the \$1,000 contribution is important to move forward on the study

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve Rocky Mountain Rail Authority and additional \$1,000.

In favor: Houpt – aye McCown – aye Martin – aye

FAIRGROUND PANELS – JESSE SMITH

The Fairgrounds has \$30,000.00 in their capital budget for 2007 for sheep, goat and hog panels. An RFP was issued by the County and one response was received. The response was from WW Manufacturing, which was the successful bidder on the outdoor panels for the main arena. The bid came in at \$33,104.00. The Livestock Committee, which has their separate budget and fund, will cover the additional amount about \$30,000.00. A reconciliation of the Fairgrounds Capital Budget has been done and they are under their budget for all projects by approximately \$34,000.00. They will have to strip the new parking lot, which was not in the original budget. At this time they are requesting approval for WWW Manufacturing to purchase new panels in the amount of \$33,294.00. If the order can be placed the week of July 2, 2007, the panels can be delivered in time for the 2007 Garfield County Fair.

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A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award stock panels in the amount of \$33,194.00 to WW Manufacturing.

In favor: Houpt – aye McCown – aye Martin – aye

COUNTY SHERIFF UPDATE – LOU VALLARIO

REQUEST FOR TWO ADDITIONAL VEHICLES FOR TWO APPROVED POSITIONS

At the May 21, 2007 BOCC meeting, the commissioners approved two additional positions for the Sheriff’s Office as backfill for some organizational changes. The Sheriff’s Office is now requesting the authorization to purchase two additional vehicles for these positions.

1.	F-150 Pick-up truck with cover and grill guard	\$27,366.00
	Additional equipment (radio, lights/siren, cage, etc)	<u>6,000.00*</u>
	Sub total	\$33,366.00
2.	Ford Expedition with grill guard	\$28,060.00
	Additional equipment	<u>5,000.00*</u>
	Sub total	\$33,060.00
	Grand Total	<u>\$66,426.00</u>

*Actual costs will not be available until after this submittal

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the vehicles for the two new positions in the Sheriff’s office in an amount not to exceed \$73,426 and this comes from Capital Funds.

In favor: Houpt – aye McCown – aye Martin – aye

Small Fires have been put out due to the quick response of the local fire departments. Reiterated to everyone listening the 4th of July is coming up and we need to be responsible for fireworks.

CR 301 - RECOMMENDATION OF CONTRACT AWARD FOR COUNTY ROAD 301 – JEFF NELSON

Don DeFord and Jeff Nelson presented Exhibit A - existing conditions Map of the area.

This is for an upgrade segment of County Road 301, approximately 1.25 miles east of the intersection of County Road 301 and Battlement Parkway.

Recommended Board Action:

Due to the unsafe nature of existing curves and a recent fatality, Garfield County Engineering Department felt it was necessary to enter into negotiations with Con-Sy, Inc. to complete necessary safety improvements of County Road 301 within the 2007 calendar year. Construction phase will be from July 2007 through October 2007. Award bid to Con-Sy, Inc. for a not to exceed price of \$686,542.00 to reconstruct that dangerous curve on Morrisiana Mesa Road.

Commissioner Houpt so moved.

Commissioner McCown seconded.

Don said it was his understanding that would be conditioned on the contractor not proceeding with construction until we receive a letter of commitment from Battlement Mesa that we are entitled to use their property for that construction.

In favor: Houpt – aye McCown – aye Martin – aye

CR 336

Jeff stated that CR 336 request would be a recommendation or direction on DOLA grant application for CR 336 Jenkins Cut Off to apply for the grant. We make the presentation in July 22nd.

Commissioner McCown – given the unwillingness and lack of funding by the industry using that road in the area and the fact that it is going to be this year’s project we did not appropriate enough money in our budget and would say do not go forward with the grant application at this time. We’ll look at it in 2008.

Commissioner Houpt seconded the motion.

In favor: Martin – aye McCown – aye Houpt – aye

CR 204 - REQUEST TO APPROVE ENERGY IMPACT CONTRACT WITH DOLA FOR COUNTY ROAD 204 (ROAN CREEK ROAD) – JEFF NELSON

Energy and Mineral Impact Assistance Program Application. This application request is for the reconstruction of County Road 204. The proposed project will improve approximately four miles of existing primary collector paved roadway. These improvements will help mitigate safety concerns and provide an AASHTO standard roadway design that will benefit the citizens of Garfield County and the Energy Development Industry. The scope of this project is based on the financial support of not only the Department of Local Affairs and Garfield County but financial support from a Chevron/Texaco managed partnership including but not limited to OXY corporations. As of the publication of this letter, the County has received a letter of financial commitment from the current project partners for \$7,500,000.00 for the entire nine-mile reconstruction project. Garfield County is contributing \$500,000.00 in addition to in kind services.

Don DeFord and Jeff Nelson presented the Board with the DOLA request.

Commissioner McCown – in the areas under the funding slot under request for expenditures, I would make a motion that we show \$750,000 for engineering and design and \$750,000 for construction and improvement on CR 204. No other funding mechanisms, no other expenditures.

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – aye

TRAILS AND TRANSPORTATION - DIRECTION TO STAFF RE: SOUTH CANYON TRAIL PROJECT (LOVA) – CONSTRUCTION PROJECT/CONTRACT

Larry Dragon, Jeff Nelson and Dean Gordon were present

Don DeFord explained the concern in going forward on a notice of award.

The Board discussed this at length due the rising cost of construction, the reliance on GOCO for funding, the liability of the county; the excessive amount for 5000 feet of trail; and generally being on the hook.

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Commissioner McCown expressed his concern and the fact that he was not a supporter of this from the beginning and said we're looking at \$40 million dollars to complete this 5 mile trail
Larry said no, if this is a 2.7 multiply that times 5 – we're talking \$12 to \$13 million.
Commissioner McCown reiterated the rising cost of construction and it has doubled in the past year.
Chairman Martin estimated \$559 per square foot and we only see this going up.
Commissioner Houpt – there's been a vision and hopefully trail funding will grow. There's been a vision across Colorado to have trails connect and CDOT has not been involved and should be involved. We have to work harder on them to make sure that they are brought to the table.
Larry Dragon said the GOCO Board stated that they expect that we will have made a giant effort of getting CDOT more involved. With the change in administration there are possibilities. Some of the shortfall we have now is the enhancement grant funds are not going to be available for construction now. We thought we had met the number easily and now we're behind again.
Chairman Martin – the ultimate decision today is do we have enough to go ahead and put the item on the agenda to award the bid or not to accept the bid next week?
Don – that's correct, the reason being that given the circumstances presented by our only proposer, do you even want to consider award.
Commissioner Houpt wants it on the agenda- we're looking at some time issues here.
Larry shared that we at LOVA we can put another \$10,000 into the project that's from the community. Also we have not yet talked about our budget for next year and what we're doing with the Trail Groups. We would anticipate that each group would be requesting the \$50,000 and one thing we could propose is the \$50,000 we would request for next year be loaned in a manner from the County for this year for this project, plus the \$10,000 plus another \$10,000 that we think we could get to cover the \$60,000 shortfall.
Commissioner McCown – once we award the contract then if the money isn't there, it all comes from us.
If we do an amount not to exceed then it would be void once the first change order comes in. We just are not award of it.
Chairman Martin – are we confident enough to go forward as it is proposed without any change order, already a change order is looming at \$300,000 plus before we even sign the contract.
Commissioner McCown seconded the motion to put it on the agenda for next week.

In favor: Houpt – aye McCown – aye Martin – aye

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-fund Transfers
- d. Changes to Prior Warrant Lists
- e. Authorize the Chairman to Sign the Resolution of Denial for the Reserve at Elk Meadows Planned Unit Development – Applicant is Elk Meadows Properties, LLC – Fred Jarman
- f. Authorize the Chairman to Sign a Resolution of Approval for a Special Use Permit Allowing Processing Storage and Material Handling of Natural Resources on a Property Owned by Scott and Linda Brynildson – Applicants; Scott and Linda Brynildson – Craig Richardson
- g. Authorize the Chairman to Sign a Resolution of Approval for a Zone District Amendment on a Property Owned by Albert Stark and J. Bruce Snode – Applicants; Albert Stark and J. Bruce Snode – Craig Richardson
- h. Authorize the Chairman to Sign a Resolution for a Text Amendment to the Garfield County Zoning Resolution of 1978, as Amended Adding a Definition to 2.00 Defining Commercial/Recreational Facility/Park – Applicant; POW, Inc. – Craig Richardson
- i. Authorize the Chairman to Sign the M + Partners Software Contract for Software License and Professional Services – Guy Meyer

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a – i absent b and e carried.

BUILDING AND PLANNING - RESERVE AT ELK MEADOWS PUD – LARRY GREEN

The wording in the Resolution representation in Commissioner Houpt's motion is one of the concerns in that she stated that Glenwood should annex the area.

Chairman Martin – this was a personal view but there were other items and her true and accurate motion dealt with the character of the neighborhood, the density, view shed and the traffic impacts.

Staff included the motion from the Minutes.

Larry stated the request before the Board today is to have you reconsider your decision and stated four specific reasons for this request: 1) the Planning Commission approved an amendment for the Land Use Designation for Study Area I and the gross density was consistent and compatible with the neighborhood which in turns constitutes an error in law; 2) traffic impacts were accurately addressed and demonstrated to be satisfactory with the City of Glenwood Springs mitigation plan; 3) the fact that Glenwood should annex this property is inconsistent with law as the property is not eligible for annexation and 4) the comments made by Chairman Martin in explaining his vote to deny were not articulated prior to the closing of the public comment. All these points combined denied the applicant the opportunity to present available evidence relevant to the reasons ultimately expressed to support the denial of the project.

In the Resolution for denial, under No. 3 on page 2, both a and b accurately reflect Tres's motion.

Larry presented this once again and asked the Board to reconsider the motion.

Don informed Mr. Green that only the two who were in favor of the motion could reconsider.

Chairman Martin – an error in judgment without new information would mean to reopen the hearing.

Don stated they could theoretically open the public hearing, but cautioned the Board there was no formalized process. However, under Robert's Rules of Order you can. If you reconsider any new additional input or facts you could open the hearing to reconsider the decision to get more information. He added that this method hasn't been used for the 20 + years he has been employed by the County.

Commissioner Houpt was concerned that we didn't have a formal process and a defined tool to allow the applicant to address the concerns; is this something they could do without any new information.

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Don – again, there is no process formalized but this is allowed under Roberts Rules of Order however, it can only be made by ones who voted to deny.

Chairman Martin – if we made a mistake and held a public hearing we would either not reconfirm our findings made on the motion, confirm our motion or otherwise the applicant would take a 106 action in court and then the court would hear and decide the matter.

Larry Green – the purpose is to ask to reconsider this issue from the start, that you grant a new public hearing and let us appear before you and present evidence and clarify the concerns you address in the motion to deny. Commissioner Houpt asked if this would include new information.

Larry – no, evidence available to you – I believe that there is a potential of some of the evidence was misunderstood and the effect of the Planning Commission to amend the Comp Plan. The decision to deny was a total surprise in light of unanimous approval of planning commission and the staff. The motion stated the development was too dense and traffic impacts under reported. This is not the case. Traffic studies identified the impacts and included the full build out of the forthcoming Sunlight project. His request to re-open the hearing would provide him an opportunity to discuss the report in detail with you.

Chairman Martin – otherwise this would be done in court.

Commissioner Houpt stated there is no guarantee that she would not change her vote.

Commissioner McCown stated there is nothing to keep Mr. Green from re-submitting his project and providing additional information; the only enemy will be the calendar. This would need to go back to the Planning Commission and would need a ruling; they would require a full hearing.

Don – any PUD has to go through the Planning Commission.

Commissioner McCown – a resubmittal would get an answer sooner than court litigation.

Commissioner Houpt believes she understood what was brought before us. Based my motion on those concerns and is uncomfortable with the notion of starting a new process we have no formal process for.

Don if you are going to reconsider this, the scope of the hearing would require complete notice; you must follow the rules and present no new evidence. The public is entitled to be here and the Board must lay out the process. It can be challenged and there is risk of doing this.

Larry Green noted there's a good chance the court will overturn your ruling but this would require 12 to 18 months of litigation; if a judge agrees and they would be right back in 30 to 45 days. He said he was not insulting anyone, but asking the Board to take the opportunity to look at this again.

Commissioner McCown asked Don to clarify what process was in place for a judge to put it back to the BOCC.

Don – depends on the nature for the reconsideration; could be based on competent evidence and that under your rules and your regulations the evidence presented required approval, that's also a possibility. The other outcome we would be defending that there was substantial evidence in the record to support your position and sustain it and then put the burden on the applicant to start all over again.

Another option would be for the applicant to submit new application and this is the most time consuming.

Larry Green – a new submittal is less time than going through court.

Chairman Martin – what we need to do is go ahead and do a re-submittal and go through that process of take a 106 action. The recommendation is to do a resubmittal and go through the abbreviated process that we can and if there's new evidence to put on there, to do it then and have it as a public hearing and then make us find a good finding yea or nay.

Commissioner Martin made a motion to deny the reconsideration and to give direction to the applicant to do a resubmittal back to the Planning Office and bring it forward in the proper manner.

Commissioner Houpt – second.

In favor: Martin – aye Houpt – aye; McCown could not vote as he voted affirmative to approve the request.

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE AND RECEIVE DIRECTION CONCERNING CONTRACTING ON CR 204, CR 301; CR 336; LIABILITY ISSUE AND CLAIMS CONCERN CR 335; DISCUSS THE STATUS OF DEVELOPMENT AND RECEIVE DIRECTION CONCERNING THE LOVA-SOUTH CANYON TRAIL; HEARING OFFICERS FOR BOE; ADVICE CONCERNING THE MEDIATION AGREEMENT WITH THE COLORADO RIVER WATER CONSERVATION DISTRICT; WE NEED TO DISCUSS THE IGA FOR THE CORONER; DISCUSS AND RECEIVE DIRECTION ON THE IGA WITH RIFLE; PROVIDE AN UPDATE ON VEZZOSO LITIGATION; DIRECTION CONCERNING THE IMPACTS OF A REQUEST FROM VALLEY VIEW HOSPITAL ON A PROPERTY ISSUE; PROVIDE LEGAL ADVICE ON CROUCH ISSUES ON TITLE; PROVIDE LEGAL ADVICE FOR ONE ITEM ON THE CONSENT AGENDA CONCERNING ELK MEADOWS RESERVE; LEGAL ADVICE CONCERNING A REQUEST FROM FULL PIPELINE AND TAKE A POSITION ON THEIR RIGHT OF WAY; AND A REQUEST FROM THE HUMAN SERVICE COMMISSION FOR A LEGAL OPINION ON THE IMPACTS OF HB 1023. AND DISCUSSION IN EXECUTIVE SESSION INCLUDED DISCUSSIONS ON SENIOR PROGRAMS IN REFERENCE TO WHAT WE'RE FACING IN CMC. THIS IS PART OF CONTRACT NEGOTIATIONS BETWEEN THE VARIOUS PARTIES ASSOCIATED. LYNN NEEDS DIRECTION OF STAFF.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

COUNTY ATTORNEY - CONSIDERATION/APPROVAL MEDIATION COST-SHARING AGREEMENT AND MEDIATION/FACILITATION AGREEMENT

Don submitted two agreements regarding participating in mediation on east slope/west slope water issues, the first it the so called Pickerman mediation facilitation agreement and would like you to authorize the Chair to sign that agreement.

Commissioner McCown so moved

Commissioner Houpt – seconded.

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In favor: Houpt – aye; Martin – aye; McCown – aye

The second is a mediation cost sharing agreement that relates to the same process that will determine our fiscal participation which I currently estimate at approximately \$6,000.

Commissioner Houpt made a motion that we approve that agreement. Commissioner McCown seconded.

In favor: Houpt – aye Martin – aye McCown – aye

BOARD OF EQUALIZATION - CONSIDERATION/APPOINTMENT OF BOE VALUATION REFEREES

Don asked direction on the retention of valuation referees.

Commissioner McCown made a motion that the Board of County Commissioners hear the BOE appeals.

Commissioner Houpt – seconded.

In favor: Houpt – aye McCown – aye Martin – aye

CORONER - CONSIDERATION/APPROVAL OF IGA FOR MUTUAL AID ON CORONER SERVICES WITH GUNNISON COUNTY RE: CORONER ASSISTANCE

Commissioner Houpt made a motion to approve the IGA with Gunnison County for Coroner Assistance and the Chair authorized to sign.

Commissioner McCown seconded.

In favor: Houpt – aye McCown – aye Martin – aye

JUSTICE CENTER - CONSIDERATION/APPROVAL OF FIRST AMENDMENT TO PUBLIC SAFETY COMPLEX IGA WITH CITY OF RIFLE

Don stated that due to public safety the City of Rifle wants to alter the provision regarding 18th street to remain a public street. This is the First Amendment on that agreement.

Commissioner McCown so moved

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – aye

Action taken:

Two other items by way of public information.

We will render an opinion to the County Commissioners concerning applicability of HB 1023 to the Human Services Agencies and the Board will give further direction on the use of that opinion.

Valley View Hospital's requested expanded use of County property at that site, it is our understanding that this will be agended on the next meeting for discussion with Minutes of past meetings to provide guidance.

CITIZENS NOT ON THE AGENDA

COUNTY ROAD 154 - CHRIS JANUSZ Hwy 82 south of Glenwood Springs – back up crew – friends and associates who support and beg folks to consider and rectify – revised zoning proposals may help – special situation and review of the new zoning do not address.

Land Use Executive Summary does not address his situation. As stated by the County Attorney, a special circumstance. 1964 a single family residence, separate utilities and a shared well, they are two residences.

Gamba said he could be subdivided into 7 individual lots. The way is it now it is a lousy use of the land and county. Gamba will submit a legal showing all the needed paper work. This is a minor subdivision and to take this route would cost a lot of funds. This has been in place for 44 years. Correct the situation already

This started with Don Price of Price Refrigeration.

Don Price gave the history of the property and what has transpired leading up to this request today. He understands the laws and that zoning have changed. He is very comfortable about the two homes. Mr. Janusz wants to do it – separating it into two homes is the easiest thing to do. Like to see the rules adjusted.

Chris – Don Price is on a fixed income and the mortgage company was trying to sell it; even gave him an eviction notice. The real estate owner said the new owner might let you stay and a deal was made.

Chris is trying to help his neighbors – this County does not have a blanket rule for land use and simply needs to make this correction.

Rich Banks – other side and a neighbor stated he supports Chris in this request – he understands the rules but this seems to be an exemption. Property since 1964 and Chris lived there since 2000. Must have a way to simplify this process. Rich has an easement to his house through the Janusz property.

George Doxey – business associate – neighbors in El Jebel, Manager the Ranch at Carbondale. Supports Chris and the property split. Wisdom is the key and the Commissioners have wisdom to help him. He knows the rules and asked the BOCC to stretch the rules and help Chris.

Chris – put a lot of time in this – it costs \$20,000 for a minor subdivision; he'd like to comply with going to the last phase where a document is presented from Gamba Associates.

Commissioner Houpt suggested there could be an administrative solution in the new Code Rewrite to handle this type of request.

Fred Jarman – we've been down this road with Mr. Janusz and have provided a letter describing the avenues. Code draft has a provision but that is for a minor exemption and to get to his very issue allows an administrative split. It doesn't ignore the analysis of the property so we have a review. He wants us to ignore what's on the books and we have asked him to participate in the code rewrite; the money is his challenge and the County Attorney has given him a letter with what he needs to do. Planning Commission has said the Minor Exemption process is the way to go and it does cost money. It will be a policy decision and could be applied to everyone who was grandfathered in.

Commissioner McCown – summarized that this is a non-conforming use. Property never been split – it is one property and there are two houses on it. Mr. Price never owned the property when he allowed the trailer on it. We do not allow anyone else and this is not a unique circumstance.

Chris – subdivide existing developed property.

Fred – This is not a debate – he's been deemed technically incomplete.

Commissioner Houpt stated that the building department tries to follow the code in place – we work with unique situations all the time in the scope of the regulations.–

Chairman Martin suggested they submit an application that is technically complete.

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CLERK & RECORDER – LIQUOR LICENSE - APPROVAL OF A SPECIAL EVENTS LICENSE FOR BEER GARDEN AT THE AIR FAIR AUGUST 3RD AND 4TH SPONSORED BY THE BPOE 2195 REPRESENTED BY LOREE NIGO AND EVENT MANAGER – BRIAN CONDIE

Jean Alberico and Janet Samson, Brian’s assistant at the Airport were present.

Chairman Martin swore in the speakers.

Janet submitted the sign and photos.

Chairman Martin swore in the speakers.

Jean stated the application is complete and payment has been made and the main concern is that the public notice was put up in a timely fashion and in the proper place.

Janet said it was posted at the hanger where we will be having the beer garden; it was visible to members of the public who come to the airport.

Jean commented that this is the same group that had the beer garden last year and there wasn’t a problem.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing.

In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Events Liquor License for Beer Garden at the Airport for the Elks Lodge BPOE 2195 out of Rifle.

In favor: Houpt – aye; Martin – aye; McCown - aye

PUBLIC MEETINGS:

BUILDING AND PLANNING - CONSIDER A REQUEST TO EXTEND THE APPROVAL OF THE PRELIMINARY PLAN FOR THE MAHAN SUBDIVISION FOR ONE (1) YEAR – APPLICANT; MAHAN PROPERTIES – FRED JARMAN

Chris Hale – Michael Howard and Fred Jarman were present .

BACKGROUND

As you will recall, on Tuesday, September 5, 2006, the Board of County Commissioners (the Board) approved the Preliminary Plan Application for the Mahan Subdivision which entailed subdividing the 20-acre property in the lower Four Mile drainage into 2 residential lots with conditions. This approval provided the Applicant, Mahan Properties, 1 year to file a final plat application to Garfield County which will expire on September 5, 2007.

REQUEST

The property owner requests the Board grant a 1-year extension to file the Final Plat which would expire on September 5, 2007. (See the letter attached to this memo from the Applicant’s representative.)

STAFF RECOMMENDATION

As the Board is aware, there are no specific standards or criteria to judge this request with the exception of the code language listed above and that this decision is solely at the discretion of the Board. Staff recommends since the request was proposed well before the initial 1-year deadline expired, the Board grant a 1-year extension to the property owner to file the Final Plat prior to September 5, 2008.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to grant the one year exemption to September 5, 2008.

In favor: Houpt – aye McCown – aye Martin - aye

BUIDLING AND PLANNING – YURTS - ON GOING DISCUSSION REGARDING THE PERMITTING OF YURTS – ANDY SCHWALLER

Andy Schwaller, Fred Jarman, Michael Howard were present.

Background

Staff was asked by the BOCC to see under what conditions a yurt, teepee or other tent type structure could be permitted for use as a dwelling. It is Staffs’ professional opinion that the above structures cannot be permitted by the building code for use as a dwelling unit.

Discussion

The codes provide for minimum standards to be met before a building can be considered code compliant. These minimum requirements are in place to safeguard the public safety, health and general welfare, structural strength, stability, sanitation, light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the build environment. This is the stated purpose of the codes. Due to how these tent type units are constructed, their ability to meet all the minimum requirements for a dwelling is not possible. For example, a yurt may excel with the code requirements for available light but yurts do not meet the requirements for insulation. The heat loss of a yurt far exceeds the minimum requirements of the code. All these structures may excel with some aspect of the code but overall they do not meet a minimum standard across the board.

The options of generating a new minimum just to meet these structures are not an option. The structures must be up graded to meet the established standards. These established standards are the result of years of code review, upgrades, and amendments and simply cannot be degraded to fit a certain situation. To do this would greatly affect the stated purpose of the codes to provide a safe and sanitary structure.

Board Direction Requested

Staff requested direction from the Board on how to deal with the existing tent like structures that are presently being used as illegal dwellings in the county. Use of these tent type structures as dwellings is a danger to the occupants. Staff believes there is a certain amount of liability to simply ignore their use as a dwelling.

Possible options in dealing with these tent type structures for other uses:

1. Ignore the building code when reviewing tent type structures. This option has many liability pitfalls.
2. Treat yurts differently than other structures. This option generates problems with consistency and opens the door for other non-code approved structures.
3. Require that all structures meet the minimum building code requirements.

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4. Allow for a case by case review of limited use of tent like structures for use other than as a dwelling. This review would be specifically to a request and would involve the review from the fire code, zoning and the building code perspective.

5. The discussion may generate other areas of use.

Andy also provided an Internet reference showing pictures of different types of yurts.

Andy also provided an Internet reference showing pictures of different types of yurts.

Staff is before the Commissioners today with a two part question regarding direction, one we have is it appears we have two yurts in the County that are illegally being used as dwellings. At one point we were told to research more and get back to you guys, which we are doing now. There is a certain amount of liability associated with just letting those units be out there. My humble opinion is we need to take action on these and make sure they are now being used as dwellings. And secondly – how does the Board want us to permit these; we’ll have to amend the building code to allow for some sort of temporary use or limited use or we could permit them under a Conditional Use Permit or a special Use Permit similar to Rock Gardens.

Commissioner Houpt suggested we could start out with what others are doing, you mentioned we have provision for remote recreational cabins, then we could do classroom dorm, playhouse type structures that don’t require but they conform with the building code.

Commissioner McCown – the two in question would not comply with either of those. Not the remote cabins, not the classroom, these are dwellings in a subdivisions which would not comply.

The area above Crestone ignored the code.

Andy – one option is to ignore the code and that’s probably what Crestone did. It’s a dangerous thing to ignore the code.

Commissioner McCown – yurts can be used but it’s how they can be used; clearly they do not comply as housing. They can’t be occupied as a dwelling. There are other avenues out there that we don’t have to circumvent our code to allow this to happen.

A motion was made by Commissioner McCown that we proceed with the enforcement of our code on the violations in question where these are being used as residences, it’s not allowed, and if in the new regulations if we want to address yurts let’s do it specifically as meeting places and not being constructed for longer than 180 days or whatever, but it sounds like other counties have come up with possible uses for them just not as housing and I don’t want us to go there either.

Commissioner Houpt – seconded. I have not made a decision on how I feel about the long-term use of the yurt, but we just had a lengthy conversation about codes and regulations that this County has in place and we need to be consistent about supporting those. But I would like to have us bring some sense to how we’re going to treat yurts and teepees and appreciate the report Andy put together.

In favor: Houpt – aye McCown – aye Opposed: Martin - aye

PUBLIC HEARINGS:

BUILDING AND PLANNING - CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR “EXTRACTION, PROCESSING AND MATERIAL HANDLING OF NATURAL RESOURCES – APPLICANT; ROCKING CHAIR RANCH IRREVOCABLE TRUST – MARK BEAN

Mark Bean, Michael Howard, Frances Coulter and Scott Coulter, Trustee of the Ranch.

Michael reviewed the notification requirements and determined the sign was vandalized. The sign was up about 15 days.

Michael – the other notices were adequate.

Commissioner Houpt has a problem with the sign but the posting was in the newspaper and the notices were adequate.

Commissioner Houpt wasn’t the record to show the property owners have a responsibility to make sure the sign is up and if it is down, to replace it. She withdrew her challenge.

Mark Bean submitted the following exhibits: Exhibit A; Proof of Mail Receipts, Exhibit B; Proof of Publication, Exhibit C; Garfield County Zoning Regulations of 1978 as amended, Exhibit D; Staff Memorandum, Exhibit E; Application, Exhibit F; Memo from the Town of New Castle dated June 11, 2007, Exhibit G; Memo from Steve Anthony dated June 11, 2007 and Exhibit H; Memo from the Road and Bridge Department dated May 16, 2007.

Chairman Martin entered Exhibits A – H into the record.

This is located on a 739 acre property approximately 12 miles north of the Town of Silt. The request is to cut and haul approximately 250,000 board feet of dead and drying timber on various sections of their property.

The trees have Pine beetles in the spruce, dwarf mistletoe, and fir beetles in the Douglas Fir and broom rust and another form of beetle in the Sub Alpine Fir.

Staff recommendations:

Staff recommends approval of the application with the following conditions of approval:

1. That all representations of the applicant either within the application or stated at the hearing before the Board of County Commissioners shall be considered conditions of approval unless explicitly altered by the Board.

2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.

3. Emissions of smoke and particulate matter; every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.

4. Emissions of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from the provision.

5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin.

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6. Prior to hauling any logs out, the applicant will notify Jake Mall, Road and Bridge Department of the intent to haul. Truck owners shall obtain overweight vehicle permits, if they will exceed County weight limits.

7. The haul route for this operation shall be CR 245 to CR 226 to State Highway 325 to State Highway 13.

8. The applicant shall map and inventory noxious weeds on the property and present a weed management plan for noxious weeds, prior to the issuance of a Special Use Permit.

Applicant: covered by Mark. Be good stewards of land and fire control are the reasons for this.

Mark Hayes – adjacent property owner – all access by Forest Service Road and there is area on his property and Buford Road where dust is generated. Request the County mag chloride to keep dust down.

Gerald Firk – property owner – read application and is in support of the approval.

Ann Robertson – wants them to get started.

The permit will be for logging on the applicant’s property only.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing.

In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Sup with the 8 conditions as recommended by staff.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR UP TO 31

TEMPORARY EMPLOYEE HOUSING FACILITIES LOCATED NORTH OF THE TOWN OF PARACHUTE OFF COUNTY ROAD 215 AND WITHIN THE NORTH PARACHUTE RANCH – APPLICANT; ENCANA OIL AND GAS USA, INC. – DAVID PESNICHAK

Brenda Lin – Kenny, Jim Jackson, David Pesnichak and Michael Howard were present.

Michael Howard reviewed the noticing requirements and advised the Board they were entitled to process.

Planner David Pesnichak submitted the following exhibits: Exhibit A; Proof of Mail Receipts, Exhibit B; Proof of Publication; Exhibit C; Garfield County Zoning Regulations of 1978 as amended, Exhibit D; Staff Memorandum, Exhibit E; Application, Exhibit F; E-mail from Jim Sears of the Garfield County Sheriff’s Office dated June 13, 2007, Exhibit G; Memo from Jake Mall of the Garfield County Road and Bridge Department dated June 11, 2007, Exhibit H; Memo from Roy McClung of the Town of Parachute dated June 13, 2007 and Exhibit I; E-mail from Jim Rada of the Garfield County Public Health Department dated June 18, 2007; Exhibit J – proof of mineral ownership.

Chairman Martin entered Exhibits A – J into the record.

The Building and Planning Department received a Special Use Permit (SUP) application for “Temporary Employee Housing” on property owned by Chevron USA, Inc located on an 17,013 acre property approximately 15 miles North West of the Town of Parachute “as the crow flies” (See location maps). By vehicle, this property is 55.5 miles North West of the City of Rifle (See proposed emergency services map route, P.9).

More specifically, the Applicant, represented by PVCMI Land Planning Division, requests approval for one Temporary Employee Housing site to house personnel for the purpose of winter natural gas drilling operations. The field in which this facility is to be located is known as “Trail Ridge” and has been in “operation” by Williams for 5 years. Williams plans on constructing 1,500 wells in this region over the next 20 years.

Temporary Employee Housing will be in use from November to May and will be managed by PTI/Camp Crown Services for housing, catering and laundering services. Williams is requesting two renewal cycles for this permit (2007 and 2008) in order to bring the housing through two full winter seasons. The maximum number of people to be housed at the site will be 24.

Housing Structures

The Applicant is proposing a 6-unit side-by-side (total of 72’ X 54’) which will include a kitchen, dining room and recreation room. The plans anticipate a total of 13 rooms that can sleep up to two people each per the 2003 IBC. The facility will have three, 4000 gallon potable water storage tanks; three, 70 kW generators; and an ISDS system for sewage.

Proximity to Permanent Available Housing: As this site is over 55 miles from the City of Rifle, the nearest municipality by car, staff has concluded that this is a very remote site which is not proximate to any permanent housing.

Renewal: The Applicant is proposing to renew this annual permit twice (2007 and 2008) to allow for two full winter seasons at the site.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and well being, 3) the fact that the site itself will be situated on an existing well pad with an active gas operation, 4) and that the Temporary Employee Housing facility meets the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing on in the Resource Lands – Plateau (RL) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
4. *Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning*

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signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.

5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.
6. If applicable, the Applicant shall provide a copy of the appropriate bond supplied to the Colorado Oil and Gas Conservation Commission (COGCC) intended to guarantee reclamation of the Temporary Employee Housing site prior to the issuance of a Special Use Permit. If the COGCC does not require reclamation and revegetation bonding, the applicant shall work with County Staff to establish a bond appropriate to guarantee reclamation and revegetation of the Temporary Employee Housing facility.
7. All Special Use Permits for Temporary Employee Housing is subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
8. Water and wastewater systems proposed to service temporary employee housing must comply with all applicable state and local laws and regulations.
9. Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. For facilities serving twenty-four (24) people or less, the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.
10. In no case shall unsafe water be used for drinking nor shall raw sewage or used water be discharged on the ground surface.
11. The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners.
12. Inhabitants of the temporary housing shall be applicant's employees and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.
13. Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.
14. Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff's office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid or electrical fires (Class A, Class B and Class C), carbon dioxide or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher.
15. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.
16. The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.
17. If a Special Use Permit for Temporary Employee Housing is granted, the applicant shall notify the County when site development begins. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.
18. No animals shall be allowed at temporary employee housing sites.
19. The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Housing is twenty-four (24).
20. Each wastewater storage tank shall be on an adequate capacity to accommodate a minimum of 75 gallons/person/day for a 3-day period. The capacity shall be based on the maximum number of occupants for the proposed facility.

Type of Unit	Minimum Wastewater Storage Capacity
Stacked Units	8820 gallons
Connected units	5400 gallons
Individual units	2700 gallons

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21. Each portable water storage tank shall be on an adequate capacity to accommodate the maximum number of occupants for the proposed facility. Based on maximum occupancy, the operator shall provide the minimum level of potable water storage capacity for the proposed units based on a 5-day refill schedule.
- | | |
|------------------|-------------------------------------|
| Type of Unit | Minimum Wastewater Storage Capacity |
| Stacked Units | 9640 gallons |
| Connected units | 6920 gallons |
| Individual units | 3000 gallons |

22. Sewage systems shall be installed and maintained in accordance with the Garfield County ISDS regulations with all pipes and connections water tight and lids kept securely in place at all times except during normal cleaning operations.

Brenda stated she recognizes the magnitude of their proposal for these man camps.

Chris Hale – helped with sewer and septic design.

Chairman Martin – stressed law enforcement, first aid, etc. to be in place.

Jim Jackson – stated they do have an on-site emergency plan and have on-going relationship with Sheriff Lou Vallario; they have lowered the speed limit on the road as per his request; and have on -going fire protection from DeBeque and the Rifle Fire District and they have helped with donated funds to make their programs better. They have had training for staff for two days on Emergency aid and employees up there.

Drug enforcement – there is a zero tolerance. Any contractors not in compliance will not be given a second change – drugs are not allowed. Random test are done for drugs and alcohol. They also do a post incident testing and have certified dogs throughout the ranch. If employees have an ATV they have to go through training. There is an on-going relationship with the wildlife personnel at DOW and an on-going tracking of wildlife and the impacts of drilling.

Training of personnel is done stating they represent EnCana and this is your home. They keep the cooks with the camps and generate a sense of pride in what each employee is doing – every drilling rig in the county should have a man camp.

Vehicles stored on site: they have provided on site for parking. They are looking at a central parking site and transportation. Usually the employees are there for one week or two weeks and they provide recreational areas, Internet and good food to entice them to stay.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing;

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown made a motion that we approve the Special Use Permit for the North Parachute Ranch Temporary Employee Housing for up to 31 employees with conditions 1 – 22 sticking No. 23 “the applicant shall NOT install wastewater and/or sewage overflow tanks, but shall install overflow alarms on all wastewater and sewage vault tanks.

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR AN OFFICE AND STORAGE FACILITY LOCATED OFF COUNTY ROAD 246 NEAR RULISON – APPLICANT; WILLIAMS RMT CO. – DAVID PESNICHAK

Michael Howard, David Pesnichak, David Fox and Doug Weaver – consultant for Williams were present.

Michael Howard reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Challenge to the notification: Todd Peters – lives off of CR 246, Rifle and I can attest that the sign was not on the post and that it disappeared three Sundays ago. It was not there Friday. Todd submitted a photo as of 12:30 T-mobile time, Cell Phone on 7-02-2007 showing it was not there today. He showed the post where it was and it’s no longer there.

Chairman Martin said he could email it to us and we could put it as an exhibit. Please show this to the applicant as well. They’re entitled as well. What’s the finding of the Board?

Commissioner McCown - adequate notice based on the newspaper notification and notification of property owners.

Commissioner Houpt – it’s the responsibility of the applicant to make sure that signs are up throughout the time.

Todd Peters – the reason I know this sign very well is because this is my driveway.

Chairman Martin – you are an adjoining property, did you receive written notice.

Todd Peters – I believe the answer is yes.

Commissioner McCown – I have the same opinion I did earlier that written notice was provided, public notice was provided in the paper, the fact that the sign blew down, was taken down, whatever happened to the sign I think there was adequate notice and feel comfortable going forward.

Todd Peters – so can I ask if we are lowering our standards for public notice?

Chairman Martin – no necessarily, it’s a decision that this Board will have to make if notice was adequate or not. That’s why I also asked you if you had received a certified letter saying of the action.

Commissioner McCown – who else would have the authority than your personal friends or invitees to travel up that road to your house? That is not a public road, right?

Todd Peters – that is correct.

Commissioner McCown – okay.

Commissioner Houpt – but it was posted on a public road.

Commissioner McCown – 246 intersection.

Chairman Martin – in front of your driveway.

Todd Peters– it was posted on my driveway along 246.

Chairman Martin –right.

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Commissioner Houpt – and I don’t want us to lower our standards either, we’ve had two situations today where the signs weren’t posted for an adequate amount of time, the first one was in a very remote location, the second one is not in a remote location, and I’m not feeling as if we should – I would challenge that.

Chairman Martin – okay, the notification requirement is to be posted 30 to 60 days.

Michael Howard – 30, not less than 30 days.

Chairman Martin – when was it posted testified to.

Michael Howard - May 25th.

Chairman Martin – between May 25 and Todd said it disappeared 3 Sundays ago.

Todd – somewhere between June 17 and June 23 - inaudible

Commissioner McCown – 22 days.

Chairman Martin – 22 days. Larry said yes, Tresi said no.

Chairman Martin – under the circumstances, the only person that was there received written notice etc. yes I understand that, I feel confident notification was proper and it is the responsibility of the applicant to make sure that it is there for 30 days, I feel we can go ahead and accept the notification and go into the hearing and hear the testimony.

Chairman Martin swore in the speakers.

Planner David Pesnichak submitted the following exhibits for the record: Exhibit A; Proof of Mail Receipts, Exhibit B; Proof of Publication, Exhibit C; Garfield County Zoning Regulations of 1978, as amended, Exhibit D; Staff Memorandum, Exhibit E; Application, Exhibit F; Memo from Dean Riggs of Colorado Division of Wildlife date June 14, 2007, Exhibits G; Memo from Jake Mall of the Garfield County Road and Bridge Department dated June 4, 2007, Exhibit H; E-mail correspondence chain from Dwight Whitehead of the Colorado Division of Water Resources, David Fox of Fox Engineering Solutions LLC and Doug Weaver of Williams Production RMT Co., dated most recently June 20, 2007, Exhibit I; E-mail correspondence with Cynthia Love of the Colorado Division of Water Resources dated most recently May 8, 2007, Exhibit J; Memo from Chris Hale P.E. of Mountain Cross engineering dated June 22, 2007, Exhibit K; Memo from Garfield County Oil and Gas Department dated June 22, 2007 and Exhibit L; Memo from Steve Anthony of the Garfield County Vegetation Management Department dated June 22, 2007 and Exhibit M – when Todd Peter’s submits his photo it will be an exhibit.

Chairman Martin entered Exhibits A - M into the record.

DESCRIPTION OF THE PROPOSAL

The Building and Planning Department received a Special Use Permit (SUP) application for an “Industrial Support Facility” comprised of an office and storage facility for Williams Production RMT located at 431 CR 246 west of Rifle. The location of the office is on a 38.66 acre parcel north of I-70, west of the City of Rifle and east of Rulison with access off CR 246.

Proposed Development:

- a) Two 10X20 storage buildings 225’ x 50’ Warehouse Building
- b) One 14’ X 66’ modular office unit

Proposed Activities:

- a) Storage
- b) Office

This is currently in place and is in violation.

SITE DESCRIPTION

The 38.66-acre property is located approximately 7 miles west of the City of Rifle on County Road 246 (See Maps on Following Pages). Access is provided via County Road 246. The property generally slopes to the south and is vegetated with grasses, sage and juniper.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3) the proposed facility is in conformance with the Comprehensive Plan of 2000, 4) and that the proposed facility meets the requirements set forth in Section 5.03, 5.03.07 and 5.03.08, Staff recommends the Board approve the request for a Special Use Permit for an Industrial Support Facility on in the Resource Lands (RL) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. The Applicant shall comply with all standards as set forth in §5.03.08 “Industrial Performance Standards” of the Garfield County Zoning Resolution of 1978 as amended and included here as follows:
 - b) Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.
 - c) Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
 - d) Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
 - e) Every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
 - f) Storage of flammable or explosive solids or gases shall not be permitted at this facility.
 - g) No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by any reasonably foreseeable natural causes or forces.

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- h) All storage must be enclosed within one of the two (2) proposed 10X20 foot sheds located on the property.
- i) Repair and/or maintenance activities shall not be conducted at the permitted facility.
- j) Heavy equipment storage shall not be conducted at the permitted facility.
- k) Loading and unloading of vehicles shall be conducted on private property and may not be conducted on any public right-of-way.
- l) Any exterior lighting shall be controlled by a motion sensor, pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
- 4. The Applicant shall provide a Revegetation and Rehabilitation Plan that has been reviewed and accepted by the County Vegetation Department prior to approval of the Special Use Permit.
- 5. The Operator shall be responsible for monitoring and maintaining the water levels within the Cistern at all times.
- 6. The Applicant shall provide a dust control plan to be reviewed and accepted by County Staff prior to the issuance of the Special Use Permit. Should dust become an issue from the storage area, a dust control agent shall be applied to the area.
- 7. All buildings and rooftop equipment shall be painted with non-reflective earth toned paint that is consistent with the surrounding landscape.
- 8. A 2500 gallon water storage tank shall be installed at the proposed facility for initial fire suppression purposes. A plan including the 2500 gallon water storage tank for initial fire suppression shall be reviewed and accepted by the relevant fire protection district prior to issuance of the Special Use Permit.
- 9. The barrow ditches and settling pond shall be placed down gradient from the development area in order to collect storm water runoff from the development. An illustrative storm water management plan shall be submitted to the Garfield County Planning Department and reviewed by the Garfield County Engineer prior to issuance of the Special Use Permit.
- 10. Hours of operation shall be limited to 9AM to 4PM from December to April in order to protect the mule deer population in the area as well as honor the current partnership between the Colorado Division of Wildlife, the Bureau of Land Management and Williams Production RMT regarding monitoring the impacts of winter drilling on Mule Deer populations.
- 11. The Applicant shall submit plans to treat and maintain the treatment system for all water to be used from the Colorado River to meet the State of Colorado standards for potability. These plans shall be reviewed and accepted by the Garfield County Engineer and Garfield County Public Health Department prior to issuance of the Special Use Permit.
- 12. The Applicant shall submit an approved Storm Water Management Plan from the State of Colorado prior to issuance of the Special Use Permit. In addition, the Applicant shall submit a site grading plan to be reviewed and accepted by the Garfield County Engineer prior to issuance of the Special Use Permit.
- 13. The Applicant shall provide a security for revegetation in the amount \$8000 to cover the estimated 2 acres to be disturbed prior to issuance of the Special Use Permit (using a rate of \$4000 per acre for a facility that may be in place for 20 years). The security shall be held by Garfield County until vegetation has been successfully reestablished according to the Reclamation Standards in the Garfield County Vegetation Management Plan.
- 14. The Applicant shall provide a current inventory and map of County listed noxious weeds and a weed management plan for any inventoried weeds prior to issuance of the Special Use Permit. These documents shall be reviewed and accepted by the Garfield County Vegetation Management Department prior to issuance of Special Use Permit.
- 15. Execution of the site rehabilitation/reclamation plan for the subject property is required when the use of the site by the owner of the parcel for an Industrial Support Facility is terminated, whether or not financial security for reclamation is required in this Resolution, under terms of Section 5.03.07(2) (B) of the Zoning Resolution. Responsibility for site reclamation is transferred with the SUP, and the Applicant/Owner shall so advise any transferee of the SUP. Enforcement of this condition of approval and all others is subject to an action by the BOCC for penalties and/or injunctive relief in a court of competent jurisdiction.

David Fox and Doug Weaver spoke. The applicant addressed the water issue. Under the hours of operations of 9 – 4 is a request by the Colorado Division of Wildlife, this is not a drilling activity, this will be only for the production operation of the wells in the field so there'll be no drilling activity conducted from this trailer. So that particular agreement with DOW only applies to drilling activities for 12 months activities on BLM land. This is private land and only relates to production activities. The primary use for this trailer is to keep everyone from going to Parachute every day because there's 575 wells within 4 miles of this site. So we wanted to break up the traffic, bring the guys to this site and then we also have the computer monitoring system for our production in this trailers and we have guys that get there by 7 in the morning to see what's gone on with the status of the wells from the night before, they can respond and go the specific wells, the ones that are having problem, etc. So the restriction from 9 am is a severe restriction on us being able to monitor the production of the wells. As well as the nighttime, the guys usually gather between 4 and 5 at night and bring the data and information that they've gathered during the day back to a production site. Then the fields run 24 hours a day 7 days as well, so we need that extra time to make sure that we can keep the wells up and running.

Commissioner Houpt – how many people, I mean you have well over 500 wells in that area, so how many people will gather there.

Applicant - in the morning, roughly 10 to 15 and look at the computers that have gathered the information from the night before, the foreman will assign the specific wells as to what needs to be taken care of and they'll go fix it and during the day there will be one, to three people that will monitor the computers and

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watch the production during the day. Sales movement will come in during the sale, there'll be some visitors but it will no more traffic than currently exists in the area.

Commissioner Houpt – but the traffic, the number of trips you'd anticipated fall short of what you're representing now.

Applicant - well there'll be 10 in and out in the morning and 10 in and out at night. And they already do that.

Commissioner Houpt – well, it's not in compliance so.

Applicant – I understand but they're driving in the field anyway. If we didn't have the computer monitoring there, they'd have to go all the way to Parachute.

Commissioner Houpt – I'm just trying to get a sense of what the actual traffic is.

Applicant – probably 20 trips to 25 trips a day. On the second issue on treating the water, there was a well drilled by the previous owner on the property and talked to Mr. Gottschalck, the previous owner on the property and he said he couldn't get anything out of well so he ended up putting a cistern in and hauled water to it. I talked to him about it and he said there's no water there so we didn't really have an adequate water source. What I planned to do was bring bottled water in for the boys, most carry their own stuff in their own vehicles but for the few that don't, bottled water will be available and we do have this permit from the Colorado River to haul water to the site. To bring it up to potable standards, I wonder if there's some other way around that just to run the toilets. You all won't let us use portable toilets, because it's an industrial facility but three people, I can't have a portable toilet.

Commissioner Houpt – we're looking at a 20 year period of time.

Applicant – there is a septic system already installed and approved but do we treat 100 gallons a day to flush the toilets.

Commissioner Houpt – it's to wash hands as well and I think that's where the bacteria concern comes in.

Applicant – well if you put in alcohol systems like you have at the hospital would that be sufficient for hand washing?

Chairman Martin – could be.

Applicant – you don't wash your hands at the hospital any more, you scrub your hands with alcohol and you go in and pull the baby.

Chairman Martin – that's something to consider as an option.

Applicant – most of the new modern satellites you see around the county now have hand cleaning facilities for non water type materials.

Commissioner Houpt – they do, this is an office with a bathroom and I think staff has raised a pretty legitimate concern.

Applicant: storm water management plan is not a problem, the area distributed is an area of 200 by 300 feet which is slightly less than 2 acres and there's no concerns about the 8,000 for a special use permit for the revegetation. Is there a question from the Board if we have a legal source of water, that's been a discussion with David Pesnichak and I.

Chairman Martin – no.

Commissioner Houpt – well there were some major questions raised in terms of how that's administered and it's a very unusual source for the use that we're looking at. It is more convoluted because we had several different letters from the Division of Water. I certainly had questions but think that many have been answered assuming you'll pay your bill and receive the water.

Applicant – not to belabor a small point, but we've moved tens of thousands barrels of water every day out there in trucks and we hauled the rigs and this 100 gallons a day and it's a very small amount.

Commissioner McCown – given the relatively small quantity of water that you're talking about have you ever anticipated pumping that from the River given it's proximity so you wouldn't have to rely on hauling and rely on potable water tanks.

Applicant: that's one thing that's definitely in our minds is that we do have the pumping point further down the river that circulates the barley patch where the Exxon deal and that's is something they could look at in the future. No specific plans today to do that. But as we continue to frac etc. the trucking cost, the trucks on the road, etc. it is something we could work towards in the future.

Commissioner McCown – can the potable water storage and the fire protection water be one containment?

David P – I don't see why not, essentially you'd be fighting fire with potable water.

Commissioner McCown – there was a 2500 gallon storage tank required for fire protection and then there's already a cistern on site and didn't know size.

Applicant: 1800 gallons. We'll have to put additional for fire suppression.

David P – the only issue you could get into there is if the cistern isn't maintained at 2500 gallons.

Applicant – we'll have to do a separate system for fire suppression. We'll separate the systems.

David P – it might be better to separate them so you'll always have at least 2500.

Testimony from the audience:

Todd Peters did not submit to the Clerk the photo of the sign that he stated wasn't there today and the photo he submitted. These were given to building and planning, not the Clerk.

Todd Peters – the road they're going to be using happens to be my driveway to my house and so I brought another photo – black line shows the road and this little spot right here is where the trailer already exists, this photo was taken last year by the way.

Chairman Martin – we'll make than at exhibit.

Todd – I strongly object for several reasons. Number one its residential property, when I bought and built our there, it's residential and I'm sure none of you would like to drive through a commercial site to get to your home. I feel that there's enough commercial sites already, there's places in Rifle for sale, I know of several places out around Rulison that is gearing toward commercialism; I don't want to have to drive through this, I already pass their vehicles, I've been stopped at 11 pm by their people to ask what I'm doing out there, and it's my home. Their people have said I have no business being out there, they said we don't know of any house out here and yes as you can see in the photograph most people don't know that I do live out there. The next thing is I've seen people in white pickups, I can't say they're Williams pickups, engaged in sexual acts parked down the driveway. This may sound shocking but if need be I'm pretty sure somebody will testify that

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they have seen similar things in their driveway. I don't want to have to defend myself. I'm also worried that is a commercial goes in and a fence goes up, that technically going past that fence someone could blind side you. I live out in the middle of nowhere I have no police protection; twice I've called the Sheriff's department out there, they said it was a civil matter and would have to take it to civil court. I've had John Savage with Soychak and all of them out there to sit down and just improve the road from the use of the wells. I don't get any response. They did grade it here just within the last 10 days. They did skim coat it but there are rocks still showing that were showing before they graveled it and all they do is just lighting spread it out and I've dealt with them blocking my road off. It's just not a good going home type atmosphere. And so I strongly object to them putting a commercial spot out there and yes I do deal with 10 - 15 trucks in the morning, they're out there parked and I have to deal with all of this and it's like why, there are already commercial sites.

Commissioner Houpt – could you show me the various structures on here?

Todd – showed the Board 246 road and this is the proposed site that already exists and this goes back and my house sits on the hill up here.

Commissioner Houpt – is this your privately maintained driveway.

Todd – Gottschalck and I used to sit down and maintain this road, then I maintained it and now Williams purchased these 39 acres that sits right in here.

Chairman Martin – so that's a continued shared use agreement.

Todd – yes but there hasn't been much sharing.

Chairman Martin – but there is a shared agreement in place? Maintenance, use of the road way etc.

Todd – negative.

Chairman Martin – nothing in writing?

Todd –nothing in writing.

Chairman Martin – and how did you and the other neighbor get along? Just with a handshake?

Todd – yes. And Williams, when I had the meeting with Soychak, Brad Moss, John Savage and several other employees of Williams and this is the first time that they drilled the wells out there, they promised to come in and put minimum of 4 – 6" gravel on the road and they pulled out and did nothing. Then I was also told again by Covington that they were going to come in as soon as the new wells that they just pulled out from that they would fix up the road again. It didn't happen. I was also told by Brian Covington and I believe that to be his name, because when I questioned the trailer and stuff being there, they told me it was totally permitted and that I had no recourse. That's actually giving legal advice that I didn't have recourse so that maybe a lawsuit all of its own. I'm really going to fight this as hard as possible and I strongly, strongly suggest that the answer be no for this and if they want it, why don't they put it on the other side where all the wells are at.

Other testimony: none

Applicant response:

Applicant: This is the only acreage Williams owns in this immediate area, this 40-acre tract and I've talked to Mr. Covington who's the production foreman out there and I've been involved in this process of securing this SUP and told him we need to hold off on making significant improvements on the road until we find out whether we do get the approval for a SUP for the trailer. The trailer really does reduce the overall traffic picture and the overall congestion of the town of Parachute and other areas by focusing because it as we continue to develop the field with thousands of wells trying to manage them all with a single office in Parachute becomes very difficult. This is the first attempt to secure a satellite operation where we can spread some of this risk out to other areas and again it's the only site that we own in the approximate area and it is a heavily developed area already and those wells have been there for some time and we will drill more in the area.

Chairman Martin –in reference to the road itself, the County road to your facility, is that on the property that you own?

Applicant: it is not, it's on Bill Clough's place and his estate.

Chairman Martin – is there an agreement in place.

Applicant: we have ingress and egress rights because those are Clough minerals in through there. So under the base oil lease rights we have ingress and egress rights.

Todd Peters – what is the maintenance of the road have to do whether they get a SUP or not when they've already said that they would fix up the road. Why would you not fix the road?

Chairman Martin – that would again be if it's private or public road that would be an agreement with the private owner.

Todd – well I do have an easement across there from Clough and Gottschalck that went across the Gottschalck property.

Chairman Martin – if that's a privately owned road there has to be an agreement for everyone to use it in one way or another. Then the maintenance goes along with that and the shared maintenance that would limit or allow certain people to use it and that's what I was after.

Commissioner McCown – question of Jim Rada, can you expound on the alcohol hand washing and the treatment of all the water; it seems like a tremendous waste of time and effort looking at a reverse osmosis unit and it rejects half the water that it sends to purity to flush 3 stools if there's a better method of creating the hand wash situation.

Jim – did not review this application and was brought in today. In public health practice the best way to prevent disease is to wash hands with good clean potable water and so there are other methods that are utilized as sanitizing or for sanitation purposes, the State of Colorado does not recognize those as a substitute for washing with soap and potable water. It's not recognized in a restaurant or hospital or day care or any other types of public setting. In an office your talking a setting here where there's 3 people full time, maybe 10 or 15 people on a temporary basis throughout the day, river water is polluted and river water can contain a whole lot of different organisms, things that could not only be infectious to individuals but could also be brought to their homes, to communities, to other locations, etc. could create epidemics or out breaks so and I believe reference was made to the building code which requires for occupied dwellings or building to have potable water under pressure and the potable standards in Colorado are the primary drinking water standards although this would not necessarily be considered or classified as a public water system, you still have that

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opportunity for contaminated water to be used for potable purposes – in other words there’s not way to keep someone from drinking the water coming out of the faucet although it may not look good or smell good or taste good, if someone wants to drink it they could..

Commissioner McCown – and there’s no way to make someone wash their hands when they go to the bathroom.

Jim – that is true too, no doubt about it.

Commissioner McCown – you give them the opportunity.

Chairman Martin – thou shall give the opportunity if again they chose not to, that’s a personal choice. One question under Recommendation 3 under h – are you talking about vehicles, that repair and maintenance activities shall not be conducted, that’s pretty open statement to what’s in that particular facility – computers to maintenance of bathrooms, on and on, what is the intent on that particular recommendation?

David P – the intent here is repair and maintenance of equipment such as trucks or drilling equipment or something to that effect where they bring it onto the property, take it apart, put it back together, etc. It’s not intended to restrict maintenance of the sanitization facilities or the building itself.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown that we approve the Special Use Permit with the Conditions of staff, I would change no. 10 – to read from the hours of 7 a.m. to 6 p.m. and strike December and April, No.11 include the new verbiage that is shown as a condition on the screen and under that John questioned, I would insert the word “maintenance activities” and after that I would insert “of heavy equipment”.

Commissioner Houpt seconded for discussion. We’re seeing and will continue to see a great deal of oil and gas activities in this County, we have a wealth of resource that is currently going to be tapped into and I think that’s its really important as we move forward in these areas that are being drilled not to then deem them industrial or commercial areas; if they were originally residential areas then we need to respect the fact that they’re residential area. I think satellite offices are a really good idea. But I think satellite offices in already established commercial or industrial areas are what are appropriate in this County otherwise we’re going to start seeing every single zone and area in this County that’s being drilled become a long term commercial and industrial area and just force out the rural residential areas that were also trying to find a balance between and protect in the long term for that reason I can’t support creating a commercial area in an area that historically was and is still being used as a residential area, but I do support satellite areas, I just think that there are truly are other commercial and industrial areas in this County that can be used for those purposes.

Chairman Martin – existing land is Resource Lands, Gentle Slopes, Lower Valley Floor, the adjacent is the same Open Space/BLM should be public lands, Resource Lands as well and within those we allow certain uses and residential is one of them.

Michael Howard – residential, kennels, retail establishments, materials processed from raw materials produced on the lot, there’s a whole litany of uses that are allowed.

Chairman Martin – the zoning does allow the use but with a special permit.

Michael Howard – correct.

Chairman Martin – so that it’s not that it wouldn’t be considered, it just takes this extra review to make sure everything is in place. I’m sympathetic to Todd as well, he’s selected an interesting spot to live, not too many people would ever live there, but that’s one of the places he chose to live and Rulison is an area – but I also see a need for this and also there is a benefit so the motion is to approve with the conditions and called for the question.

In favor: McCown – aye Martin – aye Opposed: Houpt

BUILDING AND PLANNING - CONSIDER THE APPROVAL OF A SPECIAL USE PERMIT ALLOWING A COMMUNICATION FACILITY ON A PROPERTY OWNED BY DARLYNE WOODWARD AND MARTHA COLLISON NEAR THE TOWN OF CARBONDALE – APPLICANTS; DARLYNE WOODWARD AND MARTHA COLLISON – CRAIG RICHARDSON

Craig Richardson, Perry Carroll from WFI and Michael Howard were present.

Planner Craig Richardson submitted the following exhibits: Exhibit A; Mail Receipts, Exhibit B; Proof of Publication, Exhibit C; Garfield County Zoning Regulations of 1978 as amended, Exhibit D; Staff Memorandum and Exhibit E; Application

Chairman Martin entered Exhibits A – E into the record.

REQUEST

The Applicant is requesting approval for a Special Use Permit to modify an existing Sprint/Nextel communication facility that has not been approved by the Board of County Commissioners. The Applicant wishes to add three (3) antennas to the existing twenty-five (25) foot wood pole and expanding the existing compound 135 square feet to add equipment cabinets.

BACKGROUND

It appears that the existing communication facility was not approved by the Board of County Commissioners. The Sprint/Nextel facility consists of one (1) equipment building and one (1) wooden tower. (Other communication facility exist on-site)

STAFF RECOMMENDATION

Staff recommends approval of the proposed Special Use Permit allowing a “Communication Facility” on a property owned by Darlyne Woodward and Martha Collison with the following conditions:

- a. That all representations made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
- b. The Applicant shall meet all Garfield County Building Code Requirements;
- c. The operation of this facility shall be done in accordance with all applicable Federal, State and Local regulations governing the operation of this type of facility;
- d. The communication facility shall be available for future co-location and the denial of a requested co-location shall be based on technical reasons, not on competitive interests;
- e. The proposed modifications and all future modifications shall be painted a darker matte earth tone to reduce visual impacts.

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Applicant:

Commissioner Houpt stated this is in a highly visible area and felt the antenna needed to look like the trees in order to blend in with the scenery.

Perry Carroll –a fake tree has to be taller than the trees in the area and it usually looks worst than the antenna. It’s an odd looking tree and sticks out. They are co-locating on an existing location.

Nextel was here before the towers were required to have SUP; this was back in 1997.

Cedar Rose Galbreath – received notification; she has a business on Main Street in Carbondale and she is actually within 200 feet of the tower. She stated there were numerous concerned citizens. The information provided was submitted as .Exhibit F and Chairman Martin entered it into the record. This consisted of information plus photographs taken from her property looking at the antenna and from her deck. This site is very prevalent from all over Carbondale. She stated there are some health related issues with microwave transmission. This is a facility that has not been permitted previously. She voiced her concerns with future development and also approving future additions to this facility. This is within the range of thousands of people and her main concern is the health affects related to this application but also of the installation facility of the system; she questioned what the affects are on the community. Also looking at the 25 foot tower but they are acknowledging it will be 35 feet. This is a big visual impact in Carbondale. The reality is this is a whole facility that hasn’t gone through the process. She stated there were several reps from the Town that have asked for more time given and to continue the public hearing so the town can address this issue. She suggested the Board postpone this and given an opportunity for the Town to address this issue in relationship to the visual impact and health and well being.

Chairman Martin – noted in the record that the Town of Carbondale was sent a referral and were given 30 days notice to respond. Nothing was sent back.

Cedar – the notice goes to their planning department. The Environmental Board has asked to have this extended.

Perry Carroll said the frequencies are within the guidelines.

Cedar – stated there is no FCC monitoring system in place. They monitor their own system.

Chairman Martin – we rely on self reporting including tax.

Commissioner Houpt stated that out of courtesy we should give them some time by continuing this.

Cedar – this environmental board was not notified.

Commissioner Houpt suggested not to delay more than a week, but to give them an opportunity to comment as to the cumulative impacts to their Town.

Perry Carroll – said they pre-empted and cannot deny based on this.

Cedar – very concerned regarding the visual impact on the edge of Main Street in Carbondale.

Chairman Martin – looked at all the people who were notified and stated there was a lot of folks included in the notice.

More discussion took place regarding coverage and moving other cellular sites.

Chairman Martin stated we have a history within the last 6 years of approving a site and have encouraged more people to co-locate; this has been the stance since 1996 on through.

Commissioner Houpt made a motion that we continue this hearing until July 9th at 1:15pm

Commissioner McCown – second. In favor: Houpt – aye; McCown – aye; Martin – aye

Consider the Approval of a Special Use Permit Allowing a Communication Facility on a Property Owned by POW, Inc. Near the City of Glenwood Springs – Applicant; POW, Inc. – Craig Richardson

Perry Carroll of WFI, Craig Richardson and Michel Howard were present.

Planner Craig Richardson submitted the following exhibits: Exhibit A; Proof of Mail Receipts, Exhibit B; Proof of Publication, Exhibit C; Garfield County Zoning Regulations of 1978 as amended, Exhibit **D**; Staff Memorandum, Exhibit E; Application, Exhibit F; E-mail from the City of Glenwood Springs, CO Planning Department dated June 7, 2007.

Chairman Martin entered Exhibits A – F into the record.

REQUEST

The requested Special Use Permit will allow co-location of three (3) panel antennas (15”, 32”, and 56”) to an existing communication facility. Two (2) antennas will be added to the existing thirty-five (35) foot tower. The third antenna will be situated on an existing equipment building on a fifteen (15) foot pole mount.

BACKGROUND

It appears that the existing Sprint/Nextel communication facility located on Iron Mountain was not approved by the Board of County Commissioners. The Sprint/Nextel facility consists of a one (1) equipment buildings and one (1) thirty-five (35) foot tower.

The modification to the existing facility will not require additional towers or structures to be added to accommodate the proposed modification.

STAFF RECOMMENDATION FOR ZONE DISTRICT AMENDMENT REQUEST

Staff recommends approval of the proposed Special Use Permit allowing a “Communication Facility” on a property owned by POW Inc. with the following conditions:

1. That all representations made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. The operation of this facility shall be done in accordance with all applicable Federal, State and Local regulations governing the operation of this type of facility;
3. The communication facility shall be available for future co-location and the denial of a requested co-location shall be based on technical reasons, not on competitive interests;
4. The existing Sprint/Nextel communication tower, antennas, proposed modifications and all future modifications shall be painted a darker matte earth tone to reduce visual impacts.

Applicant: Perry Carroll stated this was located on Mr. Beckley’s property.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the SUP

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allowing for a communication property for POD, Inc. with the 4 conditions of staff.
In favor: Houpt – aye McCown – aye Martin - aye
BUILDING AND PLANNING - CONSIDER THE APPROVAL OF A SPECIAL USE PERMIT ALLOWING A SHOOTING FACILITY ON A PROPERTY OWNED BY CNR SHOOTING SPORTS, LP – APPLICANT; CNR SHOOTING SPORTS, LP – CRAIG RICHARDSON
Michael Howard, Tim Thulson, Mark Kellser, and Planner Craig Richardson were present.
Craig submitted the following exhibits: Exhibit A; Proof of Mail Receipts, Exhibit B; Proof of Publication, Exhibit C; Garfield County Zoning Regulations of 1978 as amended, Exhibit D; Application, Exhibit E; Staff Report, Exhibit F; E-mail from the Jake Mall, Road and Bridge Department dated June 6, 2007, Exhibit G; Memo From Steve Anthony, Vegetation Management dated June 22, 2007, Exhibit H; Memo from Jim Rada, Environmental Health Department dated June 18, 2007 and Exhibit I; Memo from Mountain Cross Engineering dated June 26, 2007.
Chairman Martin entered Exhibits A – I into the record.

REQUEST
CNR Shooting Sports L.P. is seeking approval of a Special Use Permit to allow a private “Shooting Range Facility”. The proposed facility is planned to operate in conjunction with the Orchard Lake Lodge Reserve approved by the Board of County Commissioners (the Board) on March 12th, 2007 and is to be available to local special interest groups on a reservation basis. The lodge is in the process of completing conditions of approval specified by the Board.
PROJECT DESCRIPTION
The proposed shooting facility will be comprised of an open-air pavilion housing eight (8) shooting stations, one (1) operator stand, storage area, seating area, kitchenette (no meals will be prepared on-site) and a restroom. The hours of operation will from 9:00 AM to 10:30 PM as needed.
The Applicant has commissioned Sport Shooting Consultants, LTD to assist with construction and operational safety of the proposed facility.

STAFF RECOMMENDATION
Staff recommends approval of the proposed Special Use Permit allowing a “Shooting Range” on a property owned by CNR Shooting Sports, LP. with the following conditions:

1. That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. The Applicant shall obtain a Driveway Access permit from Garfield County Road and Bridge and meet all conditions identified by the Road and Bridge Department prior to the issuance of the Special Use Permit;
3. All lighting associated with the proposed use shall be directed downward and inward;
4. The Applicant shall comply with Garfield County Zoning Resolution of 1978, as amended and all applicable Building Code Requirements;
5. All food waste shall be contained within a bear-proof garbage receptacle and disposed of accordingly, so as not to become an attraction to wildlife;
6. The Applicant shall comply with Garfield County Zoning Resolution of 1978, as amended and all applicable Building code Requirements.
7. All food waste shall be contained within a bear-proof garbage receptacle and disposed of according, so as not to become an attraction to wildlife.
8. The applicant shall demonstrate compliance with the State Requirements regarding Bacteria and Nitrates for well water, prior to the issuance of the Special Use Permit.
9. The Applicant shall submit a map and inventory the subject property for County Listed Noxious Weeds to Garfield County Vegetation Department prior to the issuance of the Special Use Permit;
10. The Applicant shall provide a weed management plan approved by Garfield County Vegetation Management prior to the issuance of the Special Use Permit;
11. No alcoholic beverages shall be allowed on the shooting range site at any time. The requirement shall be posted on permanent signs at the shooting range facility. If someone appears to be intoxicated, they shall be removed immediately from the range.
12. The facility shall comply with all applicable recommendations regarding outdoor ranges as provided in the NRA “Range Source Book”.

Applicant:
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; In favor: Houpt – aye McCown – aye Martin – aye
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve e with conditions 1 – 12, In favor: Houpt – aye McCown – aye Martin – aye

ADJOURNMENT

ATTEST: _____ CHAIRMAN OF THE BOARD

**JULY 9, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, July 9, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were

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County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

FIRE – CANYON CREEK – UPDATE ON WATERSHED PROTECTION PROGRAM

Dennis Davidson introduced himself and wanted to give an update on Canyon Creek for the emergency watershed protection program. We did get the letter signed and forwarded on from you on to our state conservationist. The request for funds has been set. Would like to talk about a number of things happening but it really can't happen until those funds are approved by our state conservationist. Our work is not retroactive, anything you would do prior to the time those funds are there would not be covered under this particular program. We will be doing 75%; I requested roughly \$110,000.00 to place barriers. Sandbagging could be an option and that is something the county could do for us that would be quick and easy and not very expensive and may give some assistance to land owners. We have calculated the water flows for all of the drainages on the fire, most of them are relatively small and quick flowing. Some of these drainages will drain out in less than 11 minutes. Response time is non-exist time. If it starts raining, landowners need to sit still, stay at their houses, don't get on the roads or they will be in the middle of a debris pile if something happens. We need to get started as soon as the money is approved we have ten days to basically get all the work done. We have drawings and plans for each house.

Martin – There's thirteen I understand?

Dennis – Thirteen or fourteen that we are trying to do some protection on. There is one around where the orchard is on 6 & 24. It didn't burn right next to the house but it burnt the whole drainage out above it. That is one that is going to need some protection on that side. The rest are all up Canyon Creek. What we need is permission from you, as soon as money is approved, alright lets start going. We need you to contract with someone to place the barriers, to haul the barriers. We have located barriers at Erie, Colorado. The barriers are free, not exactly. There is some transportation cost on them. We had a bid for 1,000.00 a load. I think we can haul ten or twelve of them. I added transportation plus some handling once we got them here; just getting them here is not all the cost.

Commissioner McCown – Then they have to go back.

Dennis -No they are yours. They will belong to whoever the sponsoring entities at the end. That is either a good thing or a pink elephant. I don't know how you view that.

Commissioner McCown – Well depending on the quality of the barriers.

Dennis – These are good barriers, they have been pulled off of the interstate jobs. DOT has changed their design for barriers and these barriers are the old design and the contractor can no longer use them in the State of Colorado. There are thousands of them at this yard in Erie.

Commissioner McCown – So they are a liability for him?

Dennis – They are a liability for him, he can write them off. We are having a meeting with the landowners this evening at 7:00 PM at the school house at the bottom of Canyon Creek. It has been on the radio and we may have a bigger crowd. We want to inform them of where we are at, what we have done, plans we have and would like the people who we have drawn up plans for to stay and sign off on them and approve them. Tell us yea or nay.

Jesse – I think we have to have the BEAR team sign off before we contract with Dennis.

Dennis – The EWP program has nothing to do, I'm working on the BEAR team. The BEAR team worked basically is going to include the private property, but BEAR team address more the public lands issues.

Jesse – Ed called me Friday and said you need to get that approval before your contract. I don't know what it was based on.

Commissioner Martin – You could delay that contract on your receipting and all your other stuff on public lands and have a rain storm and the debris flow would devastate our road down the canyon. This is preparation for that disaster.

Jesse – We used a lot of CDOT barriers and when we removed them we put them down there in that storage yard at the bottom of Cattle Creek.

Commissioner McCown – Are they still there?

Dennis - They are still there, those belong to CDOT. I talked with the state highway and they will let us have the worst 80 of those. There are about 160 of them there. They want part of those to help protect, I think they are looking at protecting culverts and box bridges under 6 & 24 as it comes down through.....

Jesse – That would be 80 we could move?

Dennis – There is 80 we can move right now and if we could work a deal with the state highway maybe they will let us use all of those and we'll put 80 of the ones that come from Erie back.

Larry – Do we know how many we are going to need Dennis?

Dennis – Right now our designs are calling for roughly 2700 feet so that would be 270 of them. That has a potential to change

Larry – That would be nineteen loads if we used those 80. That's how I would lean; those are here for immediate use. We could get them in place and only would have to haul 190.

Dennis - I think the county probably has some that they own, left over from the Coal Seam fire. Whether they are available or not...

Commissioner Martin – We would have to ask Marvin.

Commissioner Houpt – I see Marvin nodding his head.

Marvin – We still have some that are available. I don't know an exact number

Commissioner Martin – You could do an inventory and then supply that and we could go ahead after tonight and finalize.

Dennis -Whether you want to start placing before we get a contract and doing it at county expense. That is something you would have to decide. We would be glad to provide assistance and say here's where they need to go.

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Commissioner Martin – Marvin, inventory you need to do that to make sure we have enough. Do you know if you have equipment that will be able to place them?

Marvin – We do have the equipment to place them, but we are in the middle of construction, I have an issue with.

Commissioner Martin – Any contractors that would be available? Can you do an inquiry?

Marvin – I can find out.

Commissioner Martin – What about storage afterwards? If we were to get 150 or 160 of them, where would you store them?

Marvin – Between Glenwood and Rifle I could store them. We still have some other fires that we may want to talk about.

Commissioner Martin – They would be an asset if they would be available to you and they wouldn't be a burden to store.

Marvin – No it would not be a burden.

Commissioner Hought – Don, do you have an opinion on the timing of signing these contracts?

Don – No I would have to look into it.

Dennis – The funding is the thing that is holding us up. We may know already at the office whether they have been funded. Friday I was told there is some contingency money sitting in the pot, the EWP pot. If we could just get that pot opened up, we could keep requesting a little bit more and do okay. But we need the first dollar.

Commissioner Larry – Is that your first priority Dennis is getting those barriers here?

Dennis – Yes as far as I'm concerned.

Commissioner McCown – I'm sure we can shake a truck loose to haul a load of sand.

Dennis – If we had some sand bags and someone to place them up there, the flows are not great they're fast but they are not huge. When you mix it with rock and two irrigation ditches that may or may not be running when the storm hits, they may breach. There are so many unknowns on this, two sand bags right up against the house may do an awful lot of good to protect their house or it may actually totally ineffective.

Commissioner McCown – We not trying to protect the ditch are we?

Dennis – No, in this state we are not going to protect the ditch. Most of the major drainages, the ditches are already piped over the top. It's not like this area hasn't seen debris flows and irrigation breaks and so on before.

Commissioner Martin – I think we need to look into seeing how we can get barricades, how many we have in inventory. What we can do is set up work with Dennis to see what contractor. Maybe bring it back, see if we need to do an expenditure on transportation costs and go from there.

Marvin – If we could get them up there fast.

Commissioner Martin – I think you need to contract maintenance there for that South Canyon Yard. See if you can't use that for a staging area if we were loading and unloading.

Commissioner McCown - What would be great if we could unload them as they haul them from here so we only have to handle them one time.

Dennis – That's what we did on Coal Seam

Marvin – We should get to this as quick as we can

Dennis – That's our guess, when is our first storm. If we don't get protected for the first storm.

Commissioner McCown – Get a count on what we have accessible and then Dennis will know how many he has to bring from here.

Marvin – I think CDOT may have some stored right now.

Commissioner McCown – We don't necessarily want to trade old crappy unusable ones for these ones that are coming out of the yard.

Jesse – Do we want to go ahead, once we have an inventory and get a trucking firm to start hauling from Erie?

Commissioner McCown – Not unless we have some way to place them, I'd like to be able to handle them one time.

Commissioner Hought – But I think we need to give you the authority so you don't have to come back to us.

Don – Are we talking about authorizing a contract to pick them up.

Jesse – Authorizing budget for us to hire a trucking firm to go get them at \$1,000.00 a load.

Don – Should we set a not to exceed figure on that from the Board?

Dennis – I will cover 75% of the cost when and if we get the money.

Don – So the Board has to assume full liability?

Commissioner Martin – That's what we want to do.

Commissioner McCown – \$20,000 would handle the hauling.

Dennis – It would be real close.

Don – Dennis if we spent the money we can get reimbursed theoretically? By spending the money do we fore go reimbursement?

Dennis – I can't pay retroactive.

Don – That's my concern.

Commissioner Hought – It's a timing issue. Need to get funding and then we start working but we are not meeting again until the first week in August.

Dennis – We will do everything we can to make sure we have a contract in place before we haul the first load.

Marvin – If there is a funding issue or something maybe I could contact you first by phone we could make a decision that way?

Don – No we can't do that.

Dennis – I think you are on the right track with the County assuming the full liability at this time.

Commissioner Martin – And for \$20,000.00 for those barricades it might be...

Commissioner McCown – We would get to keep the barricades. I make a motion we authorize \$20,000 for the trucking to be hauled to the scene of the fire, New Castle Canyon Creek fire.

A motion was made by Commissioner McCown and seconded by Commissioner Hought.

In favor: Hought – aye McCown – aye Martin – aye

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COUNTY MANAGER UPDATE – JESSE SMITH
2006 FINANCIAL REPORTS – AUDITORS

Jesse Smith turned over to Patsy; she introduced Paul Backes, lead auditor from McMahan and Associates out of Avon.

McMahan and Associates, L.L.C. (Certified Public Accountants and Consultants) prepared financial statements for the year ending 2006.

Paul Backes – I would just like to walk you thru the process, we schedule before year end or shortly after year end some time with Patsy and various department heads and elected officials. We go out and try to meet with every significant department and then usually select two or three to do some fairly intensive testing. That testing entails how does each department collect funds, take it to the bank and how do they expend profits. Usually in March we come back out and spend more pencil time with the Treasurer and the Finance Department, going through monthly records, looking at investments, do they comply with statutes etc. What I would like to do is spend one minute walking you through where the County ended the year. Flip to page C5, I should mention this report is covered by what we referred to as clean audit opinion, meaning the financial statements accurately reflect the financial position of the County. C5 is an income statement and you have a number of columns and really what we do is divide your funds into major and non-major. Paul explained all these funds. Where did we end the year? Drop to the third line on the bottom, you'll see the general fund added \$5,780,300.00 to your fund balances. We add that to what you started the year with in the bank which is \$11,147,000.00 and you end the year with \$16,927,000.00. That shows where you ended the year at least on a short term basis, cash in the bank. You had \$5.7 million more at the end of the year than you did at the start of the year. Your fund balance increased \$11,428,000.00, add that to what you started the year with and you ended the year with \$39,399,000.00. How does that look, I like to take ending fund balance, say for the general fund of \$16,927,000.00 and divide that into what you spent and your total expenditures during the year out of the general fund were \$23,000,000.00 and essentially you have a 70% reserve. That is the same for your total governmental funds, 71% and that is a good reserve. Our concern is when the reserves get low, you had good revenue this last year and that dropped to the bottom line and is being held in your fund balance accounts for future expenditures.

Commissioner Houpt – In terms of your profession and industry, at what point does a fund balance become too high? That's a question people ask when it comes time to pay taxes.

Paul – It varies situation by situation. We tend to concentrate on when fund balances drop too low. I've had scenarios where I have actually written governments during their budget process and say you need to deal with your on going deficit. It's harder when you have higher fund balances. I would guess that a higher fund balance than the average if you went through Chi's numbers and said what's average. I don't know but I would guess it would be somewhere 50 – 55%. Here I think you have a little different situation because you have really strong revenue growth from the oil and gas and I think what you will see is the effects on the expenditure line to show up somewhere down the line. I think to be prudent your better off having more resources because one of the things that you're required to do to comply with governmental standards now is to put all your roads and bridges, the cost onto your financial statements and that actually happens next year. And then depreciate them going forward and so we met with your road and bridge people and one of their comments was one of the Oil and Gas one of the main effects you're seeing is replacement of roads being moved up. If you look at numbers, the reason you had such a good increase is you have large revenue growth and expenditures have been largely held in check.

Commissioner Houpt – I understand the unique nature of that as well and in this situation we need to have high fund balance. I just wonder if there was an industry wide level where you say this isn't healthy either.

Paul – As a range you see anywhere from 45% to 80% and general the smaller the government the higher reserve you need. Garfield County being a medium size government, part of the problem is you could have a \$5 million dollar expenditure and it provides a pretty big swing in that percentage. I don't think fund balances are unreasonable.

Larry – Historically we have had a tendency to save for those big projects and that's what causes an appearance of an irregular fund balance. We have a project in mind a couple years out that will take care of that.

Paul – The other thing that is unusual with Garfield County compared to some of the other surrounding counties is you have very little debt. I think what Larry's saying, there are two theories on how you finance those major projects. A lot of government's need financing and they repay over time, you guys historically have accumulated resources and then spend it down. You tend to have larger swings in your fund balances doing that but you also save a lot of interest costs to the taxpayers.

Commissioner Martin – The cycle is coming back and we are also preparing for that the plateau or the decline of revenue in reference to oil and gas. It could level out real quick.

Paul – I think you see the boom and bust. I think it prudent to live on ordinary revenues.

Commissioner Martin – Or go deeply in debt and then hope the revenue continues.

Jesse - The oil industry is problematic in a different way. Not that it might go away but the minute they put a well in and put that well into production, it starts to decline. If you take all the wells that are in they are already declining and there is a point where we are going to reach the decline is going to be larger than the increase from new wells.

Paul – Some of the schools can't find bus drivers because anybody with a commercial license is working for oil and gas. What tends to happen you have higher inflation in this area than you do nation wide just because costs are going up just because there is more demand on employees and services and goods in the County. It also means your salary costs go up, but usually those happen down the road.

Commissioner McCown – But normally those things happen with any kind of significant economic development as well.

Paul – I think financially things look good for the County. I don't see any areas of concern there. We also do have a letter for you and this is fairly standard practice. CPA's as a general rule have three types of comments some are called reportable conditions which are fairly terrifying. Material weaknesses which are kind of in the middle and then FYI comments. First one is a middle comments, it's something that I think does need to be addressed and as I mentioned during our process we try to meet with each department and

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access risk, look at what departments we haven't looked at that have significant dollars and then we select them based on that criteria. The Sheriffs Department was one of those that drew the short straw this year and got more attention than years past. One of our main concerns with the Sheriffs Department is right now you don't have the best segregation of duties going forward, with the administrative functions in that department. One of the basic fundamental controls is segregating duties so that no one individual has access to all phases of a transaction. With some of the changes in procedures and personnel on duties, that is an area we sat down with Lou and went over all of this in advance. It's an area you do want to sit down look at how the duties are assigned and break them out so you have different people assigned to different phases of the transaction. Some other areas that should be addressed in the sheriff's office the main one of our concern is segregating duties. There are some other areas that we did go through and look at some of your petty cash transactions that popped up in a random sample. One of the areas of concern is when departments use petty cash as opposed to going through the warrant process because that side steps some of the procedures you have in place to make sure expenditures are budgeted reasonable. We addressed those with finance and I believe they have addressed those with the departments they had concerns about. We want to make sure if it is a significant expenditure it goes through the warrant process, follows procedures and if it's truly a petty cash type transaction than by all means use petty cash. The next comment relates to your IT systems. When we met with your IT department, one of there concerns was maybe it would be worth while having a security consultant walk through the procedures they have in place. I know with our firm we keep all our data electronically now. We don't track anything on paper and frequently electronic data doesn't get the attention it really warrants. If you think about what you have on computer systems, virtually everyone in this rooms social security number, all your payroll data, all the financial data, our concern was okay who has access outside the county to dial in and work from home and if you have an employee leave how do you remove their access? We have had some counties that have hired outside security consultants and had some fairly terrifying things when you actually read the report. I think its' worth while for an organization of you size periodically, every five or six years go back and have someone from outside, independent with expertise in computer technology look at your IT systems and determine if you have all the appropriate security systems. FYI something you might want to consider. One of the other areas of concern we had was in going through looking at exempt vs. non-exempt because that's special to governments its an area of increasing litigation was whether departments understood the difference between exempt employees and non-exempt employees, how that was determined and one of the things that seemed unusual to me was that it was determined at dept level vs. the Human Resources department. I think it should be determined at Human Resources department they're the ones who have the expertise in making that determination and I think it reduces your risk of employment litigation in the future if you have somebody miss-categorized. That is the quick overview of recommendations and I think overall the Counties processes are good. The financials are good. You have some things to work on but that certainly isn't unusual for an organization this size. Your departments all seem to buy into the process and want to make improvements in areas of concern we had. Overall as a Board that should give you a pretty good level of comfort that the dollars are being utilized correctly and the reports, at least the financial reports in front of you are accurate.

Commissioner Martin – Questions? We thank you Patsy, pat on the back and everyone else.

• **B. Out of State Travel Request – Patsy Hernandez**

Jesse Smith introduced Patsy to explain out-of-state travel expenses.

Patsy Hernandez is requesting the following (Cathleen Van Roekel, Finance Manager, Bob Prendergast, Controller, Teresa Beecraft, Lead A/P and Payroll Account and Theresa Mattingly, Finance Specialist) be able to attend the New World Systems Annual Conference from September 23 through September 26, 2007 in Baltimore, Maryland. Patsy provided estimated expenditures:

Transportation	\$2,000.00
Mileage	\$400.00
Cab fare	\$100.00
Conference price	\$4,416.00
Total	- \$6,916.00

Patsy explained the New World System is our primary tool for managing the County's financial information. The modules currently used include: Payroll, Revenue Collections, Budget Processing, Year End Processing, Project Accounting, Payment Processing (A/P), Asset Management, Miscellaneous Billing (A/R), Inquiries and Financial Reporting. The areas we plan to begin using over the next year include: Contracts Management, E-Timesheet Reporting, Procurement (purchase orders and requisitions), Grant Accounting and GASB Reporting.

Patsy – This is a little different, I decided to come and ask you for your permission to send four people to the New World Systems annual conference. I know asking for four people to go out of state is a big request. Each year when we are doing budget talk about our training needs and we all know how important that is. When we put the budget together for this year, we assumed that Bob, Kathleen and I would want to go to the National Government Finance Officers Association Conference in California. When we received the material we looked at what was going to be presented the three of us decided it was a repeat of the last couple of years. Which is fine if you didn't have a chance to go but we did. We decided going to California wasn't prudent. We decided if we could send four people instead of two, we budged for two people to go, that's really where our meat and potatoes is. Everybody in the finance department uses New World Systems. There are some people in the finance department that seriously 90% of their time is spent on this system, all of their work is done here. We are doing a lot of decentralizing throughout the County so that we can be efficient, we're bringing in new modules, and we will be doing contract tracking with it our fixed assets as Paul mentioned infrastructure is coming in. I do believe that the County made a very wise decision in choosing New World Systems. In order to really utilize this expensive piece of technology we do need to go to these conferences. That is where they are introducing new product.

Patsy – It's 2007 and it is in September.

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Commissioner McCown – I make a motion that we approve \$6,916.00 for the out of state travel for four employees to attend the conference in Baltimore.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the request of \$6,916.00 for the out of state travel for four employees to attend the conference in Baltimore.

In favor: Houpt – aye McCown – aye Martin - aye

• **C. Request for an Additional Accountant II Position – Lou Vallario**

During the 2006 auditor field work the auditors identified several areas in the Sheriff's Office whereby controls can be greatly enhanced by a change of financial duties. Their major concern is the lack of internal controls that can be mitigated with a proper segregation of duties. The auditor's management letter details the areas they feel can be improved.

In order to address the auditors' concerns, it is necessary for Lou to hire an Accountant II position as soon as possible. Lou's intent was to request this new position with his 2008 budget request; however, he has had several conversations with Patsy Hernandez, Garfield County Finance Director, and they have agreed this position request needs to be made now.

Lou provided a worksheet showing the additional costs which will be incurred in 2007. This cost also includes a redesign in the office located next to the Office Manager that is currently occupied by one person. It is felt the size of this office lends itself to housing two people and the approximate costs as provided are \$34,369.80.

Jesse introduced Lou Vallario

Lou – It's a joint project with Patsy and I and we fully agree with audit. What happened in our office we promoted basic financial manager to the office manager and now she oversees civil records as well as finance. That caused a couple of problems, one we had no one to delegate her tasks to for the financial side where she could over see it. I fully intended to put in the position request for 2008 recognizing that we now need a finance person so that she could over see and we would have that segregation of authority. For example, Friday she had all the accounts payable done to be submitted to Patsy's office but I had to run off to a little fire and wasn't able to sign any consequently they will be a week late now. We can't have that. We can't rely on me being the sole signature on those. In order to do what the auditors want and the proper county principals we basically need an accounting level person at the sheriff's office to fill that need. Over the last five years our budget has increased from \$7 million to \$10 million, our personnel has increased 30+%. More time sheets, more accounts payable more paper work more tasks, so it's time to add another player to staff. Commissioner McCown – I certainly support your request Lou, it's just that the next three things on the agenda just happen to be requests for additional personnel the first of July. We are in our budget process as you know and the appropriate time as far as I'm concerned to ask for additional personnel is in that budget so we can appropriate funding for it and bring them on board the beginning of the year. Everything when it comes to us is a crisis situation. When the promotion of Linda was made and the status in the office changed maybe that was the time to plan for this financial person. I'm having trouble with these requests in the middle of the year, oh by the way we need more people for the first of July and we're starting on our budget. Commissioner Houpt – On the other hand this is really in response to the auditors request as well.

Patsy – I believe that was Lou's intent. I'm the one after the audit came through and recognizing after Linda was promoted, I went to Lou and said that better than nothing if we go ahead and make the request for the 2008 budget. But, as Paul explained they come in at the beginning of the year or ideally in December for a week. If we wait until then, just so you will know probably what will happen is in next years auditors management letter this county even though we pointed out lack of internal controls, the fundamental lack of segregation of duty that exist in the key area of the general fund they waited another eight months to put somebody in there. That was eight months of opportunity for embezzlement because that's what happens with that lack of segregation of duty. That's where you are creating risk of fraud and embezzlement. That's why I said in this particular case and that's why I'm actually sitting here is absolutely going through...

Commissioner McCown – That's going to be the same argument John's going to make and the same argument Craig's going to make with the increased work load we've got to have this person.

Lou – I don't disagree with you at all and we did plan for it in 2008 back when Bob came around and did man power studies and needs before the audit came out. That position was already planned for in 2008. It's really a combination of jumping on it now for the next six months or waiting for 2008. The amount of work isn't going to change, the personnel isn't going to increase without it and quite frankly if those things sit on my desk for a week or two then they sit on my desk for a week or two. It's just a matter of making Patsy's life a little easier cleaning up what the auditors dealt with and bumping that position from the 08 request into 07.

Commissioner Houpt – I want to take each one of these one at a time and I'm going to make a motion that we approve the additional FTE for the Sheriffs office for an Account II position beginning in 2007 an amount not t exceed \$34,369.80.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to

In favor: Houpt – aye McCown – aye Martin - aye

• **D. Request for Additional Personnel – John Gorman**

In the course of performing the 2007 re-appraisal, it became apparent the Assessor's office was in need of at least one new appraisal position. There are over 32,000 properties the Assessor's office monitors. The 2007 assessed value of Garfield County is projected to be \$2,859,636,000.00. At present, they have six full time appraisers, one ¾ time appraiser and a contract commercial appraiser. They also have one full time Oil and Gas Appraiser.

The Assessor's office is responsible for discovering, listing, classifying and valuing all property within Garfield County. They are in the field every other year; the intervening year is spent in the office re-appraising all properties within the County. At present, each appraiser in the office has 3,500 – 4,000+ properties for which they are responsible. This has become an almost impossible task with current staff and

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has been exacerbated by the increase in new construction county-wide which demands even more appraiser time.

Upon creating the areas for the coming field year, we noted we have one more area than we have appraisers to whom to assign those areas. As we will begin our field year in August, it is important we not wait until next year to get this position filled and begin his or her field training. Complete Training for a new appraiser takes at least two years. If we wait until January, we will have lost 4 ½ months of actual field time and training. This was discussed at length with Patsy Hernandez, Garfield County Finance Director and she agrees given the rapid growth in the area.

Mr. Gorman provided a worksheet showing the estimated costs for 2007 to be approximately \$22,072.07.

Jesse introduced John Gorman and Lisa Warder were present.

John – Before I make any request I would like to acknowledge a couple of things, first of all the Boards previous generosity and the staff that I received day one coming into the office of assessor. Most especially I would like to make a comment on the competence, the dedication, the performance, the ability to analyze and lead of the person sitting on my immediately left, Lisa Warder who has made my initiation into this work possible and survivable without which help it would not have been. I came in to the office right in the middle of reappraisal process and I could see that it was fairly overwhelming for the staff, the appraisal staff. In fact I was pretty much not even allowed to talk to them. There was a lot of commotion, overtime, hard work that went into this. We have had some discussions about that process and why it became difficult especially at the end. I’ve given you a memorandum and a request for additional staff. Lisa can provide a lot of details because I wasn’t here and it may have been well to request another appraiser a year ago in the budget process, but for a variety of reasons perhaps that wasn’t done. We have seen dramatic and consistent growth over the past few years both in residential properties, commercial properties and of course in oil and gas accounts. All of these take time. The appraisal staff is behind in picking up new construction and in visiting places that have seen remodels and increases in value. There just isn’t time to do these essential functions of the office. In addition we are analyzing what may be necessary staff wise in the future and I think we are doing the first ever in this county a work force study which is being done beginning a week from today by the Department of Property Taxation. This is a process where they actually come in and take a look at what we are doing, how we are doing it and then they analyze it and make some suggestions about our operation and they compare that with other operations and their long term knowledge and familiarity with our type of operations specifically to give us some direction. In setting this up we hear some stories about what this kind of study did for other offices, shifting responsibilities, changing maybe not the number of staff but the application of staff. Identifying problems in work flow and also identifying staff shortages so we are looking forward to that and the results. But we know already that we are at least short one appraiser. I would like Lisa to add her comments.

Lisa – Keeping in mind your comments to the sheriff when we did the budget process last year and with all respect to John, Shannon Hurst was a certified residential appraiser. I am a certified residential appraiser and we were both available to jump in at any time. We were able to do that and keep the office going. We did not ask for staff at that time. At the end of the election during the 2007 reappraisal when my attention had to start being drawn elsewhere and Shannon’s attention was drawn elsewhere and then John came into the office, it became really apparent that without those two people we were short handed. It was very difficult this year to complete the 2007 reappraisal. It is the first time in my 11 years here that we had that kind of difficulty finishing by the time we were to do so. So the first thing I did after the reappraisal was start to analyze the areas, analyze the areas that the appraisers themselves were having difficulty in and what I came upon is looking at the growth in the County and especially in new construction the appraisal process has actual two years, you go through the complete process. We have one year we are in the field and one where we are in analysis. That year that we are in analysis the building keeps on going it doesn’t stop for us. And so we have a mad rush after reappraisal to get out and start measuring up all that new construction. I don’t have enough appraisers at this point in time to get out and get everything once I have re-analyzed my areas and so that is why we are here before you today. I’d already let John know, after I completed my analysis we are going to need to hire a new appraiser for next year. The problem with waiting until next year is my appraisers are already in the field and in August it will be full blown field work until next May. If I don’t get another appraiser until January that’s five months of training an appraiser to pick up new construction and also start training them in the profession of appraisal that I’ve lost. That’s why we are here before you today. John – My predecessor had huge experience and was very talented in every aspect of the work in that office which I am now learning and the learning curve is steep. I have learned a couple of things but I have a long way to go and I can’t provide what Shannon provided to that office yet. I may not every get anything close to the level of her competence in many of the aspects of appraisal and that has certainly been a great loss of competency and function to the office.

Commissioner Martin – The request is one person.

Commissioner Houpt – I’ll make a motion we approve the new appraiser position for an appraiser I beginning immediately as requested by the appraisers office in an amount for 2007 not to exceed \$22,072.07

Commissioner McCown – Second, with that being corrected to the Assessors office.

Commissioner Houpt - I’d like to say having gone thru the reappraisals you did this year and the magnitude of that job and how quickly this county is growing I can understand your need hire off calendar so there is that time for training. I see in your letter that your field year begins in August and so it only makes sense to move forward. I’d also like to say the new Assessor has brought other talents to the office outside of being able to carry the load for the staff. I don’t want the wrong message to get across that you just relayed.

Commissioner Martin – An increase of 10,000 parcels an assessed evaluation of ten years ago \$444 Million dollars to almost \$3 Billion dollars, it takes a toll on the folks that are there. I think you need a little help.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown

In favor: Houpt – aye McCown – aye Martin – aye

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• **E. Position Change – Part Time to Full Time Landfill Operation – Marvin Stephens and Kraig Kuberry**

Jesse Smith, Marvin Stephens and Kraig Kuberry were present.
Worksheet provided showing January through May, 2001 through 2007:

<u>Year</u>	<u>% Increase</u>		<u>% Increase</u>	
	<u>Total Customers</u>	<u>Customers</u>	<u>Total Tons</u>	<u>Customers</u>
2001	4,565		5,024	
2002	5,384		7,279	
2003	5,338		5,423	
2004	6,432		10,796	
2005	6,948		10,271	
2006	7,748		11,735	
2007	8,726		13,646	
Totals	45,141	191%	64,175	270%

Jesse – I would like to clarify this next one, this is not a request for additional monies. We have in the budget monies to put a full time manager at the landfill, right now it is being done by part time. What we would like to do is we have a window of opportunity we’d like to shift the budget from a full time manager to a full time operator.

Kraig – Rodney will be moved from a part time position to a full time position. The assistant manager for the landfill is not going to happen, not for this money and the requirements we have. I had one of my employees come to me about a month ago and said I have to do something. I don’t want to lose the employees I have now. The intake the landfill has had since 2001 to 2007 it has more than doubled. One of these guys take a vacation, the other is swamped.

Commissioner Houpt – We don’t have anything in front of us on a new position I’m not sure what the request is.

Marvin – It’s an equipment operator.

Kraig – He works two days a week now and I’d like to change it to five days a week

Commissioner Martin – And he is willing to do so?

Kraig – Yes, I talked to him and he’s excited he loves working for the county. These kinds of guys at the landfill are hard to find. It will be hard to find a replacement if I lose any body. The money was in there for an assistant manager which I would like to see happen eventually but I’d rather take the burden off of them.

Commissioner Martin – So you’re looking at a cost savings in reference to employee savings within the approved budget.

Kraig – Eventually we will have to have an assistant manager at the landfill to do the projects we want to do in the future.

Commissioner McCown – Are you going to put that into your 2008 budget?

Marvin – Yes we will.

Commissioner Martin – That will be a budgetary item we will review but your staying within your budget, your not exceeding that or asking for any more funds above and beyond?

Kraig – Just changing the position.

Commissioner McCown – I make a motion we approve the part-time to full-time landfill operator.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt
In favor: Houpt – aye McCown – aye Martin - aye

• **F. Window Washing for Various County Buildings – Tim Arnett**

Jesse introduced Tim Arnett.

Tim Arnett received a request from Richard Alary to issue a request for bids to wash windows at the Courthouse, Administration Building, Detention Center, Mt. View Building and the Henry Building. Specifications were prepared and a legal advertisement was placed in the Post Independent. A Pre-Bid conference was held June 21, 2007 so potential bidders could obtain clarifications of the bid requirements. Two potential contractors attended the meeting and we received one responsive bid.

Recommended Board Action: Award Bid to Alpine Valley Services for the not to exceed price of \$17,880.00.

Tim – This is for all of our buildings over one story. Ed wanted us to use a man lift to do outside windows until we can get some kind of hooks put on the building so they can hang off.

Commissioner McCown – Have our previous contractors that have washed our windows taken responsibility for the damage they have done to our lawn and our sidewalks?

Tim – This year they are they are bonded, performance of payment bond. We also bought plywood to put on all the lawn and the sidewalk across the street.

Commissioner McCown – What kind of cost are we looking at to get hooks on the top of the building?

Tim – I don’t know right now because it has to be engineered because of the weight. I’m sure it will be expensive. I’ll have to get a price before we go anywhere on it.

Commissioner McCown – Does this require a specific number of times for these to be washed?

Tim – This is one time.

Commissioner McCown – One time!

Commissioner Martin – Almost \$18,000 for five buildings?

Tim – If we use ladders it’s a lot cheaper. Last year we did one building.

Commissioner Houpt – I make a motion we approve the window washing contract with Alpine Valley Services for the washing of the windows at the Court House Administrative Building, Detention Center, Mountain View Building and the Henry Building in an amount not to exceed \$17,880.00 and with that I would like staff to spend some substantial time trying to figure out what the best route is for taking care of window washing.

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A motion was made by Commissioner Houpt and seconded by Commissioner McCown to
In favor: Houpt – aye Opposed -McCown – aye Martin - aye

• **G. Award 3/8” Chip Contract – Marvin Stephens**

Marvin Stephens was present and presented a breakdown of the requested roads to chip seal with the additional quantities for County Roads 103 and 113. The original bid price was \$266,947.35 and the new price is \$418,903.36. The remaining chip seal budget is \$43,796.64

Recommended Board Action: Award competitive sealed bid to United Companies to provide and apply 3/8” chip seal to the following County roads for a not to exceed price of \$418,903.36.

Marvin – I did talk to the contractor this morning and he’s willing to go ahead and do that portion. We are set to go. We may have a little bit of schedule problem because we are dealing with two different contractors on this.

Commissioner Martin – Are we going to have some type of analysis on this to come back and say it works, it doesn’t work? Is there any kind of strength loss, what lasts longer etc. are you going to monitor that?

Marvin – It will probably last longer because there is more rock on the road.

Commissioner Martin – But we will have some kind of report, Bobbie’s going to watch on the heavy areas?

Marvin - Yes

Commissioner Houpt – I make a motion we award the competitive bid to United Companies to provide and apply 3/8” chip seal to the roads as listed in a not to exceed amount of \$418,903.36.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown

In favor: Houpt – aye Opposed-McCown – aye Martin - aye

TRAILS AND TRANSPORTATION - SOUTH CANYON TRAIL PROJECT – CONSTRUCTION CONTRACT – NOTICE OF AWARD – JEFF NELSON

Jesse introduced Jeff Nelson

Carolyn – Mr. DeFord asked me to make sure that you knew there was a June 28, 2007 letter addressed to Larry from Andrew McGreggor. Do you have copies to hand out Larry? Carolyn showed letter to Mr. Martin he did not want copies?

Commissioner Martin – No. It’s a clarification of \$150,000.00. We asked the city manager to make sure he had clarification and he supplied that.

Jeff Nelson– Before I submit my report Larry asked if he could give a small presentation.

Larry Dragon – Executive Director of Lower Valley Trails Group – I just wanted to remind the commission of the options we presented after we received a bid for the full 2.3 mile section from West Glenwood to South Canyon. We got one bid for \$3.9 million dollars. We presented what we saw as the options for the County to decide. Option A being construct the full 2.3 miles which required significantly more money than had been raised. Option B would have been to do a shortened version of the trail, 5,000 linear feet which we thought would be \$2.7 million dollars which is what we have raised. Option C would be to do an even shorter version of the trail just around the West Glenwood sanitation district which would require that we not accept, it could be done without GoCo money. We would not be able to accept the GoCo money if we did that. But we have enough other grants and monies to do that project. Fourth would be to do nothing at all. We are still looking at 4 different options. I think today we’re mostly looking at trying to figure out if we can do Option B and that’s what Jeff talked with.....

Jeff – I met with Kewit Friday, we sat down Nick, Roger Rayburn, myself, Jim basically what we needed to do was solidify their bid. We did accomplish however; during that discussion and solidification we found out that it’s basically \$3,030,000.00 inclusive of engineering construction management. Obviously it didn’t come in where we all would like but it has the capability of going to that number right away.

Commissioner Houpt – Do you agree with this number?

Jeff – I do. I think it’s a solid number. I think it’s realistic, two major items in that discussion the first one that really took me back they planned on paving Thanksgiving along the federal highway. Right away that’s a large chance. Number two was digging out there everybody all three of us in the room agreed on this one that you’re more likely to find something to impact your project negatively than not. Both money wise, time wise, schedule wise.

Commissioner Houpt – Do you feel confident this is a not to exceed amount that we have come up with?

Jeff – I think that the \$3 million \$30 thousand is going to be real close to what it comes in at. It could go another 100,000 over or under. It’s a good medium.

Commissioner Martin – Still doesn’t change the overall cost per square foot. Over \$559.00 per square foot on the trail and that is really troublesome to me when we can build a roadway for a whole lot less.

Commissioner Houpt – Everybody knew this would be very expensive very difficult part of the trail.

Commissioner Martin – There is still another section that gets just as expensive if not more so a little further on down and we are aware of that too Larry. I think that you have a regular highway that you can run with the same type of specs running about \$200.00 a square foot or less.

Commissioner Houpt – I think as we look at this project we have to look at the total picture and there are a few things to keep in mind. The major thing is that we have found across the board with every single project that we have gone out to bid on that it’s extremely more expensive than we can anticipated. This is a trail that GoCo has committed to and once they commit they commit to moving forward with that project because they see a vision that was set before them by LoVA group and by others in this region. There is a real need for coming up with alternative opportunities for transportation and everybody knows that. This is a difficult part of the trail, this is a lot of money but I have a difficult time looking at the time, effort, thought and commitment that people have given to this trail and not saying okay we have this moving target set. We know where we are and we feel confident that this is where we are and what we can get this built for. That’s what I’m hearing from staff. I’m going to put a motion on the table to approve the contract with Kewit to build the first portion of the LoVa Trail heading West out of Glenwood Springs in a not to exceed amount of \$3 million \$30 thousand dollars.

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Commissioner McCown - Second with discussion. I don't think the blame for the cost escalation can be placed anywhere but the fact that it exists is clearly there. And I think initially when this particular section of trail was projected; I don't think anyone had a real good idea of what those actual costs were going to be. I'm not going to support it this morning I have not supported it initially and I can't support a 10 foot section of trail costing \$6,000.00, I just can't make myself do that. But I think it does do it gives the LoVA group the opportunity to return the GoCo grant and to go back to them in another cycle with realistic numbers. Perhaps at that point of time GoCo, if this is their vision and they believe this strongly in it will come forward with a realistic amount of money to see that this trail comes to fruition. I think the money that was asked for initially and Larry would agree was inadequate based on the cost of today's construction. I think this will give them the opportunity to go back to GoCo with some realistic numbers and some realistic pleas and say okay this is what it's really going to cost to build this trail. If this is your vision linking Glenwood Springs with Mesa County then this is what it's doing to take. We've had these commitments from local government but we have not been able to come up with money. At the end of the day this is still less than ¼ of trail that we are talking about. The money we asked for to do the whole thing was the amount we are looking at today or just a little below. That's why I'm not going to support it and I would support Larry and the LoVA group going back to GoCo with these new numbers and the realistic fact of what the construction of that trail is going to cost. If the portion by the West Glenwood sanitation can be done in the mean time and have that ready and you kick off from there with the next projected section of trail that's fine. The funding mechanism is just not here for this.

Carolyn – As you continue to discuss this, Don wanted asked me to remind you of two things. Despite the coordination and cooperation and local funding any change orders will show up on this desk.

Commissioner Martin – Yes, we know this.

Carolyn – Secondly as you discussed I believe last week, all maintenance cost will lay on this desk and that will mean a year to year budgeted amount for maintenance for this trail.

Commissioner Martin – We know that as well

Carolyn – Third you hold the liability issues as a recreational facility from which you are insured but there is no governmental immunity.

Commissioner Martin – You had one more and that is to also advise us that this is a licensed and not a property right and it is subject to removal at our cost as well after 60 days notice or is it 90 days notice?

Larry I think its 60 days notice and that means again that is on the burden of the tax payer.

Commissioner Houpt – Right and we had CDOT sitting in this room a year ago having that discussion and that's never happened. Although it could your Right John but it hasn't and I wouldn't anticipate it would.

My concern about not moving forward with this is that we know already that the next time we put this out for a grant proposal or bid the cost is going to be even more expensive.

Commissioner Martin – We are also kind of held hostage in reference to who can work on these type of projects because it is a federal highway and they have to a certain classification to approved by CDOT. It's not that everybody can work on these particular areas. It's up to us to decide if we are going to award the bid or not on the amount that is being presented etc. The motion has been made and seconded. I've been on this project longer than Larry has and I do understand. Also I've been the guardian of the gate shall we say and we have spent a lot of money today too. We commit ourselves into the future as well on this particular project.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown

In favor: Houpt – aye Opposed-McCown – aye Opposed-Martin – aye

Commissioner Martin – I have to oppose based upon the cost of \$606.00 a square foot. I think we need to go back and have a realistic approach and I agree I'm still in support of the trail in that respect but I think it is overwhelming cost Larry. We've just escalated ourselves out I'm looking at the necessitates I've listened to Mr. Gorman today I listened to the Sheriff today I listened to other folks that need assistance because of the growing things. Unfortunately were in the mode of taking care of the necessities and the trail to me is an amenity which is a nice attraction but it is not a necessity at this time.

Larry Dragon – Certainly would like to ask the commission to give us and Jeff the okay to move forward and see what obstacles might be in the way to begin the process of trying to do the trail just around the West Glenwood sanitation district. I think it is 500 and 30 or so linear feet. It is the most difficult section the largest walls will be there because it is so steep. It's also the most atheistically pleasing section it will be right over the river. It will get us to the highway to the guardrail of I70 west of the sand district. We don't have a cost estimate though we could certainly do some guessing now. We would like to be able to put that out to bid if we still have to answer some questions about still using the CDOT money but it would be a new project we could put out to bid later in the year, hopefully get some local people to bid on it and be able to construct it first thing in the spring and as long as the partners financial contributions stay together I think we have more than enough and could maybe use that other money down the road.

Commissioner Martin – I don't think we are pulling our support for it Larry. It is just the awarding of this bid and the amount that it is for the potential of change order and what you, the liabilities etc. I still think if you able to do a section of it, you need to look at it and to bring it back and say this is what it's going to cost us.

Larry Dragon – Jeff do you need to add or do anything?

Jeff – No it's just going to take.....

Commissioner Martin – I don't mean to make it more difficult.

Commissioner McCown – That portion has been designed so you could pull that out and bid that specific section.

Jeff- There's still a little bit of engineering construction involved.

Commissioner Martin – We will also support you in reference in going back to GoCo.

Commissioner Houpt – Once we start this trail there's no guarantee that GoCo is going to come back with the level of funding that they gave us for this trail and if we spend money, I'd still like to see what that first part is going to look like just to make sure that what we are not doing is just doing a sample piece of trail that doesn't go anywhere. And it never will because the support may not be there in the future. I'm very disappointed that we didn't just move forward on this. I do want to look at what you want to bring forward

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but I also want to make sure that GoCo is going to come back. They gave you in excess of \$1 million dollars and we'll just have to see if they are willing to come back with more next time.

Larry Dragon – The issue with GoCo as I see it, first of all I do believe they support this they gave us money. I just met with their board a couple weeks ago. They gave us support. They want to see this happen. But I think your right the amount of money we will have to request three years from now for the next large scale cycle just to get to the end of this 2.3 section let alone the Canyon Creek is going to be enormous and will require much more in the way of local contributions for the matches. They require a full 30% match. Although if we get this first section done it could be significantly less and we may have to do it in shorter sections. Mike and I have talked a lot about how to get these trails built and they are done in sections and they may dead end.

Mike Herms – Director of Trails for RAFTA – The RAFTA trail we built in several sections. Some times it ended in the middle of no where and you put a sign up, continued later. You get the first piece out there and you start getting support. Once you get something done, even this first mile or half mile, your starting with the hardest part first but you get a little success going especially GoCo once you get something done then they will jump on board and keep funding you. I was talking to them last week actually too and they are looking at a new program for these trails like this where they can give you multiple year funding of ½ million or a million and if you have a larger plan, you don't have to keep going back and applying and realize their costs are going up.

Commissioner Martin – The history of GoCo has always been in the urban areas and short trails at certain times and now they've come out into the rural area and they see there is a whole bunch of distance in there, inflated costs as well. They are taking a different approach and I don't think they will turn their back on this project at all. In fact I think this is just exactly right this opened their eyes to the larger type of projects. Larry is very versed in how to approach them.

Mike Herms– This larger trail thing like you said came from the Crystal the Rio Grande and a couple of others where you're looking at 1 million or two per section.

Mike Sawyer – 1224 Colorado Avenue, Glenwood Springs – Thank you for continuing your support of this trail even in light of the financial impediments that have come up in the last three or four days. I also want to thank county staff Jeff Nelson and Don DeFord for the significant amount of work they have put into this project as well as LoVa's Executive Director, Larry Dragon. There has been a significant amount of energy, mental especially put in to trying to find a way to bridge what seemed to be an ever escalating amount of money that this project would cost. I came before you three years ago to present the case for the county being the lead agency on this trail and really I never would have anticipated that today we would be sitting here today looking at still a \$300,000.00 short fall to construct less than a mile of trail even after the County and Glenwood Springs had given generously on three separate occasions. We have learned some valuable lessons as a result of the prior engineering and design and putting together the grants to make this trail go forward. I think they will allow us to be successful at the right time in the future to get this trail connected. What I see is being necessary and going forward is first and much greater involvement by the department of transportation. They have been supportive of this project but they need to come on as a partner not as an entity that is merely permitting or facilitating the trail. They need to be a partner both in terms of their cooperation and funding. They created the geographic situation in South Canyon and they need to help be part of the solution to get that done. We as LoVa need to develop a more robust private fund raising mechanism. We do not believe private donations alone can ever get us to the large amounts of money to build this trail but it is certainly a building block in arriving at that ultimate financial number. And finally again the county has been a very productive partner, a very honorable partner, in this and we appreciate the time and consideration. We will be looking at very seriously getting this first 500 feet of trail accomplished. It may not be this year but again the funds at least as I understand them as they're committed do not have to be spent by the end of 2007. By getting this first segment of trail done we will have bridged the most difficult portion we believe of the South Canyon Trail and second of all we hope to begin creating the energy necessary to propel this project in the future. Thank you for you time and consideration.

Larry Dragon– I will contact the partners today, GoCo to inform them that we had to be done by the end of July and its decided now we're returning back \$1 ¼ million. I will contact Glenwood Springs and CDOT and make sure to try and work on the other section.

Commissioner Martin – I hope people don't interpret this as you have been decommissioned and that your going away and the trail is a pipe dream. It's continuing it's a new approach and a new attempt to get it done in a different manner.

Commissioner Houpt – It sounds as if at this table today you have support to move forward on that first piece and you can relay that to the other partners.

CLERK AND RECORDER - REQUEST FOR BOARD APPROVAL OF REMODEL IN GLENWOOD AND RIFLE OFFICES – JEAN ALBERICO

Jean Alberico was present and submitted a letter from Mark Wharton, Sr. Loss Prevention Specialist and also a Scope of Work letter.

Mark Wharton made workstation assessments and office evaluations on April 10, 2007. Both Glenwood Springs and Rifle Offices were audited at the request of the Clerk and Recorder. Workspaces in both offices are less than comfortable and will support an injury prone environment. Extensive remodels need to be conducted of front counter areas. In addition, all work stations in the Glenwood Springs office need to be replaced.

Jesse – I will make a comment that we do have an OSHA problem I think both in Rifle and Glenwood with the way the offices designed. Turned over to Jean.

Jean – In your packet there is a letter you have from back in April we had Mark Warton from CTSI who is the loss prevention specialists come and do a tour of both offices and the letter you have is the one he sent to Dale outlining the deficiencies he's found in both offices. Basically the Glenwood Motor Vehicle office was part of the expansion of the courthouse that was done in 1983 and 1984 and at that time we were still using typewriters and calculators and none of the counter was designed for the use of computers. There are not any adjustable keyboards; there is no way for clerks to adjust monitors other than just stacking them up. It's the same thing with the other two counters in the recording office and the one in the Rifle motor vehicle office

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the way it was designed there is a 3 foot span between the clerks and the customers and I've already had two workman comp claims with neck and shoulder injuries with the clerks reaching for paperwork. Most of the other desks, there are a couple which have adjustable keyboards most of the others are not really safe. A couple of the laminate fiberboard desks, if you look at them they are collapsing in the middle and I'm afraid the bookkeeper is going to go into her office one morning and find everything on the floor. It has broken drawers so we are asking for permission, we've done some initial work with Sandy's who is giving us a design for modular furniture so if and when we do move out of the courthouse or do move around the furniture can be reused and taken with us. We are asking, it's not so much a remodel as a destruction of taking out the built in counters and the raised platforms. We have a few issues in Rifle with one of the clerks who sits by the raised platform where it ends and has rolled off a couple of time. In Glenwood we have had a couple people take trips off the step when they come down to the lower part of the office. There are a number of safety issues. I thought this would be a quick and easy process but in talking with Rich and Tim it sounds like it will take two to three weeks to redo each section. They need to tear things out and one of the big issues is taking up the carpet and replacing it. I understand it will be a three or four day process in each area. Basically what I'm asking for is permission to pursue getting the final numbers for the remodel and the new furniture. Right now the estimate for furniture is about \$200,000.00 and they are estimating the cost for taking things out and replacing the carpet to be at least \$100,000.00. We are probably looking at between \$300,000.00 and \$400,000.00 to do everything that is necessary.

Commissioner Martin – Not in your budget?

Jean – No I do not have this in my budget.

Commissioner Martin – What the request is to pursue and come back with final numbers?

Jean – It is and I do have final numbers for new furniture in my office, for the bookkeeper and for Kathi who is our new Administrative Assistant. Right now she is working on a cart we got out of the hallway when the DA got new furniture. And as I said the bookkeeper's desk is about ready to fall in and for many of you who might remember the picture of Mildred sitting at her desk piled with papers, I can tell you from being in that office now for 6 months I can understand why that happened. There is no place to put anything. The desk that has been there probably since the 50's is not meant for modern office work. The bid I got from Sandy's for my office, the bookkeepers office and to get Kathi a work space and to get some shelving for Marian's office is \$24,267.00 and I would like permission for budget supplement for that so we can get it ordered now. That doesn't involve any demolition to have this furniture ordered and put in place.

Commissioner Houpt – I think we need to have that in front of us to be able to do that.

Commissioner McCown – Is it appropriate to bring our architect into this to insure we are utilizing the space to the best advantage possible for the long range or are we just buying modular furniture and sitting it around dealing with Sandy, I don't know that you have the expertise to know where you want things but?

Jean – I forgot to tell you the architect has come, he was brought in right away. We are looking at removing what used to be the treasurers office now is the recording office, back in the small area where they are doing the recording now. We are going to remove the wall and some cupboards that we are not using to open the space up and give us more work room. We are also going to take out the box thing for the citizens to sit at, replace that with usable desks and adjustable monitors, etc so it will be comfortable for the public. In Rifle we thought about taking away the raised area in the window that used to be the display area but in talking to Rich and Randy there is no sub floor so that would put in a tremendous amount of cost. At some point in time, a couple of years, we have been told that the Assessor, the Treasurer and the Clerk will be using the Henry Building, I couldn't justify spending that kind of money then to have to change everything. I think when we get down there together we are going to want a different arrangement than what we have now. We can live with the situation now it's just for safety reasons we need to get rid of those platforms, wide counters and give the clerks some ergonomically correct desks to work at.

Commissioner McCown – This won't cause a problem with the new design of the clerical help serving the public sitting at a lower level than the public and looking up all day? Is this going to cause neck problems?

Jean – No its not because it's a 42 inch counter and 28 inch desk, its standard what you see in any office you go into. Doctor's office, they have done the town of Eagle, Aspen and it will not cause any problems like that.

Commissioner McCown – I was more concerned about 99% of the people who come in to your office, especially motor vehicle side remain standing while they are being waited on.

Jean – Right and they will be at a counter right there in front of the clerk and the clerk, instead of being straight on will be able to turn, do their work and then to turn back and be able talk and will be much more ergonomically correct and won't cause the problems with the neck and shoulders.

Commissioner McCown – I didn't want to create another problem by curing this one

Jean – Right. No they won't be looking up that far and I've asked about that and they said this is standard.

As it says here Mr. Warton will review our plans before we bring back to your for the final okay.

Commissioner Martin – Need request of a partial to do immediate just under \$25,000.00.

Commissioner McCown – It's hard for me to make a motion that I approve something just under \$25,000.00, I'd like to see just what the bill is going to be.

Jean – I can tell you the exact amount it's \$24,267.00.

Commissioner McCown – And that is with who?

Jean – That is with Sandy's.

Commissioner McCown – And was that bid?

Jean – That's our single source, it wasn't put out for bid. It's for office furniture. It's the same furniture that they placed in the DA's office, Social Services, its Techneon it's very high quality and will last a long time.

Commissioner McCown – I make a motion we authorize \$24,267.00 expenditure to Sandy's Office Equipment for desks and furniture.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt

In favor: Houpt – aye McCown – aye Martin - aye

CR 204

AGENDA ITEMS

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Carolyn – Mr. Martin I have a couple of agenda issues. Two things I need to add on a discussion of County Road 204 that I will at least need to start in executive session. That is not on your agenda today. The other thing that did not make it on the agenda, there was a newspaper publication of a hearing on operating rights and finishing lease approval on another project at airport. I need a decision from you, it was not on the agenda 24 hours ahead of time on this piece of paper, and however it was in the newspaper. The packets did not get to you. Shane Evans, who is the presenter, will have to walk you through the documents if you decide to go ahead with it.

Commissioner McCown – Who did notice?

Carolyn – Shane Evans, the applicant for operating rights out of the airport.

Commissioner Houpt – And what is it?

Carolyn – It's another private hangar but I don't, I can't give you much information about the project. Brian and Shane are prepared to go through the operating rights here if you're willing to hear it on the basis of public notice.

Commissioner McCown – In worse case scenario who would contest this?

Carolyn – Who would complain, this is not like a land use issue. I suppose the only other folks who might complain would be neighbors out at the airport other tenants. They all know about this project.

Commissioner McCown – It was noticed?

Carolyn – It was noticed in the newspaper.

Commissioner McCown – Okay

CLERK AND RECORDER - CONTINUED DISCUSSION – JEAN ALBERICO - REMODEL

Commissioner Houpt – Lets finish this one, we are not done with this discussion. Back to Jean, you also want permission to be able to move forward to get bids on the rest of the build out?

Jean – Right because when I spoke with Ed last week, Tuesday, he felt that I needed it before we came back with numbers that I needed permission to go out get some quotes.

Commissioner Martin – You have all the specs, you have the designs etc. through the architect and you wish to go ahead and put that out at bid package and see what the final cost would be. We need to give you authorization to do so.

Commissioner McCown – Doesn't Dale do that?

Commissioner Martin – Usually

Commissioner McCown – That is what I thought. I would think once those specs are drawn up Dale would work with Tim and it will go out for bid.

Commissioner Martin – And therefore the direction is to allow Dale to go ahead with it.

Jean – We will come back first part of August with some numbers for you. Thank you.

CLERK AND RECORDER - PROPOSAL FOR PURCHASE OF ADDITIONAL HART ELECTION SOFTWARE – JEAN ALBERICO

Jean Alberico presented two price quotes from Hart Intercivic. One is for counties who did not purchase the Servo/Talley software with their election equipment last year. The quote for that software is \$10,000.00. The second quote is for the BOSS software (Ballot Origination Software System) which, allows us to create and set up the ballots allowing us to print ballots on demand. Since we are using a hybrid election system (both paper ballots and electronic voting), this means we would never run out of ballots. Ordering ballots is a best guess process and over the years we have had to order additional ballot styles at the last minute which is very expensive. The cost for this software purchase is \$82,641.66.

Jean – I'm requesting to purchase some software from Hart Intercivic which is the company we went with for our electronic election equipment. Mildred did have in her budget \$30,000.00 to purchase Servol Talley software and it is absolutely essential that we have that. This is the software that will allow us to not be reliant on the Hart Intercivic technicians or their people to come out and reset the machines, to help us define the elections, to do the logic and accuracy testing's to count the ballots on election day and then to do the post election audits. That part I had already planned on purchasing with the money that was budgeted. But when myself and staff members went to Austin in April and went through the week long training, we worked on the entire software package. I just got a quote from them, when I was down there in April the quote was much higher than this quote came after our conference in the first part of June in Steamboat for the entire package for \$82,641.66. The quote I got when I was there in April was about \$95,000.00 for just the BOSS. They are giving us quite a price break if we buy the entire package. The BOSS software allows us to have complete control of our elections, we can set up the elections, we can either contract with Hart to print our ballots or we can look for local printers. In the past years we have had some real issues working with the out of state printers, getting things done in a timely fashion and then trying to figure out where our ballots are. The Ballot Now software, with the last election Mildred bought e-scans which are the small scanner you use at the polling places and you put a ballot in, one at a time as the individual voter votes it counts their ballot and they are done. We used those e-scans to count the absentee ballots; we had almost 10,000 of those. It wasn't like our old optic scanner where you could line the ballots up and they go through at about 1500 a 1,000 or so an hour. We had to put them in one at a time. The Ballot Now software with the scanner it has, it allows you to multi feed the ballots into the machine. So you're not standing there putting, and we're doing a mail ballot this year so we anticipate 14 or 15,000 people will vote in the mail ballot election. It scans them in rapidly it also gives us the option of any ballots that are miss marked, instead of having to physically look at the ballot and remake it or duplicate it on paper, the image comes up on the screen and it allows the resolution board on the screen to determine the voters attempt to say this is how they voted and then it is tallied. It saves us that long long process of remaking the ballots. That's one of the reasons it has taken us so long the last two elections to get results, because we have to duplicate all those ballots that need to be resolved. We all know that when you give somebody a paper ballot they don't always have the time to come in if they make a mistake and request a new ballot so the voters have very unique ways of letting the judges know how they want their votes to be counted.

Commissioner McCown – Are we comfortable our hardware and software is going to stay compatible with the state and the federal guidelines?

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Jean – They have just about finished testing the process. The four companies that are being used in Colorado are going through a recertification with the Secretary of States office. Hart is scheduled to be done with their certification on July 20th, they have passed the first two steps and they are in the last two phases now.

Commissioner McCown – So it would be safe to assume we would wait until they are certified?

Jean – Right, we would wait until they are certified and also we would wait until it would be contingent upon approval of Don looking at the contract. Basically what I need to do is let them know I am interested and that I would purchase it.

Commissioner McCown – Are these certifications only good for a year? How long do they last once they are certified?

Jean – They certify a level of software, once they are certified they are certified. Now if some of the legislation goes through then every one of these companies is going to have to turn around and get a new level of software certified. But part of this with the service agreements is that you get those upgrades when they are certified, you don't have to repay.

Commissioner McCown – This \$80,000.00 wouldn't be wasted and you wouldn't have to buy new software?

Jean – No, the upgrades come with yearly service contract.

Commissioner Houpt – You already had \$30,000.00 budged and that is included in bid so it's an additional \$52,641.66?

Jean – Yes, because I already have \$30,000.00 in the budget. I may be able to find 35,000 but I know for sure I have 30,000.

Commissioner Martin – That's not for office this is for software.

Commissioner McCown – Do we have enough hardware? Do we have adequate machines in place?

Jean – For this year yes. Part of me coming to you with 2008 budget will be a request for some additional electronic voting machines because I don't believe right now that the number we have will support early voting next year. We will probably need at least ten maybe 15 more. We are being strongly encouraged by the Secretary of State to have a hybrid system which means that voters have the option of voting electronically or on paper ballot. That's what we have right now. I think with the new legislation that was passed it becomes effective January 1st allowing voters to put themselves on permanent mail-in ballot status. It is going to increase our number of people voting by mail-in.

Commissioner Houpt – You would automatically get a ballot?

Jean – That's your option. Right now you have to request mail-in ballots the first of the year or each year, this will allow a permanent status for mail-in ballot.

Commissioner McCown – So actually you're asking for \$52,641.66?

Jean – That's correct.

Commissioner McCown - I make a motion we authorize that expenditure pending the review of the contract by the County Attorney and the certification of Hart.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt

In favor: Houpt – aye McCown – aye Martin - aye

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: - Discussion Re: Carolyn – As I announced earlier, I believe we need an executive session on County Road 204 and \$750,000.00 DOLA grant. This is in the nature of a grant negotiation, contract negotiations we need Jeff Nelson, Andy Schwaller and Marvin Stephens. After that we could do the Public issue regarding Valley View when we come out of executive session.

Commissioner McCown – Is there any legal advice needed on Valley View?

Carolyn – Not that I am aware of.

Jesse – I have a couple of executive items, land contract, senior programs and I need a contract negotiation on the rewrite job descriptions.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

In favor: Houpt – aye McCown – aye Martin - aye

Action Taken:

CR 204

Commissioner Martin – I believe there are two items we need to make a decision in public or at least a discussion.

Carolyn – There were two contract negotiation issues that were discussed in executive session and one of them had to do with negotiations around a DOLA grant regarding County Road 204 that needs public action as to what the grant application should say and authority for the chair to sign. The second one had to do with negotiations around a professional services contract related to our HR department and we need action as to whether you are going to approve.

Commissioner McCown – I make a motion we extend the contract with the HR departments consultant in an amount not to exceed another \$10,000.00 making the total contract \$20,000.00 for the realignment of positions throughout the county employees.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I believe the DOLA contract was going to entail putting in a period and including all of County Road 204 in the description for the improvements along with the engineering and design of the first ten miles and with that I would authorize the chair to sign.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt

In favor: Houpt – aye McCown – aye Martin – aye

VALLEY VIEW HOSPITAL – LEASE AMENDMENT

Carolyn – The only other thing was a discussion regarding the lease amendment that's been informally requested by Valley View Hospital. The minutes over the last number of years were in your packet, there's

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no action required today this is scheduled for August. We just wanted to make sure you had a chance to review your minutes.

Commissioner Martin – We will have that discussion in August.

CONSENT AGENDA

- a. Approve Bills
 - b. Wire Transfers
 - c. Inter-fund Transfers
 - d. Changes to Prior Warrant Lists
 - e. Authorize the Chairman of the Board to Sign a Special Use Permit Allowing “Processing, Storage and Material Handling of Natural Resources” – Applicant; Scott Brynildson – Craig Richardson
 - f. Approval of Liquor License Renewal for Sunlight Mountain – Jean Alberico
 - g. Approval of Liquor License Renewal for Rifle Fireside Lanes – Jean Alberico
 - h. Authorize the Chairman to Sign an Administrative Permit for the Cottonwood Compressor Station to Webster Hill 24-inch Natural Gas Pipeline – Applicant; Bargath, Inc. – Fred Jarman
- Commissioner McCown – in the absence of B and C, I make a motion we approve the consent agenda. A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a – h, removing b and c; carried. in favor: Houpt – aye McCown – aye Martin – aye

BOARD OF HUMAN SERVICES – LYNN RENICK

APPROVAL OF EBT/EFT DISBURSEMENTS FOR JUNE 2007

For the month of June 2007, client and provider disbursements for allocated programs, totaled \$256,084.75. Client benefits for Food Assistance and LEAP totaled \$155,866.74. Total EFT/EBT disbursements for June equaled \$411,951.49. A copy of the certification summary was included for the Board’s approval and signature.

*TRCCF/CHRP Expenditures are for prior month due to delay in Medicaid reporting to state CFMS.

Lynn Renick present. Requesting your approval and signature.

In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL OF HOUSING AUTHORITY – COLORADO WORKS

CONTRACT

The department is requesting consideration and approval for a renewed contract with the Garfield County Housing Authority (July 1, 2007 through June 30, 2008) in the not to exceed amount of \$150,000.00. The contract is for housing services to TANF-eligible participants.

Lynn – This contract is in conjunction with our Colorado Works Program; \$30,000.00 of this is administrative costs the bulk of the contract then goes for direct services for housing.

In favor: Houpt – aye McCown – aye Martin - aye

REQUEST FOR AUTHORIZATION OF SIGNATURE ON LINK PROGRAM CONTRACT WITH COLORADO MOUNTAIN COLLEGE

With the addition of the intensive case management component, the total not to exceed amount has been increased this State Fiscal Year from \$35,120.00 to \$41,484.00. The term of the contract is July 1, 2007 through June 30, 2008.

Lynn – We are increasing the amount approximately \$6,300.00 this year for an additional component which is the intensive case management component as well as the continuing of the Link Program and the Job Development components. The not to exceed is \$41,484.00 and I am requesting approval and signature for this contract.

In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL OF FAMILY CONNECTIONS/RESPONSIBLE FATHERHOOD GRANT APPLICATION

The department has been working with other organizations in the community such as the Courts, Community Corrections, Alpine Legal Services and Probation towards the development of the Responsible Fatherhood program. The Colorado Department of Human Services has received a large federal grant for the development of statewide programming to promote healthy relationships between children and both parents, specifically non-custodial fathers. The Department is preparing a grant application to the state for \$50,000.00 to assist with the implementation of our Family Connections Program.

Lynn – This is a grant application that requires your signature. The application its self is for \$50,000.00 and there is a county match of \$5,564.00. Steve is here to discuss this grant application and it is due next Monday, July 15, 2007.

Steve – The grant application is actually federal dollars that Colorado has received and Colorado has \$2 million dollars per year to allocate for the next five years. This is a second go a round for that application; they didn’t have very many people apply the first go around because they weren’t really ready. This would be October 1, 2007 through September 30, 2008. We are really targeting a few different populations, child support, fathers and or parents that need extra assistance in meeting those obligations. Also we are going to target young fathers 25, 26 and younger and also community corrections. A lot of those dads in the program have not been involved with their kids for several years or ever been involved with them due to being institutionalized. So we are going to try to provide additional programming. The programs are going to be based on a voluntarily basis so the fathers participating in this would be in agreement to do so, it would not be a court order type program.

Commissioner Houpt – I make a motion that we support the responsible fatherhood Grant application being submitted to the state in the amount of \$50,000.00 and we support the county match.

Commissioner Larry – Does the chair have to be authorized to sign that or does that come out of your house?

Lynn – Actually the chair needs to sign this particular application.

In favor: Houpt – aye McCown – aye Martin - aye

PROGRAM UPDATES

- The department still has not received the SFY08 Preliminary Allocation Letter from the state. We will be receiving \$16,182.80 from the state for Child Care Licensing of Day Care Homes in Garfield and Pitkin Counties. This represents approximately a \$4,000.00 decrease from last year due to Eagle County’s

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decision to hire a separate licensing specialist. We will be finalizing a Memorandum of Understanding with Eagle County to assist with the first four months of the state fiscal year as this transition occurs.

- Within the next couple of weeks, the department is expecting the renewal Notification of Grant Award from the Area Agency on Aging in the not to exceed amount of \$74,400.00 for the five-county Caregiver and Senior Services and Equipment Programs.

ROAD AND BRIDGE - CR 313 REQUESTED LAND SWAP COUNTY ROAD 313 – DON SULLIVAN AND MARVIN STEPHENS

Don Sullivan, Marvin Stephens and Kraig Kuberry present.

Don Sullivan – The reason we applied for this so we would have a large enough building site of two acres to accommodate a cabin. We thought it was attached because there is an old fence line there shows it was.

However after surveying we find the county has right of way kind of corners in there. We should have gone for a variance. We don't care if it's attached, but in order to get a big enough building site for the two acres that's why we have to have it attached on that side. Karen Lee owns the property and she wishes to sell the other 97 acres across the road. It is her desire also; she would deed the equal amount on the other side of the road. The road actually sits to the east portion of your right of way. As far as public access, there is a draw that goes up through there and it is not necessarily her desire to fence that opening if she can build a cabin up there. Don is showing a map to the commissioners at this point. He is stating there's an old cabin there we thought was on private property. It sits on forest service and that is where we came to differences in the lines. Commissioner Houpt – I'm not following what the request is here.

Kraig – According to what Mr. Sullivan has told me he has to have a minimum of 2 acres to build a cabin.

He doesn't have two acres on either spot but put them together he will have two acres.

Don – Showing map to Commissioner Houpt and explaining how the land goes together. We may not need to fence it's legal like it is.

Commissioner Martin – Is that a historic access to the public property?

Marvin – That's my concern.

Commissioner Martin – And you don't plan on fencing it off or denying public access?

Don – It isn't necessary to fence it. In the first place if we had two acres we wouldn't be asking. We are going to make application to split this off from this, after this meeting. That's another issue, if we didn't get this there is no use trying to split it off. You can see the road comes over here and you have deeded access on the corner here that is not even being used. Okay, that's what we are asking for just a few feet in here to attach these two. These two will be attached so we will have a legal building site.

Commissioner Houpt – But that's National Forest Land

Kraig – Anytime we go up to widen that road I would like to have that little extra.

Don – You're not going to have to do any work with the road presently. In the future you would still have you same right of way.

Commissioner Martin – Under the other scenario is that the county road bi-sects a piece of property and doesn't allow the combined use of that property, whether you have two lots or not is the old historic approach but were trying to avoid that by having an access or an easement or a relocation of the road to make it continuous on those two parcels without that argument I think is what we are after.

Carolyn – The road split would be the big property from these combined.

Commissioner McCown – We are creating two non conforming parcels. Neither of them are two acres.

Carolyn – Am I missing something? I thought you wanted to combine these two little pieces.

Commissioner Martin – Yes they do.

Commissioner McCown – You can't do anything with them and then they are going to divide that by the road split.

Carolyn – If upon the facts presented it can happen and we have discussed that on the phone that's there is no guarantee this is going to happen. It's a separate exemption process.

Don – And we'll go through the exemption process even though this road was condemned back in the 40's by the county. Do you realize that?

Commissioner Martin – I don't know that Don. If they went through the process and if it doesn't deny public access to public lands, that's another issue

Don – We are not going to do that in fact she probably agrees not even to fence it.

Marvin – If this does happen I'd like to see it deeded access to the county to public lands through this.

Commissioner Martin – And that guarantees that historic opening through that fence to the public lands which has been used prior.

Carolyn – Deeded access to the county Mr. Martin?

Commissioner Martin – It would be to the public. It's a dedication public access to public lands off of County Road such and such.

Carolyn – Will the board service accept that kind.....?

Commissioner Martin – I don't think they need to since it's an historic access and being used today.

Marvin – All we are trying to do is see that historic access stays open.

Commissioner Martin – We'll need to have their input as well.

Carolyn – I understand there is a whole posting process we have to go through if we are in any way changing the historic access.

Marvin – And we have had issues in past where people have tried to deny access. Any access we have has to stay that way.

Commissioner McCown – I make a motion to authorize the transference of property to adequately combine the two parcels as shown parcel C & D with the conveyance of a public access across that property at the existing location for historical use to access the National Forest.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt

In favor: Houpt – aye McCown – aye Martin - aye

PUBLIC HEARINGS:

CLERK AND RECORDER - HEARING ON SERVICE PLAN FOR THE ESTABLISHMENT OF THE DEBEQUE FIRE PROTECTION SPECIAL DISTRICT (TITLE 32) – JEAN ALBERICO

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Mark Hamilton, Subbing as Town Attorney for DeBeque, Nick Marx, Fire Chief DeBeque and Davis Farrar (Town Manager, DeBeque) were present.

Commissioner Houpt – I would like to disclose that Mark Hamilton is a partner of my husbands. I understand from our attorney I only need to disclose not recues.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed but they must supply “originals” from the applicant.

Chairman Martin swore in the speakers.

Mark Hamilton submitted the following exhibits: Exhibit A–Mail Receipts; Exhibit B - Proof of Publication from the Daily Sentinel and the Glenwood Post Independent. Chairman Martin entered Exhibits A – B into the record.

Carolyn – You can approve – I would like to remind you that under the statutes you have three options, you can approve without condition or modification the service plan that’s submitted, after you hear all the evidence. You can disapprove the service plan and you can conditionally approve it. If you need anymore information regarding the factual finding under the statute please let me know as the presentation goes along
Commissioner Martin – A question to the applicant, the service plan has not been provided to us for our review. Do you have a copy of such so that we may follow along with you?

This was passed out for everyone’s review.

Davis Farrar – I am the Administrator for the Town of DeBeque and he gave a power point presentation. He will also provide the CD to the Clerk & Recorder after the presentation. We actually have a fire district but we are going to form a new fire district know as a Title 32 District from a District that is 1139 under the statute Title 31. We propose to create the Title 32 District from the existing Title 31 District. It has been in place for about 3 years. We propose to establish a 6 mil levy to fund the district. The difference between Title 31, Title 32 District is presently the board of trustees serve as the board of the district. Under Title 32 there’s an independently elected board that represents the fire district separately. We think that is a big factor for folks both in Mesa and Garfield Counties so they have representation if they don’t live in town. The boundaries for the district will be the same as they currently exist. We need to adequately fund the fire district covering those portions of Garfield and Mesa County served. As you may or may not know the boundaries were approved but the mill levy was not approved. That is a slight problem. DeBeque for decades has provided fire and emergency services to Garfield, Mesa County residents without funding and for that matter for a number of years without any legal authority to do so. There was some liability associated with that fortunately we did not have a problem and that is why we formed the 1139 District. Increasing growth rates and energy development requires adequate funding for emergency services. We all know things are pretty crispy out there from a wild land fire standpoint and both the residents, ranchers and the business operations require emergency fire protection services. As I mentioned there is no mill levy funding for the districts so we either have bake sales and beg money or we don’t have money. DeBeque, as a town can no longer afford to finance the district without a dedicated revenue source. For the last couple of years we funded it to the tune of \$52,000.00 a year. For our small budget that is a chunk. The voters under this new district would have representation through an independently elected board. As I mentioned also the previously approved Title 31 District was voted in but the mil levy was denied however; I know the Garfield County residents in that district did approve the mill levy. Showed a map showing the boundaries of the fire district in Garfield County and its relationship to the Grand Valley and Rifle Protection Districts. This next map shows the boundaries of the Fire District in both Garfield and Mesa County and the dark line is the Garfield Mesa County dividing line. See the majority of district is actually in Garfield County. Our district size is approximately 780 sq miles in size which is pretty big. Average growth since 1989 has been approximately 5% a year, pretty significant growth rates. There are 865 parcels presently with 1,000 residents. The assessed valuation in Garfield County 2,428,000.00 and change. And the Mesa County evaluation which has a higher amount is 17,697,000.00. Those are 2006 numbers. A 6 mill levy will generate a little over \$120,000.00 year which is not a huge amount but we are hoping it is sufficient to fund the district based on our projections. The nearest fire district that I showed in the previous slid is the Parachute Fire Protection District and their service is 14 miles from our station. Presently we have twelve active volunteers and in 2006 we had 221 calls for service. If the mill levy is approved with this new district, revenues will not flow to the district until 2008. In conclusion, the district is needed to meet the fire and emergency service demands that are increasing presently. Without a predictable funding source the district cannot be sustained as it currently exists. Formation of the district will maintain existing service levels we have which are comparable to other districts. The Title 32 District offers a balance representation with an elected board. New and replacement equipment is very difficult to acquire without a reliable funding source. In absence of this district there are no other districts that can or will service this area. The service standards provided by the Fire District are compatible with other service providers in Mesa and Garfield counties. And the service plan is in substantial compliance with the Garfield and Mesa County Master Plans. Establishment of this district will maintain services critical to the health, safety and welfare of Garfield County and Mesa County residents.

Commissioner McCown – Bullet number 4, I don’t know if its in there or not Davis but is there a plan that there would be X number of representatives from Garfield County X number from Mesa County and X number from the Town of DeBeque that would have to serve on the board? To get equal representation I would think there would have to be some type of balance in the by laws or in the structure or the formation somewhere to ensure that balance remained the same.

Nick – As a whole the district its self is considered a community. We don’t really have Mesa and Garfield County dividing lines within that community. To answer your question there is not that plan in place. What we were doing was leaving it open to the public whoever wants to run can.

Commissioner McCown – I guess you would probably want to strike that bullet then because to me that would take away any perceived equal representation from Garfield County and from Mesa County.

Davis – So they all could be from DeBeque or they all could be from Garfield County?

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Commissioner McCown – I’m not sure that is healthy. I’m not sure that is what you’re looking for but if what the chief has said is the way it is done, that’s the way it could be. To me I would prefer to see, if it’s a five person board two from Garfield, two from Mesa and one from DeBeque. Or some type of a split.
Nick – I think what was meant by that bullet was it wouldn’t be just within the town confines representation. It would be...

Commissioner McCown – But unless you set up that structure ahead of time there is nothing to prevent that.

Davis – I understand that and I suppose the service plan is put together and I don’t know if we have the ability to amend the service plan at this stage. It certainly would make sense, I would suggest that if we did something like that, if no body stepped forward to run from those respective jurisdictions then it could be an at large kind of arrangement, so you don’t end up with a two member board.

Commissioner McCown – I just think you need some guidelines or your going to give the impression that its Mesa County and its Garfield County and the Town of DeBeque is the only people that serve on the board and they are telling us what to do.

Davis – And that is a reasonable point.

Commissioner Martin – Any other discussion? From the Public? Challenges Ms. Dahlgren that you see on this particular issue?

Carolyn – No sir

Commissioner Martin - Jean, in reference to elections? We can approve the mill levy its self but it still has to go through a vote of the people who live within the district. Do you see an issue there in crossing those county lines?

Jean – Not at all we would work closely with Mesa County.

Commissioner Martin – And also with the City putting two counties and the city, town I’m sorry.

Jean – The town is in Mesa County.

Commissioner McCown – And you would envision that being in the mail ballot this fall?

Jean – I think that is the hope of the fire district if this is approved that they can get on the ballot for this fall.

We did this before a couple of years ago when they were on the ballot. We already have, since the ballots haven’t been changed we already have the fire district set up in our election system so it is very easy to pull those voters. And we have to notify property owners as well and give them the option to vote in that election also.

Commissioner Martin – Now Fred you had an issue?

Fred Jarman – The same folks came to the planning commission on June 13, 2007 and made the same presentation to the planning commission and we recommend you move this forward.

Commissioner Martin – Any comment from public?

Max Altenbern – I live on Roan Creek, Garfield County. I’ve lived there all my life and I strongly support this because several years ago clear out in the remote end of Garfield County my dad had an accident and I was up there alone. I was there about 6 hours before a neighbor came along and then they got to Nick and his crew and got my dad out of there. We have used the ambulance service several times. He’s (referring to Nick) has always been there just as soon as we call. I certainly support this and we need it and I hope there isn’t any opposition because that mill levy that’s proposed is cheap to my notion for the service that he has given us.

A motion was made by Commissioner McCown to close the public hearing and seconded by Commissioner

Haupt In favor: Haupt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion that we approve the service plan for the DeBeque Fire Protection District contingent upon the mill levy funding to be approved by the election in November, 2007.

Commissioner Haupt – I’ll second that but there is a question for you.

Carolyn – I don’t know if that is what the applicants want.

Davis – I guess the question becomes, if this is not approved and we fall back to the existing district with no mill levy I guess we would like to suggest is if we can form the district, if the voters don’t approve the mill levy, which I think will be a separate question we would still like to have the Title 32 District in place and we can always go back to the voters again for a question on the mill levy.

Commissioner McCown – I will amend my motion to reflect that, the formation of the district will be a separate question for the mill levy and the formation does not hinge directly on the passage of the funding.

Commissioner Haupt – And I will amend my second.

Commissioner Martin – in other words it is approval of the Title 32 service plan.

In favor: Haupt – aye McCown – aye Martin – aye

Carolyn – The applicants have provided a resolution for your signature. I will make sure that the Clerk gets that.

Commissioner McCown – Should I amend my motion at this time to include the authorization for the chair to sign the resolution? We have not seen that resolution. But I would amend the initial motion to authorize the chair to sign the resolution.

Commissioner Haupt – Second

In favor: Haupt – aye McCown – aye Martin – aye

GARFIELD COUNTY AIRPORT – PRIVATE HANGAR, PARCEL 12B4 – SHANE EVANS AND BRIAN CONDIE

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Brian Condie and Shane Evans were present. Brian submitted the following exhibits: Exhibit A – Mail Receipts; Exhibit B - Proof of Publication and Exhibit C – Map finalized by the Engineer. Chairman Martin entered Exhibits A – C into the record.

Brian – We approved the concept plan, Brian passed out the packets to the board.

Mr. Evans – I have a current map the engineer stamped this morning

Brian – Reviewing the application it does meet the minimum standards under the airport rules and regulations. I find him in compliance with that. He is ready to develop his hangar; we will be using the standard lease which we have used for other private hangars with the inclusion of the 50% partial release on

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the letter of credit and the ability to operate commercial aircraft out of the hangar but not commercial business out of the hangar. Those two were in the original private hangar lease. We will put names and other dimensions in the lease and there are no changes to the lease that we have.

Commissioner Martin – Clarification, the lease parcel its self is 12BF 20,968 square feet for the parcel its self, the building envelope takes up 11,187 square feet under the lease and the agreement there of and operational standards etc...

Brian – It's a 20 year lease plus two year extension. All the options we discussed at the end of the lease.

Commissioner Martin – Your recommendation is to approve the plan and move forward, is that correct?

Brian – Correct

Carolyn – Our standard form requires that the parking spaces meet our building code. Is there a specific difference asked for here or is the number of parking spaces appropriate under the counties building code?

Brian – I talked with Andy a lot about this and the airport development guide calls for three parking stalls which there are along the side. One of them is to be handicapped. This is a private building so he does have the three parking stalls and the handicapped that meet the requirement. They wouldn't meet the public standard but they do meet a private standard.

Carolyn – Is the Building Department willing to go forward with the building permit on that basis?

Brian – Yes

Mr. Evans – The building is basically a 90 X 125. We were going to have a door that is 80 feet wide and 20 feet in height. Intended to have small office space and one restroom and essentially that is the long and short of it in terms of the structure its self will be steel metal consistent with the other buildings there we are actually intending to use the same sort of color scheme. The documents are being prepared here shortly and they will be much more detailed in terms of the construction documents that we intend to submit today. It will be a conditioned space to a degree meaning it will be an insulated structure and we do intend to include some basic heating systems similar to some of the other structures there.

Commissioner Martin – Question? Through the application it also shows there is a letter of credit assuring the project can go forward from Alpine Bank which is included in Exhibit #5 of the application. And there is capacity in the water and the waste water at the airport?

Brian – Yes, we received letters of approval from the fire district and all the utility companies. It took us a long time to get the maximum size building on his size of the lot that's why it has taken a little bit longer to get this development done.

Commissioner Martin – Meeting all the drainage requirements?

Brian – Separation requirement, fire codes...

Commissioner McCown – Move to close public hearing.

Commissioner Houpt - Second

Commissioner Martin – I have to ask if there's anyone from the public that wishes to testify. No one did

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close public hearing. In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the development plan as submitted by Shane Evans for his hangar on parcel 12B4.

Commissioner Houpt – Second

Brian – Authorization to sign the lease?

Commissioner McCown – I move Chairman be able to sign lease for said property

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – aye

CITIZENS NOT ON THE AGENDA

FAIR GROUNDS – PAVING - Nathan Bell – I live at 230 County Road 261 in Silt, CO and I wanted to come down and comment a little bit or voice my concern over the paving that is going on at the Fairgrounds in Rifle. I heard as a rumor that things were going to be happening down there. I didn't really follow up on it and all of a sudden they are doing a paving project and I talked with several people involved, Jesse Smith is heading it up. My understanding of it and I haven't been able to find a plan or get a plan or see a plan is that they are paving around the horse stalls and grandstands in that parking area which is okay I guess other than there is a lot of trailers that park in there. The reasoning I got for that was to keep trailers from parking in there trying to allow places for just individual vehicles to park. But then I have also become aware that the area I thought they were designating for trailer parking between Railroad Avenue or the track on Railroad Avenue and the outdoor arena they are also paving about 1/3 of that as well. 40 foot strip through there which they are going to do for RV parking or something like that and not have, a lot of the horse people carry individual stall set ups that they can do and not allow stall set ups between the track and the asphalt. My concern is we are really limiting the places that trailers can park out there and horse people can park. Number 1 not allowing them to park or number 2 because most of the people I know myself included your not going to park your horses your trailer and tie your horse up to your trailer on asphalt any how. During the summer time it's too hot plus too hard on their hooves and legs. I'm just concerned that we are really limiting the available area for horse trailer to park by making it all asphalt and concerned we may be creating headaches for ourselves down the road from maintenance issues, run off issues I don't know if any of that has been addressed or looked at. I haven't been able to round up any plans on it.

Commissioner Martin – You have some rumor that is true and some that isn't. What it amounts to we are doing a section to improve RV parking and putting some trailer with strips not constant and they will be allowed to tether your horse and also put up your stalls as well. A safety aspect they are trying to get the RV's over there. That was also a request to the East. There are runways and areas that are not being paved next to the stalls and around, trails that go to the arena etc... That won't be paved. We will still have some passage there. The parking lots with the gravel and the other area will be paved for safety issue as well but you will still be able to have some areas to park your trailers there.

Commissioner McCown – The biggest problem we have had with the horse trailers and I'm sure you have seen it at a show, where ever the first guy shows up and parks doesn't necessarily mean that he's parked so we can utilize all of the parking area. It just where he parks and gets out, then the next guy may park at a 45

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degree angle to him and that's where he parks and gets out. That was all chip seal. We are not creating any new paved area basically we are improving what was there. There will still be probably a 100 foot section that will be immediately east of the old barn that there is no pavement and there is nothing north of the barns. We are only going to the west end of the indoor arena that will leave an area between the block barn and the pavement. The pavement will be continuous up to the grand stands.

Nathan – Looks like they have it about 20 feet within those stalls that they are prepping and it wraps clear around on the north side of the horse stalls as well.

Commissioner McCown – They had to prep not knowing how far, there was X amount of dollars allocated to that contract and they didn't know how far that was going to go when the guy showed up with the lay down machine. If it went to the full amount they were going to pave. There is a 40 foot strip down along the east side of the track, what used to be the horse track on the inside out away from that drain a 40 foot ribbon so you can park your horse trailer in something other than mud. That was a request not just from the horse people that come to the Garfield County Fair with kids and they want to park their RV somewhere they can plug in. It's a great horse facility but it is more than a horse facility. In order to try and appease the majority of the people those are requests we have received from users.

Commissioner Martin – And also the spill over parking which is up next to the Health department is going to remain up there

Nathan – And what about winter use for the indoor? As far as parking places for that. There is that little area to the east of the indoor are they going to try and have people park over around the outdoor arena or are they going to let people park on the asphalt?

Commissioner McCown – What we are going to do is to stripe it so that there will be some organization to the parking knowing full well you and your horse trailer may take up two spots but at least you will all be headed in the same direction.

Nathan – I had heard absolutely no parking over in that area.

Commissioner McCown – We are trying like during the fair there are rules if you come and unload your livestock take you trailer somewhere else and park it please. The horse shows are a different critter you guys will be able to park there.

BUILDING AND PLANNING - CONSIDER A REQUEST TO EXTEND THE APPROVAL OF PRELIMINARY PLAN FOR SILT HEIGHTS SUBDIVISION FOR ONE YEAR – APPLICANT; TERRI PATRICK – CRAIG RICHARDSON

Craig Richardson, Roger Neil and Mike were present.

Craig – We have a request to extend the preliminary plan approval which you know in Section 4.34 the subdivision regulations states it is valid for one year from the date of approval. I have provided in a memo a list of my not compliant issues. The plat application was submitted to the department on January 15, 2007 and on March 8, 2007 staff sent out a technically not compliant letter. The period expired on June 19, 2007 and the applicant is requesting an extension and staff find that the board has two options to allow the request to extend even though the applicant did not submit a technically complete final plat application within the required time frame and did not request the extension within the required time frame or deny the request which will result in the applicant to resubmit a preliminary plat application to the Planning Commission and the Board of County Commissioners.

Commissioner Martin – Any question of Craig? The applicants turn.

Roger Neil – With High County Engineering – I'm here with Sherri, Terri Patrick's daughter and she has an authorization from Terri authorizing her to act on her behalf. I'm sure you are familiar with the project it's been in the process since 2000. We've gone through numerous revisions and we finally had gotten to the final product and received an approval last year it was May 15, 2006. We are working to complete all the items in the preliminary plan approval. We are working with a developer who is trying to develop her own property that she was living on and she has limited resources and it was taking some time. She was trying to complete the majority of the items on the property; she reduced the amount of the letter of credit to come in with on the final plat. Starting in January we were really working back and forth with county staff to try to get everything in and approved, even to the point we actually had been deemed technically complete back on March 8th and I guess subsequent to that they came back with another letter that I guess there was some further review and some additional stuff we needed to do. I think we had correspondence as late as March 22nd we had a letter from Stuver that they had requested some information from the county relating to the final plat language. All I'm trying to get to is that we were working back and forth with the county and the date just rolled past us. We're requesting that we be allowed to have the one year extension and not go through and basically redo everything we did over the last year.

Commissioner Martin – Any questions? Counselor anything you have to offer in guidance other than the two options?

Mike (attorney – two options – Other than the two options I think, Craig and I have been over it and adequately assessed what the two options are.

Commissioner Martin – Any testimony to consider in the audience? None.

Commissioner McCown – I make a motion to approve the request for extension extending the time allotted until June 19, 2008.

Commissioner Hought – Second

In favor: Hought – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT ALLOWING STORAGE OF OIL AND GAS DRILLING EQUIPMENT ON A PROPERTY LOCATED AT THE INTERSECTION OF HIGHWAY 6 & 24 AND COUNTY ROAD 300 – APPLICANT; GEORGE STRONG – CRAIG RICHARDSON

Craig Richardson presented

Property is 18 acres in size and located at the intersection of County Road 300 and Highway 6 & 24. The intent is to construct a metal building which they will utilize for the storage of oil and gas equipment. Traffic generated by this proposed use is represented at ten semi trucks and five light truck round trips per day. Due to limited impacts of this proposal and the characteristics of the surrounding neighborhood which include a

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commercial activity staff recommends that the Board of County Commissioners direct staff to schedule this item before the board.

Commissioner McCown – Motion to Schedule before the board.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING CONSIDER APPROVAL OF A PRELIMINARY PLAN FOR WHISPERING CREEK SUBDIVISION LOCATED ON COUNTY ROAD 245 – APPLICANT; SPECIALTY RESTAURANTS CORPORATION – CRAIG RICHARDSON

Tim Thulson of Balcomb and Green, P.C. on behalf of the applicant, Roger Neil, Mr. Marc Hogan, Toby Guccini and Michael Howard, Garfield County Attorney were present.

Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner Craig Richardson submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Subdivision Regulations of 1984, as amended; Exhibit E – Garfield County Comprehensive Plan of 2000, as amended; Exhibit F -Application; Exhibit G – Staff memorandum; Exhibit H – E-mail from the Town of New Castle Planning Department dated February 13, 2007; Exhibit I – Letter from the Division of Water Resources dated February 28, 2007; Exhibit J – Memo from the County Road and Bridge Department dated February 13, 2007; Exhibit K – Letter from Mountain Cross Engineering dated March 5, 2007; Exhibit L – Letter from the County Environmental Health Manager dated February 26, 2007; Exhibit M – Memo from the County Vegetation Manager dated March 6, 2007; Exhibit N – Letter from the Colorado Geologic Survey dated February 16, 2007; Exhibit O – Letter from Colorado Division of Wildlife dated February 28, 2007; Exhibit P – Letter from Tim Thulson of Balcomb and Green dated March 14, 2007; Exhibit Q – Illustrative site plan provided by the Applicant; Exhibit R – Applicants power point presentation; Exhibit S – Letter regarding irrigation rights from Garfield & Hecht, P.C. dated April 11, 2007 and Exhibit T – Traffic Impact Analysis Conducted by Boundaries Unlimited Inc. dated May 15, 2007. Chairman Martin entered Exhibit's A – T into the record.

Planner Craig Richardson explained:

GENERAL PROJECT INFORMATION

The Applicant is proposing to subdivide Parcel A of the Huber Exemption (12.77 acres) into a total of five (5) lots ranging in size from 2.32 to 2.71 acres.

The subject parcel was originally created as by the Huber Exemption approved by the Board of County Commissioners in 1992.

The property is relatively flat containing gentle slopes that slope in a southwesterly fashion towards East Elk Creek and has historically been used as irrigated pasture land. There is a large knoll in the center of the property. A portion of the property is situated within the 100 year-flood plain.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners approve the Preliminary Plan for Whispering Creek Subdivision with the following conditions:

- 1.) That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
- 2) The Applicant shall include the following plat notes on the final plat:
 - a) One (1) dog will be allowed for each residential unit and the dog shall be required to be confined within the owner's property boundaries.
 - b) No open hearth solid-fuel fireplaces will be allowed anywhere within the subdivision. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. seq., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.
 - c) All exterior lighting will be the minimum amount necessary and all exterior lighting will be directed inward and downward, towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.
 - d) No further divisions of land within the Subdivision will be allowed.
 - e) Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. All must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.
 - f) All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.
 - g) Based on the analysis of the sub-soils on the property, Individual Sewage Treatment Systems and foundation designs are required to be conducted by a registered professional engineer licensed to practice within the State of Colorado. These studies and plans shall be submitted with individual building permit application for each lot. The cost of these studies shall be borne by the individual property owner.

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- h) All streets are dedicated to the public but all streets will be constructed to standards consistent with Section 9:35 of the Subdivision regulation of 1984, as amended and repair and maintenance shall be the responsibility of the incorporated Homeowners Association of the subdivision.
- i) The mineral rights associated with this property have been partially severed and are not fully intact or transferred with the surface estate therefore allowing the potential for natural resource extraction on the property by the mineral estate owner(s) or lessee(s).
- j) Development with the flood plain is subject to Garfield County Administrative Permitting.

Craig - Presented power point presentation. This applicant has gone to the Planning Commission I believe three times and it has had some challenges in the past. Staff recommends that the Board of County Commissioners approve the preliminary plan for Whispering Creek Subdivision with conditions 1-9.

Applicant:

Tom – We have been at this quite a while a lot of work with the Planning Commission and the adjacent property owners and we’re a fairly simple subdivision and we are in complete agreement with all the conditions recommended by staff. Willing to accept all those conditions and want to urge that you approve it subject to that.

Commissioner McCown – Moved to close public hearing

Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the preliminary plan for Whispering Creek Subdivision with the nine conditions as recommended by staff. Commissioner Houpt - Second

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER APPROVAL OF A SPECIAL USE PERMIT ALLOWING A “COMMUNICATION FACILITY” ON A PROPERTY OWNED BY DARYLNE WOODWARD AND MARTHA COLLISION NEAR THE TOWN OF CARBONDALE (CONTINUED FROM JULY 2, 2007) – APPLICANT; DARLYNE WOODWARD AND MARTHA COLLISON – CRAIG RICHARDSON
STAFF RECOMMENDATION

Staff recommends approval of the proposed Special Use Permit allowing a “Communication Facility” on a property owned by Darylne Woodward and Martha Collision with the following conditions:

- a. That all representations made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
- b. The Applicant shall meet all Garfield County Building Code Requirements.
- c. The operation of this facility shall be done in accordance with all applicable Federal, State and Local regulations governing the operation of this type of facility.
- d. The communication facility shall be available for future co-location and the denial of a requested co-location shall be based on technical reasons, not on competitive interests.
- e. The proposed modifications and all future modifications shall be painted a darker matte earth tone to reduce visual impacts.

Commissioner Martin – We had continued this hearing to allow the environmental board...

Cedar Rose – It’s hard to pull committees and boards together within a week and so I think at this point while I know that it is a concern of quite a few Carbondale residences and quite a few people have expressed their concerns related to both the health, which I am aware is something you can’t rule on. But also the visual impact just of the whole cellular tower and quite a few Carbondale residents are concerned about the visual impact of the cellular towers on the edge of town. I don’t think there is any new information from what we had discussed last week.

Commissioner Martin – Well thank you for trying Cedar.

Commissioner Houpt – I also talked to the Mayor of Carbondale and he said that it wasn’t an immediate concern because it is not a new tower but an addition to an already existing tower.

Commissioner Martin – Hopefully we have improved the communications from the Planning Office to the sub boards and hopefully that will take place for comments back to us etc....

Commissioner McCown – I move we close public hearing.

Commissioner Houpt – Second. favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the special use permit allowing a communication facility on property owned by Darylne Woodward and Martha Collision with the five conditions recommendation from staff.

Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A REVISED PRELIMINARY PLAN FOR CREEK SIDE ESTATES TO SUBDIVIDE A 15.37 ACRE PROPERTY IN A TOTAL OF SIX (6) LOTS LOCATED APPROXIMATELY THREE (3) MILES NORTH OF THE CITY OF RIFLE – APPLICANT; MARK SILLS – DAVID PESNICHAK

David Pesnichak, Davis Farrar, Planner and Michael Howard, County Attorney were present

Davis Farrar – 0165 Basalt Mountain Drive, Carbondale, CO and I am here with Tom, representing the owner of the property as well. It came to my attention recently this morning that we have a slight problem with the notice. It did not get published in the newspaper it was posted, it was mailed to the adjoining property owners and I guess depending we would beg your consideration to be allowed to move forward if that is possible. This is a minor change to the project in upgrade and we have not had any protests, in opposition to date.

Commissioner Martin – We will hear the findings of notification and make a decision upon that based upon the facts presented to us.

Michael Howard reviewed the noticing requirements for the public hearing and pointed out that publication is required and it appears that notice is insufficient, it would be up to the Board to determine weather or not to proceed.

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Commissioner Houpt – Because of the nature of this particular application I would be fine proceeding.
Davis Farrar – We are willing to take the risk also.
Commissioner Martin – Knowing that there could be challenge because of improper notification act.... Do we have anyone in the audience that wishes to voice their opinion on this one?
Commissioner McCown – I think given the fact we have process in place this would have been done administratively I don’t feel there will be any challenge on this issue.
Commissioner Martin – We will accept and go forward.
Chairman Martin swore in the speakers.
Planner David Pesnichak submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Subdivision Regulations of 1984, as amended; Exhibit D – Garfield County Zoning Regulations of 1978 as amended; Exhibit E – Garfield County Comprehensive Plan of; Exhibit F -Application; Exhibit G – Staff memorandum; Exhibit H – Letter from Jake Mall of GarCo Road and Bridge dated October 2, 2006; Exhibit I – E-mail from Dan Roussin of CDOT dated October 6, 2006; Exhibit J – Letter from Jonathan White of Colorado Geological Survey dated October 9, 2006; Exhibit K – Letter from Steve Anthony of GarCo Vegetation Management dated October 16, 2006; Exhibit L – Letter from Chris Hale of Mountain Cross Engineering dated October 19, 2006; Exhibit M – Letter from Craig Lis of the Colorado Office of the State Engineer dated October 18, 2006; Exhibit N – Letter from Mountain Cross Engineering dated October 19, 2006 and updated November 25, 2006; Exhibit O – Letter from Davis Farrar, Western Slope Consulting dated December 5, 2006; Exhibit P – Letter from Mountain Cross dated January 3, 2007; Exhibit Q - Army Corps of Engineers Permit issued February 8, 2007; Exhibit R – Resolution of Approval Number 2007-09 for Creek Side Estates dated February 5, 2007; Exhibit S – E-mail and Memorandum from Garfield County Vegetation Management, Steve Anthony dated May 1, 2007 and March 12, 2007; Exhibit T – Letter from Cynthia Love of the Colorado Office of the State Engineer dated April 18, 2007; Exhibit U – District Court, Water Division 5, Case Number 04CW99; Exhibit V – Letter from Doby Enterprises, LLC dated June 6, 2007 and Exhibit W – Letter from Bob Noone of the Noone Law Firm dated June 13, 2007. Chairman Martin entered Exhibit’s A – W into the record.

Planner David Pesnichak explained
GENERAL PROJECT INFORMATION
Property Description

The proposed subdivision is located approximately 4 miles north of Rifle on State Highway 325, South of Rifle Gap Reservoir. The Property lies on the east side of State Highway 325.
This 15.37 acre property is located between Rifle Creek and Highway 325 and is zoned ARRD. The topography is generally gentle and sloping down from Highway 325 to Rifle Creek. There is one residence currently on the property which is proposed to become Lot 6. Much of the eastern edge of the property abutting Rifle Creek is within the 100 year floodplain.

The existing driveway from Highway 325 is proposed to be relocated to the north in order to facilitate the development of proposed Lot 1 as well as site distance requirements for CDOT. There are two known existing easements on the property: one easement is held by the Public Service Company of Colorado located in the southwest corner of the property in proposed Lot 1; another is located along the southernmost boundary of the property as a 20’ wide water system utility R.O.W.
This item has since been reheard by the Planning Commission. The Planning Commission recommended approval to the BOCC at this hearing.
On January 15, 2007, the Board of County Commissioners approved the Preliminary Plan for Creek Side Estates. At this hearing, there was discussion and concern regarding the proposed above ground 50,000 gallons fire protection pond. Since this approval the Applicant is requesting to amend the application to substitute the 50,000 gallon above ground fire protection pond with a 30,000 gallon in-ground fire protection tank. In addition, the Applicant is proposing to replace the previously approved fire protection pond with an up to 20,000 gallon pond with 4 to 1 slopes (See Plan 2 above). The Planning Commission heard this item on June 13, 2007 and recommends that the Board of County Commissioners’ approve this revised Preliminary Plan with the conditions proposed by Staff.

STAFF RECOMENDATIONS
Staff recommends that the Board of County Commissioners **APPROVE** the proposed revised Preliminary Plan with the following conditions recommended by Staff:

1. That all representations made by the Applicant in the application and as testimony in the public hearings before the Planning & Zoning Commission and Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners.

Access and Internal Roads

2. According to the Colorado Department of Transportation (CDOT), there are site distance issues with the access to the proposed Creek Side Development. The Applicant shall obtain a Notice to Proceed to work within the CDOT right-of-way prior to final plat.
3. Right of way dedication shall be at the time of final platting, using the standard dedication certificate language as set for by Garfield County.

Pond

4. The pond shall be utilized in accordance with the Ruling of the Referee, Case Number 04CW99; limited to a 20,000 gallon capacity; a 12 to 18 inch depth and be constructed with grading not to exceed a slope of 4 to 1. The Applicant shall include language to address the maintenance of this pond including weed management and water circulation in the Covenants prior to signing of the Final Plat.

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Fire Protection

- 5. The 30,000 gallon fire protection tank shall be constructed and maintained in accordance with all requirements set forth by the Rifle Fire Protection District.

Wetlands

- 6. The Applicant shall incorporate the recommendations contained in the “Wetland Restoration Plan” prepared by Beach Environmental, LLC contained in the Application.

Revegetation and Mosquito Control

- 7. The Applicant shall provide a security for revegetation in the amount \$4250 to cover the estimated 1.7 acres to be disturbed prior to signing of the Final Plat. The obligations of said security shall be incorporated into the Subdivision Improvements Agreement. The security shall be held by Garfield County until vegetation has been successfully reestablished according to the Reclamation Standards in the Garfield County Vegetation Management Plan.
- 8. The Applicant shall submit a Mosquito Control Plan for Sills Pond No. 1. This plan shall be reviewed and approved by the Garfield County Vegetation Management prior to approval of the Final Plat.

Soils / Geotechnical Issues

- 9. The Applicant shall incorporate the recommendations contained in the “Preliminary Geotechnical Study” prepared by HP Geotech contained in the Application into the covenants.

Drainage

- 10. The covenants and final plat shall be updated to allow storm drainage conveyance along all property lines.

Individual Sewage Disposal System

- 11. The Applicant shall incorporate the recommendations contained in the “Creek Side Estates Individual Sewage Disposal System” report prepared by HP Geotech contained in the Application.
- 12. The Applicant shall delineate on the final plat and update the covenants to require a 50-foot setback from the top of bank for all Individual Sewage Disposal Systems (ISDS) for Lots 2-6.

Irrigation

- 13. The Covenants shall be updated to limit each dwelling unit to 485 square feet of irrigated land each.

Easements

- 14. The Applicant will need to delineate and legally describe all easements on the final plat and convey all easements shown on the plat to the Homeowners Association. This dedication needs to be in a form acceptable to the County Attorneys Office and transfer shall occur at the time of recording the final plat. These easements shall include, but are not limited to all easements of record, utility easements, drainage easements, shared water system easements (domestic wells and water storage tank), storm-water drainage easements, and all internal roads (which will be dedicated to the public on the face of the final plat) required as apart of this development.

Impact Fees

- 15. The applicants shall make a cash payment in-lieu of school land dedication of \$200 per lot at the time of final plat.

Covenants

- 16. Update the Protective Covenants to prohibit Accessory Dwelling Units.
- 17. Update the Protective Covenants to restrict the number of dogs per dwelling unit to one (1) as is required by Garfield County Regulations.

Plat Notes

- 18. A plat note shall be placed on the final plat stating: “To mitigate fire hazards, each lot owner shall incorporate and maintain a defensible wildfire zone as set forth in the “Colorado State Forest Service Publication 6.302”
- 19. A plat note shall be placed on the final plat stating: “Each dwelling unit is limited to 485 square feet of irrigated land each.”
- 20. A plat note shall be placed on the final plat stating: “No accessory dwelling units are permitted within the Creek Side Estates subdivision.”
- 21. A plat note shall be placed on the final plat stating: “All Individual Sewage Disposal Systems for Lots 2-6 shall be setback fifty (50) feet from the top of the bank of Rifle Creek.”

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Dave – Presented a power point presentation. This application was previously approved by the Board of County commissioners on January 15, 2007. There has been some modifications to this application and those are what we are looking at here today. I’m going to keep my presentation briefer than normal and just go over changes. This application was reviewed by the Planning Commission on June 13, 2007 and they recommend approval.

Davis – Just a point of clarification the tank we have can actually hold 35,000 gallons if you fill right up to the very top. I guess what we would like to suggest is it’s probably better to have additional fire storage in the tank and reduce the volume in the pond than to leave the tank at 30,000 gallons. I’ll take credit for that error in the submittal. We can regulate that with a float in the tank or probably preferred would be to allow for a little more water to go into the tank and a little less in the pond. I think the staff has covered the issues pretty clearly. The board will recall that during our discussion with you on the original application there are a number of issues raised about the pond in terms of animals and kids and all those kinds of things. We think this is a far better solution than the pond for fire storage. I’m surprised the fire district didn’t comment I did make a communication directly with the fire district and ask them for input on the design that we presented you and we took their comments and incorporated those in our design. Again we are happy to meet what ever criteria you have for the storage tank.

Commissioner Martin – Any questions? Counselor? Open up to public, anyone who needs to testify? None

Commissioner Houpt – So it’s a 35,000 gallon tank?

Davis – The tank capacity is 35 filled to the brim.

Commissioner McCown - And that will reduce the pond to 15?

Davis – Yes

Commissioner McCown – I move to close public hearing. Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the preliminary plan with the conditions as presented by staff correcting number 4 limiting the size capacity on 15,000 gallon, increasing the tank gallon size to 35,000 and including all other recommendations I believe to 21.

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR AN “INDUSTRIAL SUPPORT FACILITY WHICH WOULD INCLUDE: MATERIAL HANDLING, PUMPING FACILITIES, WAREHOUSE FACILITIES/STAGING AREAS, STORAGE AREAS, AND ACCESSORY USES TO THE ABOVE” IN THE RL ZONE DISTRICT AND LOCATED ON A TRACT OF LAND APPROXIMATELY SIX (6) MILES WEST OF THE TOWN OF PARACHUTE, BETWEEN I-70 AND HIGHWAY 6 & 24 – APPLICANT: FRAC TECH SERVICES, LLC – DAVID PESNICHAK

Gena Gerow, Kay Eyl, John Roney, Sharon Hicks, Paul Burden, Mike Harrison and Mike Howard, County Attorney were present.

Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers:

Planner David Pesnichak submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff Memorandum ; Exhibit E – Application; Exhibit F –E-mail from Mark Kadnuck of the Colorado Department of Public Health and Environment dated March 21, 2007; Exhibit G – Memo from Craig Lis of the Colorado Division of Water Resources dated March 15, 2007; Exhibit H – Memo from Dean Riggs of the Colorado Division of Wildlife dated March 7, 2007; Exhibit I – Memo from Jake Mall of the Garfield County Road and Bridge Department dated March 2, 2007; Exhibit J – Memo from Rob Ferguson of the Grand Valley Fire Protection District; Exhibit K – Memo from Roy McClung of the town of Parachute dated February 13, 2007; Exhibit L – E-mail and Access Permit application from Dan Roussin of the Colorado Department of Transportation dated March 24, 2007; Exhibit M – E-Mail from Mark Kadnuck of the Colorado Department of Public Health and Environment dated March 22, 2007; Exhibit N – Memo from Steve Anthony of Garfield County Vegetation Management dated March 26, 2007; Exhibit O – Colorado Department of Transportation, State Highway Access Permit, issued March 22, 2007; Exhibit P – Sound Analysis conducted by Hankard Environmental dated March 31, 2007; Exhibit Q – Transfer of Conditional Water Right, Case Number 99 CW 86 and Recorded October 31, 2006; Exhibit R – Frac Tech Dust Control Plan Submitted April 6, 2007; Exhibit S – Frac Tech Weed Management Plan Submitted April 6, 2007; Exhibit T – Frac Tech Rehabilitation Plan Submitted April 6, 2007; Exhibit U – Garfield County Comprehensive Plan of 2000; Exhibit V – Staff Presentation to the Planning Commission April 11, 2006; Exhibit W – Monitoring Well Permit Number 273164, issued April 3, 2007; Exhibit X – E-mail from Chris Hale of Mountain Cross Engineering dated April 10, 2007; Exhibit Y – E-mail from Steve Anthony of Garfield County Vegetation Management dated April 11, 2007; Exhibit Z – E-mail from Chris Hale of Mountain Cross Engineering dated May 29, 2007. Chairman Martin entered Exhibit’s A – Z into the record.

Planner Dave Pesnichak referred to the exhibits first and explained if you will recall this property had previously gone through a re-zone several months ago which had rezoned it from ARRD to Resource Lands. Rezone is scheduled for a hearing in August to rezone those parcels. Dave also presented a power point presentation:

DESCRIPTION OF THE PROPOSAL

The Applicant is proposing to construct an “Industrial Support Facility” to accommodate the storage of heavy trucks, vehicle washing and servicing, office building, warehouse building, acid dock, gel tanks, and fueling station. These buildings will include an 80’ x 312’ main building containing a service bay area of about 80’ x 200’ and an office area of about 80’ x 112’; and a 225’ x 50’ warehouse building. The total development area is anticipated to be 15-20 acres. The services and offices on this site are to be used by the Applicant, Frac Tech, who is engaged in the oil and gas well frac services industry.

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The Applicant has represented that the hours of operation are to be 24 hours a day, 7 days per week and will include both heavy truck traffic as well as employees accessing the site with personal vehicles. Truck traffic is contemplated to range from 32 to 60 trips per day while employee traffic is to range from 20 to 35 cars per day. The number of employees is to start at 32 with numbers potentially reaching 120. It is anticipated that employee traffic will be 20-35 cars a day with peak traffic times occurring at 12.00 am – 5.00 am and from 3.00 pm to 5.00 pm.

Activities on the site are to include truck storage for 44 trucks, employee parking, truck servicing/fueling and washing, warehouse loading and unloading (including gels, acids, polymers and biocides), sewage treatment, and offices.

This facility will have a high level of visibility from I-70 as well as Highways 6 and 24. In addition, the location of the property is immediately east of the Travelers Highlands Subdivision which is zoned Commercial Limited and will accommodate numerous commercially oriented businesses.

This application ran concurrently with a rezone request which was heard by the Planning Commission on April 11, 2007 and approved by the Board of County Commissioners on May 7, 2007. The rezone changed the zoning on the subject parcel from ARRD to RL which allows an “Industrial Support Facility” as a Special Use. This application was heard by the Planning Commission on April 11, 2007. At this hearing the Planning Commission recommended that the BOCC approve this application for a Special Use Permit.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners approve this request for an Industrial Support Facility with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. The Applicant shall comply with all standards as set forth in §5.03.08 “Industrial Performance Standards” of the Garfield County Zoning Resolution of 1978 as amended and included here as follows:
 - a. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.
 - b. Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
 - c. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
 - d. Every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
 - e. Storage of flammable or explosive solids or gases shall be in accordance with accepted standards and laws and shall comply with the national, state and local fire codes and written recommendations/comments from the appropriate local protection district regarding compliance with the appropriate codes.
 - f. No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by any reasonably foreseeable natural causes or forces.
 - g. All equipment storage will be enclosed in an area with screening at least eight (8) feet in height and obscured from view at the same elevation or lower. Screening may include berming, landscaping, sight obscuring fencing or a combination of any of these methods.
 - h. Any repair and maintenance activity requiring the use of equipment that will generate noise, odors or glare beyond the property boundaries will be conducted within a building or outdoors during the hours of 8 a.m. to 6 p.m., Mon.-Fri.
 - i. Loading and unloading of vehicles shall be conducted on private property and may not be conducted on any public right-of-way.
 - j. Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size.
 - k. Any exterior lighting shall be controlled by a motion sensor, full cut-off, pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property. In addition, the Applicant shall install a roof with internal, downward and inward facing, full cut-off lighting over the fueling station.
4. The Applicant shall add the following language to the submitted site Rehabilitation Plan (Exhibit T): “In the event that the property is abandon, all outdoor equipment including but not limited to the fueling station, fueling tanks, and gel tanks shall be completely removed and disposed of in accordance with all current state, federal and local laws.”
5. The Applicant shall file a Spill Prevention Control and Countermeasure (SPCC) plan with the County and have a copy on site for spills that may occur from vehicles, machinery, fueling station, acid docks and gel tanks in the area.
6. The Applicant shall provide a valid well permit prior to the issuance of the Special Use Permit.

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7. The Applicant shall install a combination of plants and an 8 foot high earth-toned substantially screening fence along Highway 6.
8. The Public Water System shall obtain a valid permit from the Colorado Department of Public Health and Environment prior to the issuance of the Special Use Permit.
9. A sand and oil separator shall be installed to provide recycling of water used for the truck wash facility.
10. An independent enclosed 8' high fence shall be installed enclosing the evaporation pond.
11. All buildings and rooftop equipment shall be painted with non-reflective earth toned paint that is consistent in color to the surrounding landscape.
12. The Applicant shall submit an approved permit from the Colorado Department of Health and Environment for the fueling station prior to the issuance of the Special Use Permit.
13. Execution of the site rehabilitation/reclamation plan for the subject property is required when the use of the site by the owner of the parcel for an Industrial Support Facility is terminated, whether or not financial security for reclamation is required in this Resolution, under terms of Section 5.03.07(2) (B) of the Zoning Resolution. Responsibility for site reclamation is transferred with the SUP, and the Applicant/Owner shall so advise any transferee of the SUP. Enforcement of this condition of approval and all others is subject to an action by the BOCC for penalties and/or injunctive relief in a court of competent jurisdiction.
14. No development activity shall occur at this property until all of these conditions have been met and a Special Use Permit has been issued by Garfield County Board of County Commissioners.
15. Prior to issuance of the Special Use Permit, the Applicant shall submit a plan for maintenance of the oil separator for the storm water runoff from the parking areas. This plan shall include how and how often the separator should be inspected and cleaned and at that time: remove debris from basket, replace filter every XX months/years, pump reservoir when within XX inches of top, etc.

Commissioner Houpt – What are the RV spaces for?

Dave – It is my understanding that there will not be anybody staying or living on the site. The RV space is because they would like a storage space in addition to the large truck storage.

Commissioner Houpt – What makes it different than just a regular parking spot for a truck, is there electricity out to it?

Dave – It is my understanding there would be no electricity, no waste disposal.

Commissioner Houpt – So its not employee housing?

John Roney – May I address that if you don't mind? The computer vans that have all the monitoring devices in it, the computers we use RV's to do that. They are separate from the major fleet.

Commissioner Houpt – But there is nothing special about the parking space?

Gena – They are wider to allow foreman to keep them away from the trucks.

John – And they also have the power outlet if we need to down load data we want them closer to the office.

They have been modified to slide out, no couch or anything else like that. That is where the desk, the computer monitors are so all the living accommodations that one normally would have, have been taken out.

Commissioner Houpt – In Parachutes response they brought up the concern about the Parachute interchange. As we continue to approve more activity or activity continues to grow out there that is a growing issue. I personally don't think CDOT will ever have the money to take care of. Have you been in contact with Parachute and talked about their concerns about that interchange?

Dave – I haven't been in contact with them and nothing additional to the letter that we received. They make that comment virtually on all development that happens out in this area and you're right it is a growing concern.

Commissioner Houpt – I think it's important for us not to stop looking at it because it is their major concern right now.

Commissioner McCown – Not only are we are looking at it we are contributing \$50,000.00 toward the study and they don't know what the cure to the problem is yet.

Commissioner Houpt – And that's true I know that there is some private business going into CDOT trying to find a solution as well. I just wondered if there had been any discussion around this, over that interchange.

John – We have, a few months ago in the Sentinel you may have seen an article describing the dust problem by one of our competitors and that prompted us to think that if we hadn't been approached by anyone from Parachute. We have talked to a few Parachute residents and if it ever comes to that Frac Tech is fully prepared to not even go thru the Town of Parachute. We can simply go through the DeBeque access onto the interstate and then go to our facilities that way. So we are prepared to look at that situation if need be.

Commissioner Martin – Which is the old highway.

John – Yes the old highway and getting on the interstate.

Commissioner Houpt – I just hadn't seen any reference to that concern. I'm assuming they are separate permitting from CDPHE for the acid tanks and the gel tanks?

Gena Gerow– Everywhere that's required we have the permits in place.

Commissioner McCown – Looking through the conditions of approval, number 14 it says that nothing can happen until all these conditions are met. Given the CDOT requirements for the lanes I don't see that in the conditions anywhere. Do they have to be built prior to the issuance of the permit?

Dave – The applicants have obtained the permit and that is all that is required.

Commissioner McCown – I mean for the special use permit all of these conditions have to be met prior to the issuance of the special use permit. Does the work on highway 6 & 24 have to be completed as well?

Dave – Not in association with our permit. That would be in association with CDOT permit. For the special use permit it is just required to get their CDOT access permit.

Gena – I have talked to CDOT and they're going to hold us to building some of the decel/excel lane before we actually start too much construction on site. How they work with us will depend on how much equipment we are bringing. Definitely before we occupy the building those decel and excel have to be in place.

Commissioner McCown – To handle the construction?

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Gena – Right. Gena then submitted a power point presentation. Frac Tech is a big firm that is based in Cisco, Texas and they have been in this area for a little over a year. Part of the main reason they choose the area is they have a strong working relationship with Antero Resources. But they also looked very closely at optional sites when they first located here looking at their impact. I know Tresi has brought that up before we know everything going on in this community is a major impact to the natural resources. One of the reasons they selected the sites specifically was some of the surrounding industrial uses. What I’m hoping you will see on here are some slides we showed at a previous hearing that some of you were at. Some changes that occurred on site and making you aware of those. Showing pictures. Our plan for now is to use concrete throughout the site. We typically put dust control on the parking lot. We do intend to use natural colors. We’re glad to work with you on what ever colors you would like here. Placement in the center of the property was larger looked at for buffering and screening purposes. The lower thinner part of the site is naturally buffered by the some of the rolling hills to the north. Again being lower gave us a little bit more flexibility in visual block. We reviewed with staff and planning commission alternatives on screening including fencing trees in, buffering. One thing I really wanted to make clear, we talked about trees out there and even trees because of the great distance change between the interstate and this lower site, do not give us a lot of block. The decision at the Planning Commission stage was that knowing how dry it is out there and the fact that both Parachute and Garfield County have been concerned about our water usage, I think the Planning Commissioners choose not to have us put the trees in the back. I have talked to David about this too; unless we were to build mountains of berms you’re not going to get a total visual block these berming. We are glad to do it if that is what you feel is appropriate but I will show you some other slides. Here is again standing up at the interstate looking down across this lower section you can see it is like a triangle, that is all the lower grade area even these trees and shrubs up here don’t block completely anything down there. We are using an eight foot fence with screening materials in it down on the Highway 6 side. If you haven’t seen this product, we have some industrial facilities in the Grand Junction area we had specifically been asked by the Planning Commissioners not to included “Lady Byrd Johnson Plastic Slat Fencing”. In trying to look for different options this was the next best thing we could find. This is netting that allows air flow to go through. It is typically green in color; if you prefer to see it tan we are searching to see if that is an option. We took a study of the elevations and heights of all these hills and where there were low points that might be visually blocked to cover them. I have to be quite honest to me it is not the best solution out there because you go up here and you have to disturb the soil to put those in but of the many choices we have looked at it is probably as reasonable as any. Right now that is our intention at these locations. There is other location you might look at and say why you aren’t doing anything here; we get into some natural drainage that might be more disturbed by putting up a berm. We would be filling those areas with some dirt and some revegetation with whatever plants we need to use. I wanted to talk about access because even though we have the CDOT permit and I will show you a drawing of our first CDOT access request; some things with Williams and EnCana have changed some of that in the last couple of weeks. We are constructing both the excel and decel lanes in both directions for CDOT guidelines and standards. But we recently worked with Williams Energy for a new access to a drill site that actually the rig went up since Friday afternoon when we took pictures so it’s very clearly a change. We are working with EnCana to actively create some power line access on the west end of the site. Showing overall site plan, this shows the length of the decel lane coming from the east. She stated the decel and excel will provide a smooth flow of traffic. Showing an easement that was granted to Williams to locate their drilling pad. One of your review items from an outside agency weather CDOT had really looked at the change in access and traffic and I can tell you we have been meeting with CDOT even though they issued the permit, we are continually doing our construction drawings for the actual authorization to proceed on construction. Every change that occurs they continue to look at with us. So, this access being a change one thing you should know is the agreement was they didn’t want to add an access without giving up one. Showing picture where two cabins with a road which will remain in access to a particular cabin. We gave up access to lot C and Williams built a new road that comes right down the frontage. We don’t know what lot B will become down the road. If it stays in a residential nature we’ll create that access over from these residential sites. There is an understanding that CDOT and Williams and Frac Tech will review within a year and determine if it was still the best location on the site. Showing picture with a new access built within the last nine days. There is a pad that Williams was constructing and has in the night come up with a rig.

Commissioner Houpt – Going back to the map which shows where the new pad is, currently the only piece of property that is not owned by your company is B?

Gena – Correct

Commissioner Houpt – And there is nothing on that piece of property right now?

Gena – No there is nothing

Commissioner Houpt – Squeezed in there?

Gena – The owners of Frac Tech have tried very hard to purchase that from the owner. The price kept going up and we had some report information from the realtor and all the different discussions, every time we had a deal it went up again. I think David and I, neither one of us have heard from this guy recently. I did entertain a call from him at one point; he was quite upset when he thought we were not going to leave him access. But at that point he was under the impression and in one of our earlier views of the site we looked at pointing the location up at the top, but he was under the impression we were staying there and he had a lot of concerns about that. When I told him we had moved it all down here and that we had arranged for access in a lot of different ways, I have never heard from him since and as far as I know Staff has not heard from him either. That was back in probably February.

Commissioner Houpt – So he wasn’t concerned about the pad being right there either?

Gena – Well, we haven’t talked to him about Williams. I don’t know if he was notified about that (pad) being there. But again he was certainly notified by everything that we were doing and had control of. Showing some other pictures, today you will see there is almost a completed ready to go drill site today. The point is other than allowing them an easement we had nothing to do with how it was built or anything else it’s all through the oil and gas commission.

Commissioner Houpt – Except I do think you have input on the location.

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Gena – Well we do, we have enough input to say a little bit. But there wasn't much discussion about where they wanted it. Gena gave a summarization of what Frac Tech "will" do. We will follow the recommendations of staff unless you have any amendments and the only one that we are a little bit concerned about the berming to the back and how you feel about that. We are available and I can re-introduce people. We will continue to strive to be as good a neighbor as we can possibly be.

Commissioner Martin – Questions from the Board?

Commissioner McCown – Those of you who have sat on this board with me know that I'm not a big berm fan. I have some very strong feelings that what was presented by the applicant is in fact a true scenario of what is going to happen. Those berms are going to look a lot worse than viewing that undisturbed ground looking down into that naturally low area where this facility is being built. Just because of the elevation difference are not going to screen anything. You're going to be looking at the back side of the berm that revegetated and nothing is going to grow. I just don't think the berming plan is going to achieve any type of visual landscaping there, its going to look worse than the natural undisturbed vegetation.

Commissioner Houpt – My sense is, maybe you can help with this Dave, it was probably the planning commission's intent to have some kind of landscaping to soften the view of what's gong on but it is a very fragile area and it will take forever to have anything grow.

Commissioner Martin – The brush are two hundred years old and there pretty short. You not going to get much to grow out there simply because we are in a desert out there and it is limited to the ability to grow any kind of softening plants or beautiful trees. I think leaving it natural the way it is, is actually better for the environment that exists out there and not try to change it into a park. Because it is a desert, leave it a desert.

Commissioner Houpt – I think in some locations it makes a great deal of sense but if you look at the level of the property to the area that you are really trying to screen, I'm afraid what will happen that once you tear that area apart it will just take forever to heal basically.

Dave – It's a big issue that it is very visible and with the natural environment there was is the best way, if any to screen it? There were some slides shown at Planning Commission that showed the visual site from I-70, I believed it was based on trees however not on berms

Gena – It was based on trees but you can see the height difference. David asked me about showing some of those, this is I70 looking down at where the heights of the buildings would be and if you put in 15 foot high tree you would start to block the building at that point. Showed where it would be located. Everything we looked at depending on where you set the tree it's just very high. So then we went to berms but I can tell you, a berm that is higher than a tree is tougher. Frac is very responsible; if what you're seeing is very different we'll take a look at it again.

Dave – Another alternative to berming or any kind of screening along I70 is an internal landscaping plan that could just soften the view when you're looking down on the concrete. Instead of trying to block the view it's self from the interstate.

Commissioner Martin – A clean and tidy yard is what it really amounts to.

Gena – I would say before you go into too much internal landscaping with the large trucks moving across the site it would be difficult, I'm not saying it's impossible but if we go back to looking at this we could put some in. If you want us to look at some internal landscaping we can certainly do that. I would just encourage you again; if you want to not look at a building then we can certainly focus on landscaping adjacent to the building. What this does not have and again it wouldn't show in an aerial anyway is the fencing your talking about for the isolated areas.

Kay – They like to keep their sites in shape and you're not going to have the junk. They want to look professional at all times; they keep their yard looking really nice. When you go to Frac Tech sites you can see that all of their site are done very professionally and kept in orderly manner.

Commissioner McCown – This is no different than any other special use permit it would be subject to review at a one year period for instance if that is what we make as a condition. And once the facility is in place the southern screening and the western screening which will work from 6 & 24. And with the colors on the buildings I would like to take a look at this after it is in place and the concretes down and the equipments there and the buildings are of proper color and then decide if there is any alternative to landscaping on the north. I don't think we are going to find anything that is going to shield that view from I70 given the elevation difference that's not going to look worse than looking down, maybe that's what it is a clean industrial site. We can always make that subject to review if additional berming or screening is felt to be necessary by this Board at a later date but I would like to give it a change without it. I think that disturbance is going to far worse than the benefit of the screening.

Commissioner Houpt – Lets pull that condition but put a condition in for one year review so we can take a look at that.

Dave – To throw one more other option out there that might have variable benefits, Gena and I had discussed the option of colored concrete so instead of looking straight down on plain white concrete looking down on something that might not stand out quite as much.

Commissioner Martin – Except I don't want to see a tennis court out there for green. I think that takes away from what you are trying to do.

Commissioner McCown – The options aren't that great on what you can color.

Geneva – We can certainly do earth tones, but I will tell you that having worked in the concrete industry, color in concrete does fade after time and you get back to lighter. We are real excited about a product, I just heard about two weeks ago and I put Frac in touch with it and we are doing some tests and evidentially they have used it in Canada. You actually take the soil from the site rotomil in some different products and get it to where it is the same density as concrete and then when your ready to break it down you can put some chemicals in it to break it back down, if we can get that to the point where we are comfortable, we'll come back and present to staff. That will be the least impact to the environment for all that concrete but otherwise if you prefer us to put some shading there is a good natural tone choices in concrete. Just remember you are not looking at it from this view, all of these are aerials.

Commissioner Martin – Anything further to consider? Anyone in the audience?

Paul Burton – I'm with Frac Tech Construction Manager - My concern with the berming is the disturbance with the natural drainage. Not only will they not work, but then we have the problem of drainage and I think

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we would make two problems. I believe the color tinting of the building will achieve a lot more than attempting to move dirt.

Commissioner McCown – I move to close public hearing. Commissioner Houpt - Second

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make motion we approve the special use permit for an industrial support facility adding condition number 16 which in essence will be a review in one year and that review would be administrative in nature unless there were negative comments from neighbors or anyone in the public that has contacted us or the planning office that would require this to be called back up before the Board. We will address the berms in a year if there is tremendous impact at that time we would call back up.

Commissioner Houpt – Second.

Commissioner Houpt - I just have to say one thing because it is really on my mind. I think that you have worked hard to make this an acceptable area and it is one with a large impact so I really appreciate the time you have put into designing it. I’m concerned about the lack of involvement that you decided to have in where the placement of the well site went because it is the one piece of property on that piece of land that you don’t own. We always try to get neighbors to work well together on these well sites and I hope that is just a total fluke and not what will happen in how you work with your neighbors because it is so important. You have heard from me on this before on how important it is in this county to work well with

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT ALLOWING A “COMMERCIAL/RECREATIONAL FACILITY/PARK” (CONTINUED FROM JULY 2, 2007) – APPLICANT; POW, INC. – CRAIG RICHARDSON

Russell Disburger, Steve Beckley, Owner and Kelly Bates were present

Commissioner Martin – Do we have any new exhibits?

Craig – Yes

Chairman Martin swore in the speakers.

Planner Craig Richardson submitted the following exhibits: Exhibit A – Garfield County Zoning Resolution of 1978, as amended ; Exhibit B - Application; Exhibit C – Staff memorandum; Exhibit D –Memo from the City of Glenwood Springs dated May 3, 2007; Exhibit E – Memo from Glenwood Springs Fire Department dated May 3, 2007; Exhibit F –E-mail from Garfield County Environmental Health Department dated May 4, 2007; Exhibit G – Memo from Mountain Cross Engineering dated May 10, 2007; Exhibit H – Letter from Steve Beckley in response to Glenwood Springs Fire Department comments dated May 31, 2007; Exhibit I – Letter from Steve Beckley in response to the City of Glenwood Springs comments dated June 5, 2007; Exhibit J – Letter from Steve Beckley dated June 5, 2007 (2nd letter) and Exhibit K – List provided by Craig Richardson, uses previously approved. Chairman Martin entered Exhibit’s A – K into the record.

Planner Craig explained:

REQUEST

The Applicant requests that the Board of County Commissioners (the Board) approve a Special Use Permit (SUP) allowing a “Commercial/Recreational Facility/Park” on a property owned by POW, Inc. This request is intended to amend the existing SUP approved by the Board memorialized in Resolution No. 2004-56 for the operation of Glenwood Caverns Adventure Park.

BACKGROUND

In September of 1998 Garfield County Board County Commissioners approved a Zone District Amendment including “Commercial/Recreational Facility/Park” as a Special Use in the Agricultural Industrial Zone District (AI).

On June 7th, 1999 the Board approved a Special Use Permit allowing for the contemplated use (Resolution No. 99-065). Due to additions to the existing park the Applicant has submitted subsequent requests that have been approved by the Board. Currently the Applicant is operating under Resolution No. 2004-56

PROJECT DESCRIPTION

The Applicant request approval of a Special Use Permit allowing the following activities:

Expansion of Existing Gift Shop

• Ropes Course • Mini-Golf Course • Photography Studio/Shop • Candy Shop • Shade Structures/Pavilion (6) • Maze (Fort Maze) • Bungee Trampoline * • Spider Zone Children’s Climbing Center * • Simulator Attraction (Wild West Adventure) * • Petting Zoo • Train Ride Attraction * • Children Climbing Area (Foam Factory) • Mechanical Bull * • Canopy Tour • 4D Movie Theater • Horse Back Riding Tour • Banquet/Restaurant Facility • Traveling Museum Exhibits (Within Banquet Facility) • Bus Transportation • Employee Housing • 150,000 Gallon Fire Mitigation Pond • Existing Alpine Coaster	• Water Storage Tanks • Nature Trails • Picnic Areas • Geode cutting • Gemstone Sluice Mining • Astronomy Observatory Area • Visitor Center • Souvenir Shop/Expansion • Indian Education Center (Teepee) • Passenger Gondolas • Bus Shuttle • Employee Housing • Maintenance Facility • Foam Factory Children’s Climbing Area • Cave Tours

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- Existing Zip Line
- Existing Giant Swing
- Existing Climbing Wall
- Existing Fossil Dig
- Botanical Garden Butterfly Exhibit
- Indoor Play area
- Care Takers Quarters

STAFF RECOMMENDATION FOR ZONE DISTRICT AMENDMENT REQUEST

Staff recommends approval of the proposed Special Use Permit allowing Commercial/Recreational Facility/Park on a property owned by POW Inc. with the following conditions:

1. That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. This Special Use Permit approves the following operations:
 - i. Hours of operation will be from 6:30 AM to 11:30 PM Sunday through Thursday and 6:30 AM to 12:30 AM Friday and Saturday;
 - ii. The tramway towers and cabins will not be lighted;
 - iii. Activities on-site will be Expansion of Existing Gift Shop, Ropes Course, Mini-Golf Course, Photography Studio/Shop, Candy Shop, Shade Structures/Pavilion (6), Maze (Fort Maze), Bungee Trampoline, Spider Zone Children's Climbing Center, Simulator Attraction (Wild West Adventure), Petting Zoo, Train Ride Attraction, Children Climbing Area (Foam Factory), Mechanical Bull, Canopy Tour, 4D Movie Theater, Horse Back Riding Tour, Banquet/Restaurant Facility, Traveling Museum Exhibits (Within Banquet Facility), Bus Transportation, Employee Housing, 150,000 Gallon Fire Mitigation Pond, Alpine Coaster, Zip Line, Giant Swing, Climbing Wall, Fossil Dig, Botanical Garden Butterfly Exhibit, Indoor Children's Play area, Care Takers Quarters, Water Storage Tanks, Nature Trails, Picnic Areas, Geode cutting, Gemstone Sluice Mining, Astronomy Observatory Area, Visitor Center, Souvenir Shop/Expansion, Indian Education Center (Teepee), Passenger Gondolas, Limited Bus Shuttle, Employee Housing, Maintenance Facility, Foam Factory Children's Climbing Area and Cave Tours;
3. Passenger gondolas shall continue to accommodate bikes;
4. The ultimate build out capacity for the gondola is 36 gondola cars in 12 groups of 3 with each gondola car having a 6 passenger capacity;
5. The Applicant shall be responsible for snow removal on 50% of the travel way of Transfer Trail;
6. The applicant shall adhere to the following suggestions provided for by the Division of Wildlife in Sonia Marzec's referral letter dated April 16, 2002:
 - a. There shall be no outside storage of any trash or garbage anywhere within the property, with the exception of bear-proof trash containers
 - b. Refuse kept in non bear-proof containers should be kept within secure structures that are not likely to be broken into by bears
 - c. There shall be no dumps or underground disposal of refuse on site
 - d. Except for bird feeders, the feeding, baiting, salting, or other means of attracting wildlife to site is prohibited
 - e. Bird feeders should be strategically placed to avoid being an enticement for bears
 - f. Tourists and other users to the site should be made aware of the local wildlife community by utilizing information provided by the Division of Wildlife.
7. The Park shall be limited to a maximum guest capacity of 1,551.
8. All conditions set forth in Resolution 2004-56 shall be rescinded once the Special Use Permit approved by the Board of County Commissioners on June 11th, 2007 is issued.
9. If the tramway becomes obsolete or inoperable for any period exceeding twelve months, the applicant shall remove the tramway at their own expense.
10. Bus/van guest transport shall only accommodate guest unable to utilize the gondola cars due to Acrophobia or other medical conditions, maintenance vehicles and emergency evacuations;
11. The Applicant shall construct a 150,000 gallon capacity fire protection pond or water storage tanks prior to constructing the proposed employee housing units;
12. The Applicant shall provide engineered drawing of the proposed fire protection pond prior to construction for approval is constructed;
13. The existing 2,000 gallon leach field shall be inspected by an engineer licensed by the State of Colorado. A statement of condition and adequacy verifying it's ability to serve the proposed employee housing and provided emergency storage of sewage on-site when waste water is unable to be transferred to the City's sewer system.
14. Parking of personal vehicles belonging to employees residing on-site during the months of May, June, July, August and September shall not be allowed on the subject property;

Applicant: Steve Beckley – I have a quick presentation. Our mission is to provide exceptional memorable entertainment. He gave a quick history of our project saying the caverns were opened in 1895 by Charles Darrow. We came in 1999, my wife and I and purchased the caves and started developing them through a series of special use permits we have eventually got to where we are now. In 2003 we installed a tram, plaza, restaurant, gift shop and at that point our attendance grew up to 120,000 people a year from about 38,000. As we grew we had to find other activities for people so in 2005 we put in the swing, the zip line, the coaster, climbing wall and there were several other attractions already approved. The mini golf, the ones included on your list. As we developed our park some attractions don't work. This year we are added more mobile

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attractions like the seasonal petting zoo, Wild West wagon, small train and a bungee tram. A foam factory where children can shoot foam balls they shoot back and forth.

Commissioner Houpt – Do you know the location?

Steve – There are two locations on the map. One would be under the main buildings right underneath the deck, another location he shows on a map, right behind the climbing wall. When we design those pathways we put them in to wind into the trees. We don't want to take out any of the vegetation. There is enough spacing between the trees.

Commissioner Houpt – Bear with my questions, I've noticed certain things have worked better than others in being camouflaged on that mountain.

Steve – The next one will be 4-D theater, our design is 32 seats it shows a movie, three D glasses and has wind effects, water effects makes you feel immersed in the film. It's usually a 15-20 minute film. Typically we are going to something more environmental, global warming, caves, bats and have the special effects. It will probably be a smaller theater probably underneath the deck where the stage was. Showing a maze by a company called Amazings. Going to build a maze 48 X 100, you go into a series of mazes, all open so there is no roof on it. The kids go up to towers, small water cannons to squirt other kids trying to get through the maze. This will probably be open in the summer time. Showing on the map where it is located. A group picnic area, three different sites, more gazebo looking, there is a lot of heat up there and people were looking places to get out of the sun. The ropes course, this one is actually already approved. Mini golf course is already approved. An old fashion candy shop, fudge homemade on site. This is the canopy tour.

Commissioner Houpt – You envision that being just below tree top or at tree top?

Steve – In the canopy it's self. Showed on map how it followed contour line. We actually want it between the top and the bottom of the tree it's self.

Commissioner Houpt – So from the city it's not going to be as visible as the zip or the slide when you go back up the mountain?

Steve – Right. We selected that location because that actual cut had been made by a previous owner. We took an existing cut and that is where we put the return. We designed the whole coaster to fit in an existing cut instead of cutting more trees.

Commissioner Houpt – You don't anticipate this canopy?

Steve – No, the idea is to stay in the trees instead of taking the trees out.

Commissioner Houpt- You don't need a return line for that because you stay??

Steve – It's more of a tour that would be like a wild cave tour. It's a lower volume, six people and a guide go up to a tower, traverse the tower, the next tower it's a guided tour. Similar to the ones in Costa Rica. Shows the end then get on the cave path and walk back up. It will be more like a cave tour. The old time photo shop, there is actually a photo booth that was pre-permitted in previous applications. Our banquet facility is actually only utilized 5% of the time for weddings and stuff. So we were thinking about bringing some museum exhibits in that are traveling, they had a great exhibit in Denver on bats. It would be a three or four week exhibit that would travel. A butterfly pavilion we would be utilizing geodesic domes with a rain forest inside of it and we would bring in the butterflies from Florida and other places. Very similar to the one in Denver but probably a much smaller scale. These are 50 foot diameter 22 foot tall domes. The last thing is employee housing and we pulled pictures off the internet what we are really looking for is, this summer we brought in about 40 what they call J1 Visa kids, which are college kids from Romania, Russia and all they really need is like a dorm room. They're in college they don't need anything fancy; two beds a microwave a refrigerator. We are looking at doing some very simple housing for the summer use. In conclusion, we just want to build a better stronger park and work with the community to accomplish that.

Commissioner Houpt – Where would the dorms be?

Steve – Showed on map.

Commissioner Martin – Almost off site.

Steve – It really is. This is an 80 acre site so it's away from the public and that was the whole idea. I apologize, it's my fault I put the retention pond in myself, it was my idea I thought maybe I'd get more water and it would be easier, prettier. I am more willing to go back to the original thing where we will add two more tanks, 35,000 gallons total storage. We have 35,000 gallons up there now we go to 70,000 because of evaporation rates and the pond so I don't want to cause any problems with that. Again showed where the housing would be and the maintenance building, small metal building.

Commissioner Houpt – You don't have any concerns about it being too close to the towers?

Steve – The cell towers, this map they are quite a distance away.

Commissioner Martin – There seems to be a lot of concern about the old BLM road. Don't you have an agreement with BLM? If any conditions need to change it would have to be also with the BLM's approval?

Steve – Our existing permit that we've maintained throughout allows us to do 30 bus trips a day on Transfer Trail and maintenance and support vehicles. Since we put the tram in we haven't been running busses. What happens is the tram capacity is fine but we get people who say, I'd love to come up but my grandmothers scared of heights.

Commissioner Martin – Do you still have the maintenance agreement the dust control etc?

Steve – We do and we still do all the maintenance and we have a grader and a snow plow. They close the gate off in winter time.

Commissioner Martin – Any questions? Anyone in the audience?

Commissioner Houpt – There's a condition that the parking for those living in the dorms be off season, during the peak seasons.

Steve – None of these kids have vehicles. I'll probably have to do another special use with the city. We buy them bikes and they bike to work every day.

Craig – Note we need to change #12. Add two more water tanks

Steve – two 17,000 totaling an additional 35,000.

Commissioner Houpt – City's concern?

Steve – we have already been approve to take it up to 70,000 gallons

Commissioner Martin – anything in closing

Commissioner McCown – I move to close public hearing.

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Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
In favor: Houpt – aye McCown – aye Martin – aye
Commissioner McCown – I make a motion we approve the special use permit allowing for a commercial and recreational facility park on the property owned by POW Inc. with the conditions recommended by staff changing number 12 to read 35,000 gallon capacity fire protection tanks for water storage sticking pond.
Commissioner Houpt – So that means any combination to get up to that 35,000 gallons, I’ll second that.
In favor: Houpt – aye McCown – aye Martin – aye
FIRES - CONTINUE DISCUSSION OF WILDLAND FIRES CLINIC/WORKSHOP ON TUESDAY, JULY 10, 2007.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

**JULY 10, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

GARFIELD COUNTY WILDFIRE ANNUAL OPERATING PLAN 2007

The continued meeting of the Board of County Commissioners began at 9:00 A.M. on Monday, July 10, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were Carolyn Dahlgren - Deputy County Attorney, Lou Vallario - Sheriff, Jean Alberico - Clerk & Recorder; Brit McLin – Battlement Mesa Fire Chief; Kelly Rogers - Colorado State Forest Service; Mike Piper - Glenwood Springs Fire Chief; Mike Morgan – Rifle Fire Chief; Lee Martens - Rifle; Pete Firmin – Rifle; Rex Rhule – Rifle; Chris Bornhaddt – Sheriff’s office and Ron Leach – Carbondale Fire.

CALL TO ORDER

Chairman Martin called the meeting to order at 9:00 A.M.
The subject of this meeting today is to discuss topics regarding, paying for fires – who is responsible – fire plans – emergency declaration and needs.

SHERIFF - PAYING FOR FIRES – WHO IS RESPONSIBLE?

The procedures that is currently in place if a fire breaks out and the districts respond because it is bigger than they can handle – who gets the bill?

Lou said that bills generated beyond the local levels can go to the State for funding but basically it is Lou’s. The Sheriff is responsible. The State does sign individual agreements for fires.

It is basically the County – State – and local Districts.

For EFF fires it is County and State funds.

Lou gave a scenario using the Douglas Pass fire that was on private property but they had no means to fight the fire; the Sheriff is responsible however in this case Mesa County and the lower valley districts came to help. The question is who pays for the fire if they bill Lou. Lou reiterated that he has no money in his budget. The New Castle fire was also on BLM and private property and it was a cost sharing effort. The Burning Mountain District, the Sheriff, all the other fire districts but basically is was Lou’s fire.

The various fire districts in the area have a mutual aid agreement and it states that everybody helps for 24 hours and we don’t bill each other.

Lou said we will feed the people and pay for costs associated. When the Federal firefighters are called in they will be billed for that.

We are allowed one tanker drop for free but any other federal resources have to be covered.

The 301 Fire was handled at the local level but the feds helped. This was knocked out in the first 24 hours.

Reason we are here - - who pays?

Savage Fire was given as an example.

Where is the money available – need funds in Garfield County? – Need to prepare.

Responsibilities of the Fire Districts

Example – if a fire is in a Fire District and starts with a house on fire then spreads to a wildfire – once it leaves the boundary – it’s the sheriff once it leaves the structure. Sometimes it’s a mix – a creation of BLM, Forest Service, fire districts and the Sheriff.

Commissioner McCown – has a concern and he doesn’t mind the county paying its fair share because the Sheriff is the command position for fires and responsible for calling in resources. Once resources are called in then it’s a problem. If we don’t have our person on the ground calling in resources we don’t get help from the Feds.

The Sheriff sees this as a problem – we need an AOP and a unified command when there are multi-districts assisting to form a unified group – clear objectives, tactics, what’s being ordered – this is not happening as it should.

Commissioner McCown – Lou’s spending authority is capped at \$10,000 without authorization of the BOCC. Slurry Bombers cost \$3,000 a drop.

Lou – we need to have someone on the ground when it is beyond our local capacities that is signing over the authority to fight the fire.

Commissioner McCown – signing over to the Feds is not authorizing for payment of the bill.

Lou – shared responsibilities and shared cost agreements – the 301 Fire was not designated as a full fledged fire – cost sharing – feds helped and paid 50%.

A criteria and a check list with an analysis form and we must do it honestly – come up with a point total – between 25 – 50 – answer questions – EFF fire – 301 Fire was a total of 41; New Castle Fire was a 48.

Lou – we know basically we’re not going to knock this down immediately and need help.

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On the New Castle we knew the day after that it was getting big and had more potential to be an EFF fire. Wind is always the main factor.
EFF request on the 301 Fire and it was a 50 – 50 on the aircraft; reassess and it may be EFF.
Mike Piper – on the New Castle they met and knew they were spent and needed help.
Politics are involved. On a Type 3 fire – can handle; Type 2 – crews are needed from all over.
Kelley said they had to go big to get the fire resources to get it out.
Mike – they were blown away with paper work things such as the incident plan, safety – monuments on the hill – how to take care of this stuff – no expertise – Feds do it everyday. Hot Shot Crews – no match for that crew – they looked like coal miners. But the local fire districts have to handle the local stuff as well.
Lou – made a commitment to handle this as local as possible – we have capability and we have a lot of expertise. On the New Castle fire, we assessed, can we handle it locally but when it gets beyond a 48 hour period – we’re tapped out and need more resources; we know we need to have help and begin thinking about the next fire. Then additional resources are called in – the Feds.
Brit – commented on the great interrelations of the local fire districts and the Sheriff. On the New Castle fire, Carbondale came in – system set up – called local Type 3 fire – Lee called in 12 man crews – one came from Kansas and we had one in 24 hours. Goes to a Type 2 then we have hand crews on the road and on the ground – if you want our resources you will have our accredited resources.
Commissioner McCown – then they turn around and bill us
Lou – it’s all taxpayer’s money – it’s a matter of whose wallet does it come from.
Commissioner McCown – we can’t handle Type 2 fires. New Castle fire wasn’t but we needed to classify it to get the resources.
Lou – today those things they weren’t billing us for at first, they are now – therefore we need to have cost sharing agreements.
Commissioner McCown – what happens if we don’t pay – maybe they won’t come – no that won’t happen, they are not in a position to do that.
It cost \$975,000 for the two day New Castle Fire.
Order in a Type 2 equals upward of a million dollars.
Easiest way to set up for Resources. Assurance with the BOCC to minimize the cost.
Lou – BOCC understands but are we prepared for a dollar amount per year.
Chairman Martin – suggested setting up a fund balance in reference to fire fighting – allow a percentage and allocate the Mill Levy. He asked Carolyn to do research – Carolyn thought the limit was \$500,000.
Lou – suggested having a minimum of funding that could be held in contingency – under fire contingency.
Carolyn – may be a Tabor issue and may require a vote of the people.
Do we need a separate fund? This may happen and it could be set up where there’s no authority to use it except for fire fighting. A dedicated fund set aside. If we can do this.
Lou – we call the BOCC if we have a fire and the resources are there. Committed funds – this a great solution.
On the New Castle Fire a re-seeding process will be implemented on private property and BLM with the Soil Conservation District however, the BOCC will pick up the balance.
Carolyn – you are wanting this money for fire suppression and money for recovery.

John – budget funds for the fire and set aside funds, establish a line item for fire suppression eliminate that in the Sheriff’s budget; he would have it if needed. Set a maximum of funds in the budget and build it up – similar to the oil and gas fund that we established for a slump.
Carolyn – said she will get with Lou, Don and Patsy and go from there.
Commissioner McCown – 63 other counties and some can’t afford to leave funds aside in case of a fire.
Kelly – regarding fire frequency, there have been about 87 fires in the history of the EFF – Garfield County has 22. Each of the Counties pay into the fund and Garfield County has paid into it since 1991.
Chairman Martin – for our own funds we would have funds reserved for the future – a fund balance for fires. Do this with the fire fund we would have money for local use. Rearrange the mill levies and put those where they need to be – set us a distribution into those funds – a small percentage like the oil and gas energy funds – stipulations on what we could do to draw it down so future boards would know the guidelines.
EFF funds are harder to tap into.
Mike – the Utah has been deemed too dangerous to fight and they are letting it burn – no money for mitigation efforts; they haven’t done any control burns – you have fields full of cheat grass – and then lightening strikes = big fires.
Clean water and Clean Air acts play a huge factor in fires.
Canyon Creek – someone filed a claim they started the fire too close to the County Road to do the back burn.
Lou – there is a liability issue whether we let it burn or take the suppression approach.
If you live in the woods – beware of fire.
Commissioner Houpt – the reality of this is we live in a County where there will be fires – there’s a great deal of woods, and people live in remote areas but they expect to be safe – it’s the Sheriff’s charge to be sure they are safe – these fires should be fought – the question – how to get the resources to Sheriff to fight fires. Tools necessary to have this be a safe area to live in.
Moffat County, the citizens know the risk; Mesa County as well – depends on the local communities and the approach of people who chose to live here.
Fund Balance – never enough money.
Canyon Creek fire went EFF – Governor will kick in special appropriations to pay for the fire.
New Castle - \$1.6 million and we’re in for \$8,000 thanks to EFF and local funds.
Chairman Martin – after the fire you have the recovery cost of reseeding, etc. We need more funds to mitigate than suppress; we need to prevent fires and mitigate fires if they do happen.
The Sheriff’s charge is for suppression of fires.
Commissioner McCown – what’s the result of today’s meeting?

SHERIFF - 301 FIRE an example

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There was Fed property within one mile and BLM property; they would come in and help – now a change – changing world – debate – private property fire – Rifle Fire Protection District responsible for the costs. Then, the next operational period, there's a layer of bureaucracy; the statement was made that if you want to use fed resources you have to buy a Type 3 management to run this – can call on other local districts – worked through that – can't solve the politics – very bad decision making in the high up Fed government. Use locally, fess up and be responsible – we're going to do the best we can for cost containment. Work as a county group – know that we're in this thing together – cost sharing – common sense – all have to step up and be responsible. A cost percentage discussion – management – policy from the BOCC – and fire protection tools – Garfield County problem.

AOP – brought this group together – Garfield County issue and we'll respond together and solve the fires.

Chairman Martin – expand thinking – suppression – half way through – mill levies – budget – add the recovery expenses. Fire out – water quality – other disasters – start thinking about that as well – future problems.

Recovery is an essential piece.

Commissioner Houpt – a lot of different issues and we need to figure out who has resources and capabilities to do all the tasks.

Commissioner McCown – the 301 fire was in the Rifle District – any way to structure responsibility commitments – if a fire starts in a district – GARCO gets the bill – sends to the State. Is it a 50-50 or a 30-70; we'll help you fight it – but when it comes to it – it's your bill. Cost sharing or what are we looking at?

Cost Share – cash on the table – what County participation – Larry understands the equipment and personnel is with the fire districts – if they start billing the feds for equipment and time.

Ron – we don't bill each other. We do not make money off of each other in this room – we have a commitment to assist one another. His board understands this and he is not looking to say that every cent needs to be paid by Garfield County – none are taking that hard line. An agreement was made with Pitkin County with a handshake to go 50-50.

Commissioner McCown – recognizes your contribution and that's wonderful – some cash left to expend – is there going to be an agreement – do the fire districts feel this is doable?

Mike – only when it exceeds his capability – the problem is when it exceeds his resources – then there are issues to resolve – need County with Sheriff and Fed with AOP – this is where the problem lies – the technical pieces – we need to do a safety plan – drags out – philosophical piece – fight fires – can't do it like the Feds – complicated.

Commissioner McCown – the Feds can let acres burn – Feds can deficit spend – we can't.

Lou is frustrated and used Storm King as an example of all the red tape before they would help

Commissioner Houpt – good understanding of how to deal with the bills one year out.

Recommendations:

Each fire district was asked to meet with their various boards and get an understanding on the mutual aid idea.

Lou – offered – 50-50 split may be the solution.

Mike – has two entities – Rural Fire Protection District and Glenwood Springs – can't say – need some comfortability – when it involves the Feds, they have the toys – he needs to feel comfortable – he has not billed anyone for the fire but goes on the mutual aid agreements – he can't order bombers – needs the Fed crews because it cost to fight fires – he needs someone to pay for it and would like a commitment from the County.

Commissioner Houpt – asked if the 50-50 split would work or what other levels of splits?

What's left over at the end – Sheriff – commitment?

Commissioner Houpt - Complexities – best thing today is to figure out the starting point with all the district boards on cost sharing – all be at the table.

Next step – IGA's on comfort levels.

Commissioner McCown – wants to stay in the good side of the Fire District because we're not buying Lou red trucks. There is a void in our ability – to fight fires – willing to go the 50%.

Commissioner Houpt – would like to meet with the various boards.

Mike - Municipalities need to do the same.

Chairman Martin – likes the fund balance – do a proper request – how many fire districts have taken advantage of the fed funds for mitigation. Another source to help supplement budgets and County be the sponsors.

Commissioner Houpt – each one go back to the Boards and leave here today with direction on how to proceed with cost sharing – we rely on fire districts – important for the chiefs to talk to their boards on a level of split. Need to figure out what will work so we can plan when bills come in – great partnerships – then we can get together and figure out the negotiations.

Brit – will speak to the Board – with the intent of the County's participation – a great benefit – approach 50-50 and look at it periodically – is it still fair.

All the fire chiefs and attendees like the 50-50 split.

Different circumstances – mutual aid and cost sharing with the County – 50-50.

Setting some precedence – institutionalize it for chief replacements.

50-50 start with and see how this works.

Commissioner McCown - Cost sharing with EFF and Feds – take this back to the boards and get the feedback back to the BOCC. Get this going.

Man camps are different scenarios.

Hire a vendor that may stay local – helicopter.

Carolyn - Keep on radar screen – future thinking – you can assess a mill levy for fire suppression. Section 30-10-513 allows this – thinks there is a \$500,000 fund – not a statutorily fund but a set aside. Can put it to the voters – whole different process. BOCC can levy a tax – value of property – create a fund – a statutory fund – after reps from fire district – fix the rate of levies – in any one year – limits – statutory fire fund

BOCC can make appropriation for any fire fund. She will look into the statutes and report back to the BOCC. The fire chiefs would like to have a County wide fire protection district in the future.

Term – federal lands – private and state lands – policy – lawyer thing – exclude fed lands.

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Chairman Martin – agreement with Forest Service – take responsibility – can be in public lands – agreements with BLM and Federal lands – domino effect – if we’re managing it for one thing – manage it for all.
Duty of the Sheriff – assume charge thereof or assist other – call to aid such persons as necessary
Ron listed the following:

- not bill each other
- maintain a unified command throughout these things and an influence to what’s spent
- all agree – some fiscal responsibility

He also stated how much he appreciate Lou’s leadership. The key is that we are agency administrators and even if they let us be commanders we can still have influence over what is spent.
It’s a matter of delegation of authority – they manage the fire but at our direction. They take their toys with them.

Second topic – concern local declaration disaster – control of the spending – Chairman Martin afraid of giving the check book because the BOCC needs the budgetary control, this falls on the BOCC – you guys need to have our understanding of money being spent above the \$10,000 limits and get updates to appropriate funds. Need controls.

Emergency Declaration: Lou asked what is the intent, he understands – it really isn’t necessary – EFF – EOP – FEMA – the issue goes to the funding mechanism – memorialized – need the track for the auditors – BOCC does the declaration and Lou needs to make them aware that he is over his limit. The Sheriff has nothing in the language about a declaration of disaster – look up the statute – he is to activate the response and plans to fight the fire.
BOCC has to declare it – Lou has to let him know – this open others resources
Commissioner Houpt – we need more discussion – because of the tools that Lou has in place – confused.

Operational and Budgetary

Chairman Martin – this is the Sheriff’s discretion – he knows he has taped out local resources – he needs to let the BOCC know that we need to declare disaster and bring in extra help. He lets the BOCC know – he has ability to call those other resources in. Sheriff – needs to let Chairman know.
Lou – will do legal research on this.
Commissioner Houpt suggested the Board could discuss this at next Executive Session.
Carolyn will look at the statutes.
Lou needs to know the guidelines on declaring a disaster.
Carolyn will look into this legally and come up with perimeters
Coal Seam was a local disaster – when do you declare?
Chairman Martin – summarized the Coal Seam – when there were homes threatened and the wind was blowing the fire out of control of local resources. He gave the example of the New Castle fire saying had it crested it could have become another Storm King and threatened homes.
Lou – don’t misstate – what we’re doing in Garfield County
The Board relies on the Sheriff’s expertise – the BOCC needs information and background to assist them to declare a local disaster and Lou recognize BOCC as part of the logistics; the procedure has been that Lou shares this information with the County Manager and then Ed calls the BOCC.

Lou is the chain of command and he sets up a center for aid – BOCC not part of that.

Next step

The Fire Chiefs will go back and talk to their boards about a 50 – 50 split.
Attorney’s get legal terms together.
Keep meeting and let BOCC hear back after the fire districts have been informed and decided about the 50-50 split.
Lou will work with Attorney’s on getting an IGA with local districts
Future - Better Mutual Aid Agreement – Sheriff and Chiefs – structure fire in no man’s land. Chris Bornhddt of the Sheriff’s office is working on this already.

Attest: Chairman of the Board

AUGUST 6, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, August 6, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

Commissioner McCown provided news of Marvin Stephens’ son who is in the hospital. The son was air lifted to Denver.

COUNTY MANAGER UPDATE – ED GREEN

County Manager Update: Ed Green

OUT OF STATE TRAVEL FOR SUSANNE WHITING – LYNN RENICK

Lynn Renick presented the request for Susanne Whiting to travel to New Jersey to attend the conference on emerging issues in Forensic interviewing of child abuse for a cost of \$1830.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the out of area travel request in an amount not to exceed \$1830. In favor: Houpt – aye McCown – aye Martin – aye

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HUMAN RESOURCES - COMMISSIONERS - OUT OF STATE TRAVEL - POLICY

Commissioner McCown noted that 9 years ago the Board instituted a policy regarding out of state travel and if the funds are in the budget that has already been approved by the Board, then only if the travel expenses go beyond the department head's signature that the request would go to Ed or to the Board for signature.

DISTRICT ATTORNEY - CASE MANAGEMENT SOFTWARE – MARTIN BEESON

Martin Beeson and Bill Brunsworth submitted the report and request last year for approval of \$168,000 and applied for a DOLA grant and had stated that if we obtained the grant we would not need the money. We did get a grant from DOLA and there was some communication misunderstanding with the contractor and the fact that the DA needed to be able to interface between the three offices in Glenwood, Pitkin and Rio Blanco was missed. Therefore there was a revised contract and escalated the cost to \$210,000. There were some other costs they were not aware attributed to other data providers. The total bid package is \$274,000 and Martin stated with the amount funded and the DOLA grant leaves a balance that can be covered in the DA's current budget. However Martin will need to use the total of \$168,000 placed in the budget last year.

Chairman Martin stated this is the most efficient ways to approach business as that interface is necessary.

Martin projected they will go live the first of the year or late December.

The Board gave the go ahead since the money was in the DA's budget.

HUMAN SERVICES COMMISSION - REQUEST TO ADD HEADSTART AS AN AGENCY FOR THE HUMAN SERVICES COMMISSION

Ed submitted an application from Rocky Mountain SER Headstart to be a member of the Human Services Commission. Ed requested the Board make the appointment.

Commissioner Houpt so moved. Commissioner McCown seconded.

In favor: Houpt – aye McCown – aye Martin – aye

ROAD AND BRIDGE – BRIDGES PROVIDE AND INSTALL TYPE 10 BRIDGE RAIL ON TWO BRIDGES – BOBBY BRANHAM

Tim Arnett and Bobby Branham submitted the bid to remove existing bridge railing and to install new type 10 railing and anchorage on bridges for a not to exceed \$140,973.70. The recommendation is to award the bid to Ideal Fencing Corporation.

It is estimated to cost almost a \$1 million to do all the bridges however there are two bridges in dire need of repair – Garfield 129-00-32 and Garfield 324-02-21 for a cost of \$140,973.70.

Ed – due to the recent event in Minnesota they decided to go ahead and do this.

Commissioner Houpt questioned why the bridges were ours and not CDOT. Bobby explained that the South Canyon road that goes to the bridge is CDOT until you get to the bridge and also the same thing occurs in Parachute and Silt.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the amount not to exceed \$140,973.00 on the two bridges as presented.

In favor: Houpt – aye McCown – aye Martin – aye

CLERK AND RECORDER - REMODELING OFFICES FOR THE COUNTY CLERK & RECORDER IN THE GARFIELD COUNTY COURTHOUSE AND THE HENRY BUILDING – JEAN ALBERICO

Jean Alberico and Tim Arnett provided the Board with pertinent information related to the demolition costs as the first part of the remodeling costs as previously requested by the Board. Farhurst Enterprises LLLC out of Basalt is the lowest bidder at \$20,990.00.

Tim explained the cost for demolition is for the Clerk's office in the Courthouse, at the Rifle annex and in the Courthouse Motor Vehicle, front counter and the Recording area. Tim explained this is to make the areas all one level as there have been several falls off the steps. The main expense is to tear out the carpet. These areas will be replaced with a flat surface and new carpet will be installed.

Tim stated that altogether the demolition and the construction work including carpet and modular furniture will cost around \$300,000. The time schedule is to do it before the election. The carpet is here and stored in the basement.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the demolition for the removal not to exceed \$20,990.00 to Farhurst Enterprises.

Jean stated the concerns Commissioner McCown made about modular furniture has been assessed. She and some of the staff viewed the furniture and she doesn't expect any problems and staff agrees that they believe they will really like it.

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN RESOURCES - REQUEST TO AMEND CONTRACT FOR PHYLLIS LUNDY FOR “JOB DESCRIPTION MARKET ALIGNMENT PROJECT”

Ed reported that our 300 job descriptions are not comparable to do a salary survey with the amount of positions in County the expense is much bigger than estimated. He stated that working with the Clerk's job descriptions and for Lynn and Mary's folks – need an additional \$16,715 for a total cost of \$26,414.

Commissioner McCown commented that it will do no good until it is completed.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the extension for Phyllis Lundy to complete the job description process for an additional amount of \$16,715.00.

In favor: Houpt – aye McCown – aye Martin – aye

TREASURER - SERVICE AWARD PRESENTATION FOR GEORGIA CHAMBERLAIN, COUNTY TREASURER FOR 20 YEARS OF SERVICE.

Chairman Martin recognized Georgia Chamberlain for her 20 years of dedicated service to the County as the Treasurer. She was presented with a plaque and a gift certificate to the Brew Pub as well as a 20-year pin.

Georgia – an honor to work for Garfield County.

NEW PLANNER – BUILDING AND PLANNING- Christine Montalvo started last week. Christine said she was excited to be here. Her background includes work from the mid-west and she has had current planning experience out of Jackson, Florida.

Fred said they are now fully staffed with a great team.

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Christine – glad to be here and bring her field to the table; she spent time in Louisiana for the disaster planning.

OIL AND GAS - GRASS MESA - ENCANA

Jesse gave the Board some updates regarding EnCana and oil and gas activity in the Grass Mesa area.

- 1) The Board might get telephone calls regarding the RD&D process that has been ongoing for the last year with BLM national, slipped schedule and looks like it will be another 90 days – public draft out mid-July and now October or first of November.
- 2) EnCana discussions with State, Division of Wildlife, BLM and citizens – Grass Mesa – they proposed a plan where by they would drill year round and be complete within 2 years. Didn't feel it would be disruptive to the wildlife. A vote of the Grass mesa residents to move forward and if not it will continue the way it is. They have two rigs in that area.

COUNTY SHERIFF UPDATE: LOU VALLARIO

CONSIDERATION/APPROVAL OF SCHOOL RESOURCE OFFICER AGREEMENT WITH GARFIELD RE-2 SCHOOL DISTRICT

Lou provided an update on the story on the Glenwood police officer who was shot. Information is being torn into and everyone's putting 110% in it.

Don and Lou provided the agreement to the Commissioners saying this had previously been approved for the additional staff person; now the contract with the school.

Don made some substantial changes to the district and the reason the Sheriff and BOCC are part of the agreement is both needed to be involved in this agreement. Don has not talked to the attorney for the school district.

Lou – RE2 starts the 20th of August. Attachment A - language talks about 75-25% split.

The total amount of the Resource Officer is \$131,428 which includes all the uniforms and equipment necessary for the job. The school will pay 75% of the salary expenses and operating expenses for a total of \$67,703.00; the county will pay 25% of the salary expenses and operating costs as well as the capital outlay for the vehicle, vehicle equipment and radar for a total cost of \$63,726.00.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to authorize the Chair to sign the agreement between RE2 School District for a total amount of \$63,726.00.

Lou - this has helped us with law enforcement.

Commissioner Houpt – this position has to be someone that interacts well with the students.

Lou said he had two deputies who have expressed interest in the job.

Don reminded Lou to come in December and get this renewed.

In favor: Houpt – aye McCown – aye Martin – aye

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE - 3A – 3E – LEGAL ADVICE – ANTICIPATE PUBLIC DISCUSSION. DISCUSS ON-GOING LITIGATION ON VEZZOSO, ELECTION EQUIPMENT CONTRACT AND MAY NEED PUBLIC ACTION; CAROLYN – CONTRACT NEGOTIATIONS AND LITIGATION ON THE AIRPORT RUNWAY PROJECT.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

Jesse and Judy will be needed on 3a.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken:

OIL & GAS LIAISON/AGNC CONTRACT - DISCUSSION/DIRECTION

For August 20 for potential action.

TRAILS AND TRANSPORTATION - DISCUSSION/DIRECTION RE: SOUTH GLENWOOD TRANSPORTATION IGA

Don DeFord submitted the IGA for joint funding of the Environmental Assessment for the South Bridge Crossing and the Intersection at State Highway 82. The contribution of \$200,000 each by the City and County in clearly outlined in this agreement.

Don said that upon completion of the EA and cost analysis, the City and County shall meet to confer regarding the alternatives. If the parties are unable to determine a preferred alternative at that time, then the City shall make a recommendation to the County regarding the City's preferred alternative. The County shall have 90 days to accept, reject or recommend a different preferred alternative.

Don said he understood the Commissioners do not wish to proceed on the structure of the draft agreement but do wish to proceed on an agreement and need direction on that as well as any necessity to have a technical meeting with Glenwood springs to discuss the future of this agreement.

A motion was made by Commissioner McCown to authorize the County Attorney to contact the Glenwood Springs City Attorney and re-rewrite Section III – paragraph 2 in that particular document that alluded to the county depositing \$200,000 within 90 days of the signing of that contract to read something in the effect that we will pay on invoices or that if we were to deposit \$200,000 the city would be expected to deposit \$200,000 in a similar account and those funds would be drawn down equally as for the proceedings and that as far as the technical aspect I would ask that someone, once this contract is redrawn, come back to the County Commissioners preferable the last meeting of this month and it can happen that soon and explain the timelines and projections on this project please. Commisisoner Houpt – seconded.

In favor: Houpt – aye McCown – aye Martin – aye

SOUTH BRIDGE PROJECT

Commissioner Houpt – think this South Bridge is critically important to have on a broader basis right now; we are in the middle now of a great process and should be similar to one like we had on the gravel pit discussion. Fred could pull together the information to discuss on transportation issues in the south portion with Glenwood addressing the Four mile area. Both areas are slated to grow and traffic flow if a problem. She suggested holding public workshops where we would invite stakeholders to come and participate in the effort. She asked for the blessing of the Board to have Fred go forward to obtain any stakeholder interested.

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Commissioner McCown – has no problem in participating but not sure we should be the lead entity in this. The traffic issues are far beyond the County and because of the land use issues revolving around the South Bridge and where it will land on Hwy 82, he would like to see Glenwood Springs be the lead entity. There are a lot of problems on traffic issues. He would agree that we need a workshop and would support being at the table and the initial meeting but the City needs to take the lead and we would be there at the table. Larry referenced the Parachute Bridge and the problems there as well.

Commissioner Houpt – believe it is our responsibility as well. She is not opposed to the Parachute Bridge either. We have huge impacting projects that are out there and we must be a partner in taking the lead. She suggested we ask if the staff at the City to join us and she doesn't want to wait around; it's important to bring it forward.

Chairman Martin suggested making it an organization meeting – sit down at a round table and see if we can support that – include Carbondale, Silt, New Castle, and if the focal point is south Glenwood, then have Glenwood be there as well.

Commissioner Houpt didn't think John understood her point.

Chairman Martin thinks we should invite everyone including CDOT, Garfield County, citizens, Carbondale to Parachute. Are we going to plan transportation? One issue is that lead agency should be the one who is responsible and then as a group decide what we need to do.

Fred suggested that, you as the Board, come here to this room, get an organization and from there figure out a scope including the South bridge or whatever. Fred said he'd be happy to do this however he will be away until August 27th.

Commissioner McCown suggested some time in September.

Fred reviewed the list of those to invite: stakeholders and they could do a major broadcast through emails; CDOT, the major players, citizens; municipalities, development interests; and emergency responder's spokesman.

Commissioner McCown said open it up to anyone with an interest but it should be broken down to one entity to take the lead, i.e. in Parachute, Carbondale etc. and work together with the entities. This is not unique; it affects CDOT and they have to be a player.

Fred – all of these items involve CDOT right of way so definitely CDOT, County and every sub committee needs to be a part of this meeting.

Commissioner McCown said this is the only way it can succeed. We should focus on energy driven needs compared to the ski development because they are both equally important; the interest is not there from one entity to the other. This will be a financial commitment to both entities but the municipalities should spearhead the actions; there is one common entity with all projects and that's CDOT.

A date of September 5th on Wednesday - tentatively scheduled. It will be a daytime meeting.

CROUCH PROPERTY – MISSOURI HEIGHTS

Louis Beutner for Adrienne Crouch was present.

Don informed the Board that on August 20th a time will be set to present and discuss the County's surveyor report on 162 and 162A.

Don asked for authority for the Chair to sign a letter to the County Surveyor asking that he appear on August 20th meeting for an agenda item to present and discuss the surveys you requested several weeks past concerning 162 and 162A.

Commissioner McCown – so moved. Commissioner Houpt – second.

In favor: Houpt – aye Martin – aye McCown – aye

AIRPORT LAND ACQUISITION - DISCUSSION/DIRECTION TO STAFF

Carolyn directing and seeking authority on airport land acquisition. Carolyn said she is seeking authorization to begin condemnation procedures against an entity known as Continental Rifle for purchase of property that has to do with our new runway and road realignments at the airport.

A motion was made by Commissioner McCown that the County Attorney's office be authorized to proceed with condemnation procedures to enable us to proceed with the airport improvement projects.

Commissioner Houpt seconded.

Chairman Martin – and we've tried every other avenue of negotiations more than once.

In favor: Houpt – aye McCown – aye Martin – aye

AIRPORT - CONTRACT WITH XCEL – LAND AT THE AIRPORT FOR THE IMPROVEMENTS.

Authority for the Chair to sign a purchase contract between the BOCC and Xcel Public Service Company for purchase of a property in the total amount of \$135,500. This is also for land acquisition to allow for the airport improvements.

Commissioner McCown – so moved. Commissioner Houpt – seconded.

In favor: Houpt – aye McCown – aye Martin – aye

COUNTY ATTORNEY - DIRECTIONS RE: REQUEST FOR WAIVER OF FEES – OPEN RECORDS REQUEST – LUCIUS B. O'DELL

Don DeFord submitted the request for emails related to Commissioner Houpt covering a period of 5 years.

Don also submitted the responses from his office on behalf of Commissioner Houpt.

The last letter from Mr. O'Dell protested the fee we requested before proceeding with producing any documents and he has asked that these fees be waived. Practice has been to recoup the actual cost in an open records request and Commissioner Houpt and Don do not feel free to honor this request without action of the Board, so we are asking the Board do you wish to waive the costs.

Commissioner McCown made a motion that we remain consistent in our procedures and charge for real costs in obtaining these records.

Commissioner Houpt seconded. Chairman Martin – we have a long standing policy.

In favor: Houpt – aye McCown – aye Martin - aye

CLERK AND RECORDER - REQUEST TO CONSIDER A CONTRACT WITH HART INTERACTIVE FOR THE PURCHASE OF NEW ELECTION AND SOFTWARE FOR THE CLERK'S OFFICE

Don said this has raised an issue between Hart and the Secretary of State's office about whether or not the property subject of the contract has been appropriately certified by the State or will be in a timely manner and

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after discussing this matter with the Election Officials at the Secretary of State’s office, Don drafted a very brief addendum to the invoice agreement from Hart that would provide that payment and acceptance of this equipment is contingency upon certificated for the November election by the SOS office. Don asked that the Chair be authorized to sign that document on behalf of the Board of County Commissioners, Jean will sign that on behalf of her own office and we will forward that to the state as required by law so that they can review the contract and deal with the issues.

Commissioner McCown so moved. Commissioner Houpt – seconded.

In favor: Houpt – aye McCown – aye Martin – aye

Jean will keep the Board appraised.

COMMISSIONER REPORT

Commissioner Houpt – wonderful county picnic last week – it was a great event, Linda Morcom, Linda White, and folks at the Sheriff and Human Services did a lot of work and it was a nice celebration and really appreciated; CCI meetings for 2008 legislative session; BOE hearings and applauded the Assessor’s office for negotiating the appeals. Had first meeting on Oil and Gas session – orientation and group is digging through a great deal of reading material – look forward to working with them and being the rep for local government – it’s wonderful that a county level person is on that commission – land use and quality of life and concerns in planning that will be raised – that charge has certainly grown and changed

Commissioner McCown – Friday at noon – Human Services grant; horse show – this week; the Fair and livestock activities; livestock show – Wednesday at 9 a.m. Action on Saturday and concert on Saturday – will be there most of the week. Commissioner cookie jar on Friday.

Chairman Martin – on the 27th – Smart Growth meeting on oil and gas – responses and nice to see Fred and entire staff there; Larry and Martin survived the cooking for the County picnic; Strategic planning and then the Colorado River District in Edwards.

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers - none
- c. Inter-Fund Transfers
- d. Changes to Prior Warrant List
- e. Authorize the County Treasurer to release funds to RE-2 School District
- f. Authorize the County Treasurer to release \$1,500 to RFTA
- g. Authorize the Chairman to sign the Resolution of Approval for a Special Use Permit for up to 31 “Temporary Employee Housing” facilities located at the North Parachute Ranch and within a property owned by EnCana Oil and Gas (USA), Inc. Applicant is EnCana Oil and Gas (USA), Inc. – David Pesnichak
- h. Authorize the Chairman to sign the Resolution of Approval for a Special Use Permit for an “Industrial Support Facility” which includes an office and storage facility near Rulison. Applicant is Williams Production RMT, Co. – David Pesnichak
- i. Authorize the Chairman to sign the Resolution of Approval for a Special Use Permit for an “Industrial Support Facility” located on a 77 acre parcel approximately 6 miles west of the Town of Parachute which would include: material handling, pumping facilities, warehouse facilities/staging areas, storage areas, and accessory uses to the above in the RL zone district. Applicant is Frac Tech Services, LLC – David Pesnichak
- j. Authorize the Chairman to sign a Resolution of Approval for a Preliminary Plan for a six lot subdivision on a 15.37 acre parcel located approximately 4 miles north of the City of Rifle. Applicant is Mark Sills. – David Pesnichak
- k. Authorize the Chairman to sign the Special Use Permit for Storage and Material Handling for the Estate of William F. Clough for a centralized natural gas condensate storage facility – Fred Jarman
- l. Authorize the Chairman to sign the Acknowledgement of Partial Satisfaction of Subdivision Improvements Agreement for Callicotte Ranch Subdivision. Applicant is Callicotte Ranch, LLC – Fred Jarman
- m. Authorize the Chairman to sign the Resolution of Approval and Special Use Permit for a “Communication Facility”. – Applicants are Darlyne Woodward and Martha Collison – Craig Richardson
- n. Authorize the Chairman to sign the Resolution of Approval and Special Use Permit for a “Communication Facility”. Applicant is POW, Inc. – Craig Richardson
- o. Authorize the Chairman to sign the Resolution of Approval and Special Use Permit for a “Commercial/Recreational Facility/Park”. Applicant is POW, Inc. – Craig Richardson
- p. Authorize the Chairman to sign the Resolution of Approval for the Whispering Creek Preliminary Plan. Applicant is specialty Restaurants Corporation – Craig Richardson
- q. Authorize the Chairman to sign the Amended Plat for Lot 53, Cerise Ranch Subdivision, Phase I. Applicant is Dan Gugenheim – Craig Richardson
- r. Approval of minutes for May 7th, May 14th and May 21st. – Jean Alberico
- s. Authorize the Chairman to sign the Final Plat and Subdivision Improvements Agreement for Phase 3 of Springridge Reserve PUD.

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- Applicant is Springridge at Glenwood Springs Development Corporation
– Fred Jarman
- t. Authorize the Chairman to sign the Acknowledgement of Satisfaction and Direction to Treasurer/Treasurer’s Deposit Agreement for Springridge Reserve PUD Phase I. Applicant is Springridge at Glenwood Springs Development Corporation. – Fred Jarman

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a - t; as shown; carried.

BUILDING AND PLANNING A 150KW SOLAR INSTALLATION AT THE CRMS PROPERTY – AUDEN SCHENDLER W/ASPEN SKIING COMPANY

Auden Schendler – no information – to be rescheduled

BUILDING AND PLANNING - TRASH CONTAINER STORAGE IN SPRING VALLEY – MIKE BLAU W/WASTE MANAGEMENT

Mike Blau from Carbondale presented a request to the Commissioners in order to help out Spring Valley residents; the property is owned by Mr. Rudd and he has asked the waste storage containers be moved. Mike wants permission to put those on CR 120 in a big wide spot so the residents can have access for their trash. It is too hard to service in the neighborhoods. The current set up is on dumpsters but we need a place to put them.

Commissioner McCown said we can’t allow the precedence to be placed on county roads over a period of time. Can’t support this otherwise it will be all over the county; the Road and Bridge people would not be able to plow. Spring Valley should have their containers near their entrance for access.

Commissioner Houpt suggested that the residents provide a place in their subdivision. Commissioner McCown – Spring Valley needs to provide for their homeowners inside their own private property.

CR 154 - NEW GAS MAIN IN COUNTY ROAD 154 FOR SYSTEM UPGRADE – JASON COX W/SOURCE GAS

Linda Morcom received notice that Jason Cox cancelled.

BUILDING AND PLANNING - CONSIDER THE APPOINTMENT OF CITIZENS TO THE COUNTY PLANNING COMMISSION – FRED JARMAN

Fred submitted a memorandum stating there is a vacancy for two regular members. He reviewed the advertising policy and stated that two letters have been received: Leta Terrell in the Parachute area and Shannon Kyle in the New Castle/Silt area. Two vacancies exist on the regular members. He also submitted a listing of the current members.

The requested action is to have the BOCC consider the appointment of both candidates as Associate Members while appointing Steve Reynolds and Sean Martin to regular members based on their tenure on the Board.

There is a geographic issue to have a representation on the Planning Commission. We have representation from Carbondale to Parachute. At this point there is fair amount of realtors on the current board and Shannon Kyle is a realtor.

Commissioner Houpt – the last time we talked about people who had previously stated an interest on the Planning Commission did you contact them. This is an important step to take.

Leta Terrell doesn’t actually mention the Planning Commission rather the Library Board and suggested we call her.

Suggested to put this on hold for contacting previously interested parties.

Commissioner McCown – how far back should we go for interest?

Commissioner Houpt – would like to have those people who have applied in years past notified on the opening.

Commissioner McCown wanted to move Steve Reynolds and Sean Martin to regular members and appoint Shannon Kyle and made a motion to do so.

Commissioner Houpt – agrees with Steve and Sean but hold off until the solicitation of members.

Chairman Martin – we asked people to send letters in and Shannon is the only one.

Commissioner Houpt – not leaving anyone out of the process.

Chairman Martin – he had talked to those who had previously applied as well.

Commissioner McCown moved to appoint Steve Reynolds and Sean Martin as regular members of the Planning Commission and appoint Shannon Kyle as associate member and look further into your list of former applicants to fill the last spot.

Commissioner Houpt – Second for conversation and I will support half of your motion. I would support moving Steve Reynolds and Sean Martin but I would hold off appointing anyone until we have gone through the whole process of soliciting interested parties.

Commissioner Martin – I did and I’ve know Shannon Kyle when she was selling over the counter at another business. She is a well rounded human being and doesn’t look at everything through real estate. We went out and asked people to see if they were interested and reapplying to up their letter and Shannon is the only one who came forward.

Commissioner Houpt – I appreciate the fact that you talked to Shannon and I am not singling anyone out on this I am looking at the process we talked about following the last time we appointed people.

In favor: McCown – aye Martin – aye Opposed: Houpt – aye

GIS - AUTHORIZE THE CHAIRMAN TO SIGN AN APPLICATION TO FEMA FOR A CONDITIONAL LETTER OF MAP REVISION (CLOMR) REGARDING A PROPERTY LOCATED IN THE 100 YEAR FLOODPLAIN FOR THE SCOTT GRAVEL PIT OWNED BY ROCKS R US, LLC AND RIVER’S EDGE, LLC – FRED JARMAN AND PEGGY BAILEY

Fred Jarman, Peggy Bailey and Carolyn Dahlgren were present.

This was cancelled due to some additional questions to answer.

The Requested Action:

As a result of the Tetra Tech analysis, staff believes a CLOMR is necessary because the analysis reflects that 1) floodplain and floodway modifications will occur due to the proposed gravel mining and 2) the project will occur in areas of the Colorado River that have not been officially mapped. For both of these reasons, staff

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believes a CLOMR is required to be approved by FEMA to be consistent with the terms of the County's participation in the National Flood Insurance Program.

In the case of a map revision, the local jurisdiction, Garfield County, becomes the applicant to FEMA and requires the Chairman to sign the application.

Staff also notes that the County adopted the FEMA maps as a zoning overlay. If FEMA approved the CLOMR, the Board will need to approve a zone district amendment to reflect the new mapping changes.

BUILDING AND PLANNING - AUTHORIZE THE CHAIRMAN TO SIGN THE REQUESTED ACKNOWLEDGEMENT OF REPLACEMENT OF BONDS FOR SPECIAL USE PERMITS FOR TEEPEE PARK RANCH, LLC APPROVED VIA RESOLUTION 97-07. – FRED JARMAN

Fred Jarman and Carolyn Dahlgren were present.

Fred Jarman submitted a memorandum that included the background and requested action of the Board.

The Board approved a Special Use Permit for Teepee Park Ranch, LLC in 1997 which was memorialized in Resolution 1997-70 for Extraction of natural Resources for Tucker and Frase Partnership to log an area southwest of the City of Rifle in Township 7 South, Range 94 west.

As a condition of approval No. 8, the Board required a bond be submitted prior to the issuance of the Special Use Permit. The applicant submitted two bonds for \$100,000 and \$75,000 for ensure the repair of damage attributable to principals logging activities on CR 320 and/or CR 317 as well as in lieu of paving CR 317, respectively.

Requested Action:

The Building and Planning Department received a letter from the bond issuer, Great American Insurance Company, requesting the County acknowledge the replacement of the two bonds that were originally issued to Intermountain Resources, LLC that have not been issued to Teepee Park Ranch, LLC.

Fred submitted the requested draft of the letter the bond company is requesting signature on.

Carolyn – asked to do more investigation. Norm Carpenter is the landowner.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to transfer the bonding on the Special Use Permit for TeePee Park Ranch LLC simply as an administrative practice.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING CONSIDER AN AMENDED PLAT TO COMBINE LOTS 5 AND 6 OF THE COOPERTON TOWNSITE (SATANK) LOCATED NORTH OF THE TOWN OF CARBONDALE. APPLICANT IS GREGORY FORBES – DAVID PESNICHAK

David Pesnichak, Gregory Forbes and Carolyn Dahlgren were present.

BACKGROUND AND DESCRIPTION OF THE PROPOSAL

This is an amended plat application to vacate the lot line between Lots 5 and 6 of the Cooperton Townsite. Staff understands that there is currently a home on the property which straddles the lot line between Lot 5 and Lot 6 (See survey below). The Applicant wishes to construct a new home on Lots 5 and 6, but in order to create a workable lot, the applicant is proposing to combine the existing lots. Lots 5, 6, and 7 are all owned by Gregory Forbes and all measure 25' by 156.5' (3912.5 square feet). The combined lots 5 and 6 would create one new lot measuring 50' by 156.5' (7825 square feet). The minimum lot size in the RLUD zone district is 7500 square feet.

STAFF RECOMMENDATION

The Applicant has provided all required documentation and has satisfied the applicable standards for this plat amendment. Therefore, Staff recommends the Board of County Commissioners **APPROVE** this amended plat request with the following conditions:

- 1) That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
- 2) Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.

Gregory stated he has a permit pending and this is the last item to issuing a building permit. The old cabin has been moved.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the amended plat for the Cooperton Townsite Lots 5 & 6, authorize the Chair to sign.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER AN ANNEXATION IMPACT REPORT FROM THE TOWN OF SILT TO ANNEX 42.26 ACRES FOR RESIDENTIAL DEVELOPMENT AND KNOWN AS "PAINTED PASTURES NORTH" – DAVID PESNICHAK

David Pesnichak and Carolyn Dahlgren were present.

David presented the request stating that the Town of Silt (the Town) delivered a referral for annexation of a 42.26 acre property located north of the existing Painted Pastures Subdivision. Regarding annexations of land from the County into a city, the state statutes 31-12-108.5 requires the following to occur:

The statute stated above requires an Annexation Impact Statement in this case because the total area is approximately 42.26 acres. Although the information required for an Annexation Impact Report was not provided in the format above, Staff feels that all of the points have been addressed within the packet provided by the Town of Silt.

Staff understands that the Town has not yet scheduled this application for annexation before the Town Trustees.

The proposed annexation is located as shown in the map below:

It is Staff's understanding that Grand Avenue will be the primary access to the proposed development which is anticipated to consist of 94 single-family lots, two development open space parks and a public trail system. Grand Avenue is currently maintained by the Town and is anticipated to handle all of the immediate traffic generated by this project. The Town provides water and sewer to the area which is understood to be adequate

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to serve the development. In addition, the applicant is proposing to pay the required fee in lieu of land dedication as calculated by the Town of Silt for the offset of impacts to the RE-2 School District. As all utilities can be provided by the Town and that the road impacts from the proposed development will be negligible to the Garfield County road system, it is Staff’s opinion that this annexation will have little to no negative impacts on Garfield County. As such, Staff recommends that the Board of County Commissioners accept the Annexation Impact Report as submitted.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the annexation report as presented by the Town of Silt.

In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT TO ALLOW DEVIATION FROM THE IDENTIFIED DRINKING WATER CONSTRAINT DISTRICT’S MAXIMUM HEIGHT REQUIREMENT. APPLICANT IS UNION PACIFIC – CRAIG RICHARDSON

Craig Richardson, Carolyn Dahlgren, Union Pacific representative Scott and Lee were present.

Request

Unimin Corporation, (Lessee) has submitted a Special Use Permit application to allow deviation from the identified Drinking Water Constraint Zone’s building height requirement identified in §3.14.06 of the Garfield County Zoning Resolution of 1978, as amended.

The subject property is located west of the City of Rifle, Colorado. The subject parcel is approximately 10.65 acres, zoned Resource Land: Gentle Slopes & Lower Valley Floor situated within the Drinking Water Constraint Zone overlay.

A Special Use Permit allowing an Industrial Park on the subject property was approved by the Board of County Commissioners on August 5th, 1980. The resolution identifies “storage on-site” as a permitted activity. The maximum building height for the subject property is forty (40) feet unless otherwise permitted by a Special Use Permit. The Applicants wish to construct a new storage silo that exceeds the maximum building height standard by ninety-two (92) feet.

Staff Recommendation

Staff recommends that the Board of County Commissioners not refer this application to the Planning Commission for the following reasons.

- Activity utilizing the proposed storage silo is already permitted on-site;
- The proposed Special Use Permit will have limited impacts to the citizens of Garfield County;

Scott – Law firm of Balcomb and Green ask that this not be referred to the Planning Commissioner but we believe this can be addressed by the Commissioners.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to refer this for the Board of County Commissioners to hear.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A ZONE DISTRICT AMENDMENT FOR A PROPERTY OWNED BY EYE SEVENTY, LLC. APPLICANT IS EYE SEVENTY, LLC – CRAIG RICHARDSON

Steve Carter, Attorney in Rifle and my client is Richard ____, who is the manager of Eye Seventy LLC. This was formerly heard and Craig said there were no new exhibits.

REQUEST

The Applicant requests approval to rezone Parcel A of the Amaya/Madrid Exemption from Agricultural/Residential/Rural Density (ARRD) to Light Industrial.

LAND USE BACKGROUND

The subject parcel was created by the Amaya/Madrid Exemption which was approved by the Board of County Commissioners (the Board) on July 7th, 1997 (Resolution No. 97-62). The Exemption created two parcels, A-8.39 acres and B-15.00 acres. Originally, the parent tract was situated within the ARRD Zone District resulting in the created parcels present zoning.

Regarding the surrounding zoning, the subject parcel is adjacent to three parcels that have been rezoned to Light Industrial (LI). The land adjacent to the west of the subject property is zoned Planned Unit Development (Airport Industrial PUD). This existing PUD is currently being revisited by the property owner. Eventually, a proposed version of a new PUD is contemplated to be annexed into the City of Rifle. Consequently, Garfield County expects a request to withdraw the existing PUD in the near future.

PROPERTY DESCRIPTION

The subject parcel is 8.39 acres and is characterized as being relatively flat with a slight grade sloping from north to south. Access is provided via a 30-foot access easement crossing Parcel 2 of the J.W. Weaver Exemption (zoned LI). Improvements on the property consist of a single-family residence.

STAFF COMMENTS

The Comprehensive Plan (the Plan) designates the subject parcel as “Outlying Residential”. Since the proposed rezoning is not in compliance with the Plan the following standards established by the Colorado Revised Statutes must be demonstrated by the Applicant.

1. That an error was made in establishing the current zoning, or
2. That there has been a change in the condition of the neighborhood that supports the requested zone change.

a. Error in Zoning

The parcel was originally zoned ARRD in the early 1970’s, consistent with predominant use found the area at that time. There have been substantial changes in the area since the subject parcel was designated ARRD. Staff believes that the present zoning of the parcels was not done in error.

b. Change in Conditions of the Neighborhood

The Applicant believes the conditions of the area have changed and the existing uses found on adjacent properties are more industrial in nature. Located to the west the Airport Industrial PUD allows for industrial activity. To the north and east of the subject property you find the three parcels recently rezoned to LI. Activities on the adjacent lots include storage and mini-storage. The adjacent lots are utilized for storage (use by right).

Light Industrial Zone District Uses

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Rezoning of the subject property would allow for the following uses identified in § 3.12 of the Garfield County Zoning Resolution of 1978, as amended (the Zoning Resolution).

Planning Commission Recommendation

On July 11th, 2007 Garfield County Planning Commission reviewed the Applicant's request to rezone the subject property from Agricultural/Residential/Rural Density to Light Industrial. The Commission, by a unanimous vote moved to make a recommendation of approval to the Board of County Commissioners.

STAFF SUMMARY

As discussed in this memorandum the rezoning of this property will result in a non-conforming use (single-family residence). Deviating from the current use of a single-family residence would be considered an increase in the non-conformity of the existing structure. The Applicant is aware that this use is not allowed in the LI Zone District unless approved by the Board of County Commissioners, as part of a SUP, the owner or resident manager of a storage facility may utilize the residential structure if approved as part of a SUP. Any other use will require removal of the unit. Staff finds that adjacent uses constitute a change in the conditions of the neighborhood. This change supports the request for a change in zoning on the subject property owned by Eye-Seventy, LLC. and Staff recommends that the Board of County Commissioners approve the Applicant's request.

Steve Carter did not have anything to add to the staff report as submitted by Craig. He encouraged the Board to approve the request.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing. In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the zone district request from AARD to LI. In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT ALLOWING STORAGE AND A SINGLE FAMILY RESIDENCE. APPLICANT IS EDE INVESTMENTS, LLC – CRAIG RICHARDSON

Barbara Clifton, Attorney in Rifle and Derrick Bruce Elder, son of the owner Craig Richardson and Michael Howard were present.

Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Craig submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Application materials; and Exhibit E – Staff Memorandum.

Chairman Martin entered Exhibits A – D into the record.

REQUEST

The Applicant has submitted a Special Use Permit to allow storage with a single family residential unit on the subject property. Situated within the Light Industrial Zone District, the subject property is approximately fifteen acres in size. A single family residence is only allowed within the Light Industrial Zone District when approved by the Board of County Commissioners as a Special Use Permit in conjunction with storage (use by right). Occupants of the dwelling unit will be restricted to the property owner or an on-site property manager.

BACKGROUND

On November 21st, 2005 the Board of County Commissioners approved a request to rezone the subject property from Agricultural Residential Rural Density to Light Industrial. The subject property was approved with a single family residence at the time of rezoning. To continue the use of a single family residence, the Applicants are now seeking approval of a Special Use Permit to allow storage with a single family residential unit within the Light Industrial Zone District.

STAFF RECOMMENDATION

Staff recommends approval of the proposed Special Use Permit allowing a single family residence to be utilized by the property owner or on-site manager of the existing storage operation allowed as use by right within the Light Industrial Zone District with the following conditions:

1. That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. The existing single family residence shall only be occupied by the property owner or an on-site property manger for storage operations conducted on the subject property.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing. In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit allowing a single family residence for EDE Investments LLC. with the two conditions recommended by Staff. In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A REQUEST TO REZONE A PROPERTY FROM ARRD AND AI TO PLANNED UNIT DEVELOPMENT AND A SUBSEQUENT PRELIMINARY PLAN FOR THE “RAPIDS ON THE COLORADO.” APPLICANTS ARE RAPIDS DEVELOPMENT CORPORATION, THE RAPIDS ON THE COLORADO HOMEOWNERS ASSOCIATION, AND GENE R. HILTON AND MARY JO HILTON. – FRED JARMAN

Lee Leavenworth and Karl Hanlon doing the presentation for the applicant Gene and Mary Jo Hilton for Rapids, Chris Hill, Curtis Row from Kimberly Horn, Fred Jarman and Carolyn Dahlgren were present.

This was actually a continued meeting to obtain comments from New Castle. We had previously accepted notice and then continued. The exhibits were submitted and entered into the record.

Chairman Martin swore in the speakers.

Fred submitted the existing exhibits: **Exhibits from August 9, 2006 P & Z Meeting** - Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E –Garfield County Comprehensive Plan of 2000; Exhibit F – Town of New Castle Comprehensive Plan; Exhibit G – Staff report; Exhibit H – Application for the PUD; Exhibit I – Application for the Preliminary Plan; Exhibit J

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– Letter from Town of New Castle, dated July 10, 2006; Exhibit K – Email from Colorado Department of Health and Environment dated July 10,2006; Exhibit L – Letter from Colorado Department of Water Resources dated July 6, 2006; Exhibit M – Letter from Colorado Department of Natural Resources dated June 30, 2006; Exhibit N – Email from GarCo Road and Bridge dated June 16, 2006; Exhibit O – Email from GarCo Vegetation dated July 13, 2006; Exhibit P – Email from GarCo Health dated June 28, 2006; Exhibit Q – Letter from Resource Engineering dated July 11, 2006; Exhibit R – Staff report for a domestic wastewater treatment facility dated May 16, 2004; Exhibit S – Applicant’s Power Point Presentation; Exhibit T – Applicant’s Power Point Presentation; Exhibit U – Pictures; Exhibit V – Letter from John Olson dated 8-5-06; Exhibit W – Comprehensive Plan Drawings; Exhibit X – Pictures; New Exhibits for hearing on November 8, 2006 P & Z Meeting - Exhibit Y – Review Letter from Resource Engineering dated 11-01-06; Exhibit Z – Review memo from the County Road and Bridge Department dated 10-13-06; Exhibit AA – Minutes from the 8-9-06 Planning Commission Meeting; Exhibit BB – Memo from the County Vegetation Manager dated 10-31-2006; Exhibit CC – Review Letter from CGS dated 10-20-06; Exhibit DD – Letter from Leavenworth & Karp dated 10-09-06; Exhibit EE – Letter from the Burning Mountain Fire District dated 11-07-2006; Exhibit FF – Email from CDOT dated 11-08-06; Exhibit GG – Letter from the DWR dated 11-06-06; Exhibit HH – Letter from Brad Mollman dated 11-08-06; New Exhibits for 1-10-06 Planning & Zoning Commission Meeting – Exhibit II – Letter from L & K dated 12-20-06 and well permits; Exhibit JJ – Email from Craig Lis (DWR dated 1-03-07); Exhibit KK – Letter from Leavenworth & Karp dated 12-20-06; Exhibit JJ – Email from Craig Lis (DWR 1-30-07) Exhibit KK – Applicant’s color rendition of plan; Exhibit LL – Applicant’s PowerPoint Presentation; Exhibit MM – Letter from Larry and Virginia Schmueser dated 12-21-06; Exhibit NN – Letter from Lynn and Pat Dwyer; Exhibit OO – ILC indication well/WWFT separation; Exhibit PP – Photos showing wildlife use of property 12-25---06; Exhibit QQ – Leavenworth & Karp WWTF vs well plan; Exhibit RR – Mapping from Mr. Hayes; Exhibit SS – Minutes from the 1-10-07 Planning Commission Public Hearing; Exhibit TT – Letter from Resource Engineering dated 7-13-07; Exhibit UU – Letter from US AGBank dated 5-21-2007; Exhibit VV – Letter from the Town of New Castle Trustees dated 7-1-07; Exhibit WW – Letter from the DWR dated 2-06-2007.

Cover letter from Karl, dated 4-30-07 consisting of 7 letters – it wasn’t clear if it was on the exhibit list, submitted as XX.

Fred stated that these copies were inserted into the binder.

Weed Management plan

New Exhibit – Exhibit XX- letter from Leavenworth and Karp.

Chairman Martin entered Exhibits A – WW and XX into the record.

PROJECT SUMMARY

Fred explained the image was from the Assessor’s office as an overlay.

Densities in Mountain Shadows were given. Mountain Shadows has .75 ac per resident and Apple Tree .3 acres.

Fred showed the boundaries of the CR 335 – the Rippy exemption for commercial development was pointed out. He pointed out the 150,000 water tank and sewer that is existing. This was originally approved as a 33 lot subdivision.

The Applicant is requesting to rezone the subject parcel from AI and ARRD to PUD to allow greater flexibility and provide a more creative subdivision for greater density. The property is presently zoned ARRD and AI and has been subdivided into 33 residential lots with four single-family dwellings constructed in the development served by an existing central water supply system and ISDS.

The proposal is for 104 single-family lots on 121.48 total acres, the acreage for the actual residential lots is 28.201. The PUD also proposes land dedicated to open space, recreation trails, fisherman’s access and infrastructure adequate to provide utilities to the development. Open space for the project will consist of 66% of the development. Additional public access to the Colorado River will be provided.

The property extends into the middle of the river.

6 short cul-de-sacs and a proposed wastewater system and parking spaces for access to the river. A house will be placed in-between the existing houses build on the property. The proposed density is 1.16 ac/du and the New Castle comprehensive a 1 acre per dwelling unit.

Originally the proposed PUD was for 121 units. A number of changes have been made. A number of hearings at the Planning Commission were heard.

LAND USE REQUESTS

The Application consists of a combined request for PUD approval as well as Preliminary Plan approval. More specifically,

- 2) **Rezone the property to Planned Unit Development (PUD)**
The Applicant proposes to rezone the property from its current zoning of A/R/RD and A/I to PUD in order to modify the dimensional requirements and uses of the zone district for the subject site.
- 3) **Preliminary Plan**
The Applicant proposes to subdivide the property into 104 lots for the construction of single-family dwellings and leave the remainder of the property to be devoted to open space and infrastructure. The property is broken down into the following land use areas:

Proposed Land Use	Acres	% of Property
104 Residential Lots (Total area)	28.746	24%
Common Open Space	79.747	66%
➤ Sports field		
➤ tot lot		
➤ basketball court		
➤ Pond / trail system		
➤ River access / parking		
Utility District (Wastewater Treatment)	1.293	1%
Existing ROW	6.717	5%

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Future ROW	4.985	4%
Total	121.488	100%

II. REFERRAL AGENCIES

Staff referred the Application to the following State agencies and/or County Departments for their review and comment. Comments received are briefly mentioned below or are more comprehensively incorporated within the appropriate section of this staff report.

- A. Town of New Castle: Exhibits J and VV
- B. Town of Silt: No Comments
- C. Burning Mountain Fire District: No Comments
- D. RE-2 School District: No Comments
- E. Colorado Department of Transportation: No Comments
- F. Colorado Division of Wildlife: No Comments
- G. Colorado Department of Public Health and Environment: Exhibit K
- H. Colorado Division of Water Resources: Exhibit L
- I. Colorado Department of Natural Resources: Exhibit M
- J. Garfield County Road & Bridge Department: Exhibits N and Z
- K. Garfield County Vegetation: Exhibits O and BB
- L. Garfield County Health: Exhibit P
- M. Resource Engineering Inc.: Exhibits Q, Y, and TT
- N. Colorado Geologic Survey: Exhibit CC

III. STAFF COMMENTS FOR THE REZONE (FROM ARRD AND AI) TO PUD

The following section presents the required review standards and criteria used to determine the proposed development’s compliance with Garfield County Planned Unit Development regulations. The applicable standards are in **bold and italicized** text followed by a Staff response.

4.04 CONSISTENCY WITH THE MASTER/COMPREHENSIVE PLAN

No PUD shall be approved unless it is found by the County Commissioners to be in general conformity with the County’s Master/Comprehensive plan(s). When appropriate, an application for an amendment to the Garfield County Master/Comprehensive Plan may be made as part of a PUD application. Any application for Master/Comprehensive Plan amendment must be approved by the Planning Commission, prior to its recommendation on the PUD application, and may occur at the same meeting. Applications for Comprehensive Plan amendment shall include justification for the amendment based upon criteria for establishing land use designations contained in the Master/Comprehensive Plan.

Staff Finding

Section 4.04 of the Garfield County Zoning Regulations states “no PUD shall be approved unless it is found to be in general conformity with the County’s Master / Comprehensive Plan.” The property is located in Study Area 2 as identified in the County’s Comprehensive Plan of 2000. In this case, the property also happens to be located within the “Area of Urban Influence” for New Castle. Therefore, in addition to reviewing the County’s policies and goals, the County also looks to the New Castle’s master plan for guidance of appropriate future land use in that area.

A. Town of New Castle’s Master Plan

This area is identified in the Town of New Castle’s Comprehensive plan as Cluster Low Density Residential (CLDR) which is more specifically defined as the following:

- 1) ***Cluster Low Density Residential: 1 dwelling unit per acre;***
- 2) ***Uses: Clusters of 5 to 10 dwelling units with open space or irrigated pasture; and***
- 3) ***Purpose: To provide for suburban type development while maintaining open space for preservation of natural views, wildlife habitat, pastures or the like.***

Staff Response

Staff finds the proposed density in the development (1.16 acres / dwelling unit) is actually lower than the density criteria of one dwelling unit per acre and therefore meets the Town’s criteria for density. Additionally, it appears the proposal attempts to achieve a cluster design where there is some clustering of lots into pods surrounded by open space. Staff finds better clustering could be better achieved by reducing the number of lots and their respective lot sizes to achieve more open space.

From a site planning perspective, the very intent of “clustering” is to allow for small lot sizes in order to reduce the overall development footprint on a property to preserve valuable features of the property while possibly reducing infrastructure costs. A good example of this type of design is that of Blue Creek Ranch approved by the County in 2002.

The 1-acre per lot density is a maximum density and not a development right. It would appear that a reduction in density may allow for more defined “clustering” to occur on the property that would achieve its intent. Staff finds the proposed design is essentially one large group of lots circled around a pond and does not meet the “cluster” intent of the master plan. Lastly, the purpose of the Cluster Low Density Residential designation is to provide for “suburban type development while maintaining open space for preservation of natural views, wildlife habitat, pastures or the like.”

Ultimately, Staff finds the design, while “a bit crowded”, could be considered in the ambit of the Town of New Castle’s Comprehensive Plan where portions of the lots are in pods of 5 to 10 units and wildlife habitat is protected along the undeveloped riparian areas along the Coloardo River; however, Staff continues to assert the design is not a cluster design. Otherwise, Staff finds the PUD Application is in general conformity with the Town of New Castle’s Master Plan.

B. Garfield County Comprehensive Plan of 2000

As mentioned earlier, the property is presently designated as “Subdivision” on the Proposed Land Use District Map as a result of the BOCC’s approval of the 33-lot subdivision. Prior to that, the designation was “privately owned lands with site specific use limitations such as floodplain, slope hazard, septic constraints to be evaluated at plan review.” In this case, the primary considerations include floodplain and minor / benign debris flow as identified by the Colorado Geologic Survey which have both been mitigated for through the site design.

During an initial review, the Town of New Castle (hereinafter, the Town) entered into a Memorandum of Understanding (MOU) with the Applicant which ultimately stated the proposal is in “substantial compliance”

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with the Town’s Comprehensive Plan except for the originally proposed density of 121 lots. The Town stated it would support the application so long as the developer provided the following:

- 1) A public trail with several access points to the river;
- 2) Perpetual preservation of the open space tract on the south side of CR 335;
- 3) That any required road impacts fees be spent directly on CR 335 if so agreed by the County; and
- 4) Oversize the location to handle a future increase in the wastewater treatment plant to accommodate Apple Tree Mobile Home Park and the 100 acres next to the development which all requires approval by CDPHE.

Staff finds that the Memorandum of Understanding between the Applicant and the Town formally establishes that the Town agrees that the proposed development is in substantial compliance with the Town’s Comprehensive Plan so long as the conditions briefly mentioned above were met by the developer. However, that MOU expired and Staff referred the revised 104 development plan to the Town which provided the following comments:

1. Road impact fees to be paid by the Developer shall be applied to the project. After careful consideration of the comments provided by the applicant, the public, and town staff, the New Castle Town Council takes no position on the zone district amendment and preliminary plan application for the Rapids PUD. If, however, the Board of County Commissioners chooses to approve the application, the Town of New Castle strongly recommends that the following conditions be included:

New Castle in its efforts to improve the capacity of this interchange.

- 3. The applicant is encouraged to explore the concept of regional rural wastewater treatment planning to address the needs of the property in proximity to this development.
- 4. Public access and parking shall be provided to the Colorado River for noncommercial recreational uses, and the Applicant shall construct a public trail along the length of the river frontage.
- 5. The land owned by the Applicant south of County Road 335 shall be retained as undeveloped open space.
- 6. The Rapids project shall include a variety of housing types (not just single-family) to address affordable housing needs in Garfield County, to comply with the County Comprehensive Plan housing policies and to promote clustering of the lots/units thereby, supporting open space in the development design.

7. A landscaping plan should be included in order to mitigate the visual impacts caused by this development, including how the development is viewed from Interstate 70. Garfield County should adopt a requirement to include landscaping plans as part of a subdivision application.

The Town of New Castle appreciates the opportunity to provide input on this project. Because it is within our planning area, it will create impacts to our community. The proposed conditions outlined above are an attempt to help mitigate those impacts. The Town values the cooperative relationship with Garfield County on land use applications within our planning area and sees it as a benefit for both municipal and county residents.

The Board is being asked by the Town of New Castle to contemplate a variety of issues in their letter regarding this development. Ultimately, the Board will need to make a finding that the PUD is in general conformance with the goals, policies and objectives of the County’s Comprehensive Plan for development in the Area of Urban Influence. Staff finds the following goals and policies have not been met by this PUD:

Regarding other Goals, Objectives and Policies of the County’s Comprehensive Plan, the proposal appears to be in conflict with the following Goals, Objectives, and Policies:

STAFF COMMENTS FOR PRELIMINARY PLAN

The following section provides an analysis of the proposal with respect to requirements in Section 4:00 of the Subdivision Regulations of 1984, as amended.

Water Supply

The proposal is to modify an existing centralized water system which was put in place to serve the existing 33 lot residential subdivision. Basically, the system consists of two wells that provide water to a 150,000 gallon water tank which then provides water through water mains in the internal road system. While that system was approved by the State (DWR) as being legally and physically adequate for 33 lots, the Applicant is proposing that the same system serve the proposed 104 units.

The Applicant has obtained an Augmentation Contract from West Divide Conservancy District which was reviewed by the State Engineer to determine if there is a material injury or not. Staff received a letter from the State Engineer that there is no material injury to decreed water rights and is physically adequate.

Resource Engineering there reviewed the revised proposal and submitted the following comments:

The existing water system design was approved by the Colorado Department of Public Health and Environment (CDPHE). The potable water system will provide water for in-house and fire

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protection uses only. All irrigation will be from a non potable irrigation system using water from the Moore Ditch. The potable water diversions are included in a plan for augmentation decreed in Case No. W-3262. Such decree augments out-of-priority depletions during the irrigation season. The existing water system is owned by The Rapids on the Colorado Homeowners Association. A letter indicating that the HOA will provide service to the proposed 104 lots is included in the submittal.

Waste Water

The Applicant proposes to construct a wastewater treatment facility (WWTF) on the property to serve the 104 units. The BOCC has already reviewed the proposed system and recommended CDPHE approve the Site Application. However, CDPHE will not approve the system until local government (Garfield County) approved the zoning for the property. Should the PUD be approved, Staff suggests that a possible condition of approval for the Preliminary Plan be that no Final Plat shall be approved until the system has been approved by CDPHE. Staff also points out, the MOU between the Applicant and the Town of New Castle specifically requires that the location of the WWTF have adequate space to upgrade the facility so that it may be able to also serve Apple Tree Mobile Home Park and nearby development. This may require a revision and re-approval of the Site plan from CDPHE.

Resource Engineering reviewed the proposed system and commented that *the wastewater collection and disposal for the project is proposed to be through a central system. The Applicant has submitted a site application to the CDPHE for approval of a 45,000 gallon per day treatment facility. The site application must be approved prior to any Final Plat approval.*

Several of the neighbors are very concerned as to the proposed location of the proposed package plant as the proposed location is in the far northwest corner of the property away from the development adjacent to their property. Please refer to the minutes attached to this report.

As the Board is aware, pursuant to Section 4.07.03, *the PUD shall meet the following site plan criteria unless the applicant can demonstrate that one (1) or more of them is not applicable or that a practical solution has been otherwise achieved:*

(1) The PUD shall have an appropriate relationship to the surrounding area, with unreasonable adverse effects on the surrounding area being minimized.

The Board has the authority to deny a PUD application if they feel the location of the facility has an inappropriate relationship to the surrounding area and that the proposal has not effectively minimized the unreasonable effects of the facility on the neighbors. In response to this issue, the Applicant proposes a berm / screening plan that is shown here:

Internal Road /Access

The development has direct access to a public road with two formally established entrances presently in place which are to be used with the subject proposal which appear to be satisfactory to the County Road and Bridge Department.

The internal road system is a looped design providing two points of access into / out of the development onto CR 335. The trips generated from 104 single-family dwellings are assumed to be 995.28 ADT using the 6th Edition of the ITE manual. This number of trips, pursuant to Section 9:35 of the Subdivision Regulations require a “Minor Collector” design category which generally requires the ROW width to be 60 feet with 2 twelve foot driving lanes and a chip-seal surface. The proposed road design does not satisfy this requirement because all of the internal roads are 50 foot ROW which is deficient by 10 feet in width which reduced the actual driving lanes from 12 to 11 feet.

There is no specific provision that provides relief from this standard as it has always been interpreted to apply to the entire road system and not reduced on assumed traffic patterns. The Board has approved reductions in width in the case of a PUD where they have authority to vary subdivision regulations.

Basically, the Applicant has revised the site plan to show that half of the length of Paddlewheel and Whitewater Lanes meet the 60 feet because it is assumed that only those portions of the internal road network will handle the full traffic volume. Ultimately, this is PUD and a variation of the road widths can be warranted if the Planning Commission agrees with the proposed site plan.

In this case, it appears the Fire Protection District has agreed with the 50 foot ROW (narrower driving surface). Staff finds the more narrow width can have a traffic calming affect as well as reduce the impervious space thereby reducing drainage flows. This assumes the surface is at least a chip / seal surface.

Resource Engineering, on behalf of the County, provided the following comments:

The proposed subdivision will generate 1,078 average daily trips (ADT). This requires the main loop road to be designed as a minor collector. (We disagree with Kimley-Horn's prorata lot count analysis for downsizing the design.) A minor collector road has a 60 foot right-of-way, 12 foot lanes, and minimum 4 foot shoulder. The existing loop road has 11 foot lanes, a 2 foot curb and gutter, a 4 foot sidewalk, and a proposed 50 foot right-of-way except for 450 feet at the county road entrance which has a 60 foot right-of-way. The PUD text should indicate that the request is for the above noted road section such that a variance to the County Standard can be approved for the Preliminary Plan design.

The traffic study does not address the fact that County Road 335 is in poor condition in several areas and in need of improvement for existing traffic. However this project is in a designated road impact fee area and the presumption is that the fee was based on the need to improve the road.

*The recommended formula for the road impact fee is based on the theoretical calculation for the project taking into account the existing project. This translates to one-half of the road impact fee for 71 lots at final plat and one half of the road impact fee at building permit for **all** remaining un-built lots.*

External Road Impacts

The Application contains a traffic study prepared by Kimley-Horn & Associates which is intended to examine the traffic impacts from this development. The analysis states the total trips generated will be 10.25 ADT for each of the 104 dwelling units for a total of 1066 trips per day with the peak AM resulting in 82 trips and the peak PM of 111 trips directly on to CR 335.

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During the hearing with the Planning Commission, the main issues were 1) the general increase in traffic on CR 335, 2) whether or not a Highway Access Permit is required from CDOT for these trips as they impact I-70, and 3) the ability of the present condition of CR 335 to handle this increased traffic. (Please refer to the minutes for this discussion.)

As a result of that discussion, the Applicant commissioned a revised traffic analysis prepared by Kimley-Horn and Associates which is included in Binder Volume 3. Ultimately, the analysis points out that the 104 units will not exceed the 20% threshold at the I-70 intersection with CR 335 either with or without the background traffic generated by the apartments currently being built east and south of the interchange. CDOT was forwarded the revised traffic study in the Application and provided the following comments:

Based upon the traffic analysis conducted by Kimley Horn dated October 6, 2006, it doesn't appear to impact I-70 New Castle Interchange by more than 20%. Therefore, no access permitting will be required. However, this will continue to add more delay onto the Interchange in New Castle. As the analysis indicates that the level of service in certain times at the New Castle Interchange will be function at low levels of service at peak times. I would suggest County and City start placing this on the 20 year transportation plan and get this issue documented in the transportation planning region. This will become an issue in the future. The Kimley-Horn analysis did recommend changes to the I-70 westbound off ramp as well as the intersection at CR335 and the road that crosses the interstate. Those improvements are included in their analysis but would need to be done by CDOT.

Regarding traffic on CR 335, the traffic study (p. 21) states that “acceptable roadway level of service will result along CR 335 in 2008 with or without the added traffic from the Rapids Development. Further, in their conclusions, the traffic study states “the proposed development will not cause impact to the existing roadway network.” [This study recommends that LOS “D” is acceptable LOS for these roads. See p. 17.]

The Applicant shall be required to pay a road impact fee for 71 of the 104 lots because fees have already been paid for the existing 33 lots. These fees are required to be spent in that District 3. Those fees would approximately be \$226 per ADT. In this case, that is roughly \$164,471.50. Those monies are then required to be spent in accordance with the terms of the County’s Capital Improvements Plan to partially mitigate impacts from this development.

The Applicant stated they have already paid \$118,206 in traffic impact improvements (which basically consisted of the two deceleration lanes adjacent to the project) at the time the 33 lot subdivision was approved.

The Applicant disagrees and prefers to only pay \$14,400.

Soils/Geology

The Colorado Geologic Survey (CGS) reviewed the project twice and the content of that review is included here in its entirety:

As we stated in our earlier reviews, the site has relatively benign geologic hazard conditions. The site lies on an old river terrace and packed river gravel shallowly underlie the property, which is overlain by fine-grained soils that likely thicken towards CR 335 and the upper slope bank. These thin mantles of fine-grained soils that overlie the gravel may be hydro-compactive so site-specific foundation investigations are recommended. There are two other hazard potential areas. One is the minor risk of shallow failures or sloughing of the slope above the site, which is not a significant hazard because such a small slope failure would need to cross CR 335 before entering the development. The second is the possibility of minor debris flow flooding from the small drainage basin (drainage basin C in the drainage report) that exits onto CR 335 across from Paddlewheel Lane. There is a possibility that concentrated flows could cross the roadway into the development. The existing 18-inch culvert is poorly maintained and almost completely plugged off.

The revised plan shows additional lots in this vicinity, which extend farther west than shown in the earlier plan. This will result in more exposure of potential debris flows to those lots at the end of the cul-de-sac (of the newly proposed Canoe Way 100) from the next larger and steeper ephemeral drainage way above the highway, which is drainage basin E in the drainage report.

The drainage plan shows a short berm in the landscaping west of Paddlewheel lane that parallels the county road. This berm re-directs possible overflows to the west, towards the adjacent open space. That was the only grading plan we could find in the submittal.

We believe that it would be prudent to extend that berm to wrap around the back corner of the cul-de-sac lots so that it provides additional protection from potential hyper concentrated or bulked storm flows that may outlet from the channel of drainage basin E. Since it doesn’t appear that any debris bulking was used in the drainage study, the drainage engineer should verify that the height of the diversion berm is adequate.

In closing, our recommendations in the earlier CGS reviews remain valid - site specific foundation investigations should be completed for each lot. Provided the observations and recommendations stated above concerning drainage flows are noted and satisfactorily addressed, we have no further concern with the revised development plan.

Resource Engineering, on behalf of the County, provided the following comments:

Site constraints identified in the 1980 Lincoln-Devore Study include debris flow potential, debris fans, high ground water, and soils which are subject to differential movement when loaded or wetted. The old 1980 report does not map the hazard areas. The grading and drainage plan has been modified to provide for mitigation of debris flow hazards. Based on the hazards present, we recommend that a plat note be added requiring that individual site specific geotechnical investigations and foundation design be submitted with the building permit application.

The Applicant has revised the grading / drainage plan to address extending the berm proposed by CGS and Resource Engineering in their comments above. That is shown here:

Drainage

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The Application contains a Drainage Analysis prepared by Mountain Cross Engineering which can be located under tab 16 in Volume 2 of the Application. Additionally, the Drainage Plan was submitted as Sheet DRN in the plan set which demonstrates how drainage is managed throughout the property. Ultimately, the reports state that there is no impact to downstream properties and no detention is required on site. This analysis has been signed and stamped by an engineer licensed to practice in the State of Colorado. This standard has been met.

Resource Engineering reviewed the Drainage Plan on behalf of the County and provided the following comments:

The drainage study and analysis is consistent with standard practices and meets GARCO criteria. The drainage plan provides for conveyance of storm water through the property and management of water to address water quality impacts from development activities. The plan generally routes off site drainage around the lots with surface drainage structures or into the control pond and out to the river open space in a pipe. The discharge of all drainage systems is to grass lined swales prior to discharge to the river.

A. Development proposed within the 100-year floodplain

It appears that a portion of the property falls within the regulated 100-year floodplain as is delineated on the site plan. It appears that portions of the public trail are located within the 100-year floodplain. The Applicant shall submit an application for a Floodplain Permit to be reviewed by the BOCC in conjunction with the PUD and Preliminary Plan. Staff suggests that no hearing be scheduled until this application has been submitted. Resource Engineering reviewed the Site Plan on behalf of the County and provided the following comments:

The river frontage lots are within the flood fringe area of the floodplain boundary. This lot area was the subject of a Floodplain Special Use Permit for the original subdivision. The area was filled to raise the lot area above the 100 year base flood elevation. As a result, the proposed lots are shown to be outside of the floodplain. Portions of proposed Lots 1 through 7, 10 through 18 and the wastewater treatment plant site are within the floodplain boundary, but elevated above the 100 year base flood elevation. It is recommended that a new administrative Floodplain Permit be obtained for this project due to the above and due to permit conditions which conflict with the new project and our review recommendations of the proposed project. Clean up of the floodplain permit issues is a relatively simple administrative procedure and should be completed prior to the BOCC hearing.

B. Fire Protection

The property is located in the Burning Mountain Fire Protection District. The development proposes to be able to use the existing central water system which includes a 150,000 gallon storage tank, and a plan set that shows fire hydrants. The District submitted a letter dated August 2, 2006 which reflects a review of the original site design and does not reflect a review of the redesign. In the original review, the District stated that street widths (which are the same in the new plan) were adequate so long as no on street parking was allowed and posted as such; water storage was adequate particularly if the pond can be used with a dry hydrant system; hydrant spacing is adequate barring any unusual building envelopes; and fire hydrant densities could be reduced if all new residences are required to be sprinkled.

It appears that the District has agreed with the fire protection measures. The District did raise the question as to how the pond and water tank were to be managed so that they were always full so that the maximum amount of water would be available in the event there was a fire event.

C. Wildlife

Regarding impacts to wildlife and the natural environment, the Applicant did not submit a wildlife / habitat analysis prepared by a qualified professional. The Application refers the reader to Section II, pages 7 – 9, (which do not exist) and Section III. This PUD application proposes residential development which will be highly visible from CR 335 and from I-70 and the development of any vacant ground has the impact of displacing unpressured wildlife that presently uses the property. The Applicant relies solely on the DOW mapping which identifies very general wildlife use of the area. The Application state that deer and elk presently graze on the property which also provides a route to get to the Colorado River. This has also been testified to by the neighbors.

In order to mitigate the pressure on these animals, the Applicant proposes dog restrictions, DOW wildlife friendly fencing requirements and weed control. Staff finds the open space helps to alleviate the development footprint but suggests that a break in the lots be allowed on the northern most line of lots to allow easier access through to the river from the center open space area.

Vegetation Management

Staff referred the revised Application to the County Vegetation Manager who provided the following comments:

1) *Regarding Noxious Weeds*

- a.** *The applicant needs to map and inventory the property for Garfield County listed noxious weeds.*

In Mr. Leavenworth's letter to you dated October 9, 2006, he states in Item #12, regarding the County's prior request for a weed map and inventory, that "it is impractical in that the weeds move from place to place and specific mapping while possible would be rendered obsolete as soon as it was produced".

Weed mapping and inventory has been proven over time to be one of the most useful components of a weed management program. A landowner must know what is out there if they want to manage their land successfully. Many of the County's listed noxious weeds are perennials and do show up in the same place year after year.

- b.** *Implement a weed management plan based on the weed inventory. The weed management plan shall be in effect prior to the development of the project. County listed weeds present in the area include white top, burdock, Russian knapweed, Russian olive, tamarisk, and common burdock. The property has at least nine Russian olive trees within the proposed open space area along the Colorado River, these need to be mapped, inventoried, cut, and treated. There are also some young tamarisk trees around the pond and they need to be mapped, inventoried, cut, and treated.*

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Mr. Leavenworth also states that “several plat notes have been added to the preliminary plan indicating weed management and soil storage during construction”. I have been unable to locate these comments in the submittal.

2) Covenants

In the amendment to the covenants, the Applicant addresses mosquitoes and noxious weeds.

***Mosquitoes** are addressed in Section 14.6. It states that “the owner of each lot shall use their best efforts to control the mosquito population with(in) the Subdivision, which shall include, without limitation, the prevention of standing pools of stagnant water on the Lot”.*

Staff recommends that the applicant provide more detail beyond “best efforts”. Also the applicant needs to specifically address the issue of mosquito management on the pond located in the subdivision. Please identify the party responsible for taking care of mosquito issues on the pond.

***Weeds** are addressed in Section 14.7 and again detail is lacking in the covenants regarding responsibility of noxious weed management on common areas such as roadsides, open spaces, and park areas.*

3) Revegetation

*The applicant has not provided a revegetation plan or a plant materials list for review. **Please quantify the area, in terms of acres, to be disturbed and subsequently reseeded on road cut and utility disturbances. This information will help determine the amount of security that will held for revegetation. These will be areas outside of the building envelopes. As is always required,** Staff recommends a revegetation security once this information is provided.*

4) Soil Plan

It is requested that the applicant provide a Soil Management Plan that includes: 1) provisions for salvaging on-site topsoil, 2) a timetable for eliminating topsoil and/or aggregate piles, 3) and a plan that provides for soil cover if any disturbances or stockpiles will sit exposed for a period of 90 days or more.

5) Proliferation of tumbleweeds

Complaints from adjacent landowners to new subdivisions have increased in the last two years regarding the issue of nuisance weeds such as kochia and Russian thistle. These plants are opportunistic to bare soil and later become tumbleweeds. Typically we have seen them in areas in new subdivisions where the soil has been left disturbed and revegetation has not occurred. Kochia and Russian thistle are not County listed noxious weeds so are not subject to noxious weed enforcement regulations per the Garfield County Weed Management Plan and the State Noxious Weed Act. Staff requests that the Planning and Zoning Commission and the Board of County Commissioners consider making a request of the Applicant to address management of Kochia and Russian thistle along disturbed areas and roadsides within the subdivision.

In response to the points mentioned above, the Applicant submitted an “Integrated Vegetation and Noxious Weed Management Program” prepared by Zoran Illievski, a biologist qualified to prepare the plan. The County reviewed the Plan and provided the following comments:

Assessment / Fees

The property is located in the RE-2 School District which requires \$200 per unit be paid as a cash-in-lieu of School / Land Dedication Fee. In this case, it appears that the existing 33 lots already paid this fee as a condition of approval in Resolution 96-70; as a result, the Applicant is responsible for paying the fee for 71 units or \$14,200 at the time of final plat. This obligation shall be memorialized in the SIA.

As mentioned earlier, the property is located in Road Impact Study Area 3 which requires \$226 per ADT generated out of the development to be spent on road improvements in that District. When the BOCC approved the existing Rapids Subdivision for 33 lots, they required the following plat note on the Final Plat:

7. Upon adoption of road impact fees by the BOCC, the lots created by this exemption (meant “subdivision”) shall be subject to paying the fees, paid at the time of building permit application, unless said fees have been paid by the developer. There shall be a credit given to the Building Permit Applicant in the amount of \$3,582.00 per lot against said road impact fees for the monetary amount spent on providing the required acceleration and deceleration lanes.

According to the Applicant’s attorney, the developer constructed the accel / decel lanes at a cost of \$118,206.00. Consistent with the plat note above, the County would not collect a Traffic Impact Fee from Building Permit Applicants for the existing 33 lots because the developer put those improvements in to mitigate the traffic impact.

Now, the developer is asking the County to approve 71 additional lots which requires a traffic impact fee of \$180,620.00 in order to satisfy the County’s Traffic Study Area Impact Fee. However, the developer wants to only pay \$14,400.00 rather than \$180,620.00 for the additional 71 lots. As a result, the developer is asking the BOCC to reduce the development’s obligation by 166,220.00 even though he wants to increase the lots from 33 to 104. [Note, if the total 104 lots were to be calculated today, the fee would be approximately \$264,571.00.] Additionally, the improvements the developer made to CR 335 directly benefited that development and did not address any other condition on CR 335 exacerbated by the developments additional traffic impact.

Staff strongly recommends the BOCC consistently apply the same Traffic Impact Fee regulations to this development as it has to all other developments in the County and not make an exception for the developer when he is asking for a 215% increase in density but a 1,150% decrease in obligated impact fees.

Development in the 100-Year Floodplain Review

A portion of the property (primarily along the Colorado River) is located in the 100-year floodplain. Integral to the original 33 lot Subdivision, the BOCC also approved a Floodplain Special Use Permit for the lots that were located within the flood-fringe of the floodplain.

Since this proposed application represents an entirely new site plan, the Applicant is required to re-address the floodplain issues on the property which is generally reviewed by the County in an administrative review for development in the flood-fringe. Resource Engineering (on behalf of the County) reviewed the Administrative Floodplain Permit submitted by the Applicant and provided the following comments:

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The new application seeks approval of the previously approved fill within the Flood Fringe District of the Colorado River 100 year Floodplain as defined by effective mapping prepared by the U.S. Army Corps of Engineers in cooperation with the Colorado Water Conservation Board dated December 1982. We recommend approval of the Floodplain Development Permit for Rapids Development Corporation for the proposed Rapids on the Colorado P.U.D. with the following conditions.

1. The 100 year floodplain boundary line and the floodway line should be shown on the appropriate subdivision maps consistent with the effective 1982 Flood Plain Study.
2. The area within the Flood Fringe District that was filled to an elevation at or above the 100 year Base Flood elevation should be identified on the same subdivision maps that depict the floodplain boundary.
3. A plat note should be included on any final plat of the Colorado on the Rapids PUD that states the specific lot number building areas or envelopes which have been filled, references the floodplain development permit number, and indicates that construction on these lots must conform with the GARCO Floodplain Regulations and the approved permits.
4. A plat note should be included that indicates the minimum finished floor elevation for each lot within the flood fringe area.

General Discussion Point Summary

The Planning Commission has recommended approval with conditions (shown at the end of this memo); however, there are still significant issues that need the BOCC's direct attention so that the BOCC can make a decision based on findings of fact which include the following:

- 1) Is the PUD in general conformity Comprehensive Plan of 2000 & the Town of New Castle Master Plan and does the BOCC wish to incorporate the suggested points made by the Town of New Castle in their letter dated 7/17/07?
- 2) Are the following dimensional changes to the dimensional standards acceptable to the BOCC?

a. Building Height	32 feet
b. Max Lot Coverage	50%
c. Min Lot size	7,500 sq. ft.
d. Front / Rear Setback	10 feet
e. Side Setback	5 feet
f. Internal Road Width	50 feet
g. Average Density	116 ac/du (104 lots on 121 acres)
- 3) Does the PUD Plan provide for a variety of housing types and densities?
- 4) Does the PUD have an appropriate relationship to the surrounding area with the unreasonable adverse impacts being minimized?
 - a. Reduce building heights nearest the Collin's property?
 - b. Relocation or mitigation of the wastewater treatment facility or is the berming / landscaping plan adequate?
- 5) How does the BOCC wish to deal with the proposed public amenities including the public trail, parking lot, and fisherman's easement?
- 6) Does the proposed design meet the intent of clustering to be consistent with the Town of New Castle's Comprehensive Plan?
- 7) Does the Board wish to accept the proposed comments of the Town of New Castle?
 - a. Increase in size / capacity for the WWTF
 - b. Spending Impact Fee Dollars
- 8) Have the Applicant submit a wildlife study prepared by a qualified professional in order to adequately analyze the wildlife impacts? Additionally, should the plan be redesigned to allow for an open space break in the northern line of lots to allow for wildlife passage?
- 9) Do the findings in the revised Traffic Study satisfy the BOCC as to traffic impacts to CR 335?
- 10) Does the BOCC wish to vary from its regulations regarding how the traffic impact fee is collected resulting in the following difference:

a. Original Development (33 lots)	316 ADT	\$188,206
b. Proposed Development (104 lots)	1078 ADT	\$14,400
- 11) Staff recommends the BOCC require the following items regarding the 100-year floodplain:

The 100 year floodplain boundary line and the floodway line should be shown on the appropriate subdivision maps consistent with the effective 1982 Flood Plain Study.

 - a. The area within the Flood Fringe District that was filled to an elevation at or above the 100 year Base Flood elevation should be identified on the same subdivision maps that depict the floodplain boundary.
 - b. A plat note should be included on any final plat of the Colorado on the Rapids PUD that states the specific lot number building areas or envelopes which have been filled, references the floodplain development permit number, and indicates that construction on these lots must conform with the GARCO Floodplain Regulations and the approved permits.
 - c. A plat note should be included that indicates the minimum finished floor elevation for each lot within the flood fringe area.
- 12) Staff strongly recommends the BOCC consistently apply the same Traffic Impact Fee regulations to this development as it has to all other developments in the County and not make an exception for the developer when he is asking for a 215% increase in density but a 1,150% decrease in obligated impact fees.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission recommended the BOCC approve the rezoning of the property from AI and ARRD to PUD with the following conditions:

That all representations made by the Applicant in the application, and at the public hearing before the Planning Commission and the Board of County Commissioners, shall be conditions of approval, unless specifically altered by the Board of County Commissioners.

The Applicant shall be allowed to reduce the Garfield County Street and Roadway design standards in designing the internal road network to the Secondary Access design requirements found in Section 9:35 of the

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Subdivision Regulations and as shown on the PUD map and Preliminary Plan.

The road right-of-ways shall be no less than 50 feet in width throughout the subdivision with on-street parking prohibited. The Applicant shall prepare covenants that contain strong language to enforce such a prohibition which also includes an aggressive signage program.

In addition to other required conditions of approval, the Applicant shall include the following plat notes on the Final Plat:

- a) Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. All must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.
- b) All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.
- c) All exterior lighting will be the minimum amount necessary and all exterior lighting will be directed inward, towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.
- d) Individual site specific geotechnical investigations and foundation design prepared by an engineer licensed to practice in the State of Colorado shall be submitted with the building permit application for all development on the Rapids on the Colorado Planned Unit Development
- e) One (1) dog shall be allowed for each residential unit within a subdivision; and the dog shall be required to be confined within the owner's property boundaries. The requirement shall be included in the protective covenants for the subdivision, with enforcement provisions allowing for the removal of a dog from the subdivision in the worst case

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- f) No open hearth, solid-fuel fireplaces are allowed anywhere within a subdivision. One (1) new solid-fuel burning stove, as defined by C.R.S. 25-7-401et.seq., and the regulations promulgated thereunder, shall be allowed in any dwelling unit. All dwelling units shall be allowed an unrestricted number of natural gas burning stoves and appliances.
 - g) No further subdivision of a recorded subdivision shall be allowed, except where it is provided for in an approved Preliminary Plan.
 - h) All streets are dedicated to the public but all streets will be constructed to standards consistent with these Regulations and repair and maintenance shall be the responsibility of the incorporated Homeowners Association of the subdivision.
1. The Applicant shall include a plat note and language in the protective covenants that restrict the six nearest lots to the property owned by Ken Collins to no higher than 25 feet as measured by the County Zoning Resolution of 1978, as amended.
 2. The Applicant shall depict the 100-year flood way and the 100-year flood fringe following items on the Final Plat.
 3. The Applicant shall construct all the public improvements which include sidewalks, etc. and which shall be included in the SIA.
 4. No Final Plat shall be approved until the Site Application for the wastewater treatment facility has been approved by the Colorado Department of Public Health and Environment (CDPHE) and a letter of that approval has been submitted to the County as part of the Final Plat submittal.
 5. Perimeter fencing shall be discouraged around the boundaries of the entire development so that large game can access the river for water. Should fencing be desired, it shall be constructed according to standards approved by the Division of Wildlife. The Applicant shall provide said wildlife friendly fencing designs within the protective covenants. Due to the limited amount of mature / dead vegetation in the Colorado riparian corridor along the northern property boundary, it shall be left untouched so that it can continue to serve as important raptor perch habitat for hunting in the river.
 6. The property is located in the RE-2 School District which requires \$200 per unit be paid as a cash-in-lieu of School / Land Dedication Fee. In this case, it appears that if the existing 33 lots already paid this fee, the Applicant is only responsible for paying the fee for 71 units or \$14,200 at the time of final plat. This obligation shall be memorialized in the SIA.
 7. The Applicant shall be required to pay a road impact fee for 71 of the 104 lots because fees have already been paid for the existing 33 lots. Those fees would approximately be \$226 per ADT. In this case, that is roughly \$164,471.50. Those monies are then required to be spent in accordance with the terms of the County's Capital Improvements Plan. This obligation shall be memorialized in the SIA.
 8. The Applicant shall restrict surface use activities related to oil and gas drilling operations to the portion of the property that is located south of County Road 335. There shall be no surface disturbance from these activities on the portion of the property north of CR 335.
 9. Prior to or as part of the approval for Final Plat, the Applicant shall obtain approval from the Board of County Commissioners to properly vacate the existing plat for the Rapids Subdivision.
 10. The Applicant shall specify 6 lots, at the time of Final Plat, for houses that shall be constructed to have a maximum of two-bedrooms, two baths, and two car garages.
 11. The Applicant shall present an acceptable method to the Board of County Commissioners that preserves the use of the internal trails, small parking area containing 16 spaces, and fisherman's easement for public use.
 12. The Applicant shall prepare a budget that provides the expected operational expenses and revenues of the HOA to be submitted to the BOCC.
 13. The Applicant shall prepare a berming / landscaping plan effectively screens the waste water treatment plant from the neighbors to the west. This shall be prepared prior to the hearing with the BOCC.
- Lee Leavenworth and Karl Hanlon presented for the applicant.
- Karl Hanlon discussed the Planning Commission recommendations. He said you have Apple Tree to the right so you can get a feel for the aerial photograph and what's going on out there – large focus view.
- Karl gave the History of this property saying that early on this was a proposed 319 unit PUD; current approval is for 33 units. In 2005 reduced to 121 units and current 2007 is for 104 units Woods Landing in the 80's and the 2005 site plan and the current WWTF site plant.
- The vicinity map of the property was shown in several photos as well as the Woods Landing and current approval for the 33 lots. The illustrative plan for the 104 lots with vegetation drawn in was shown. The Parking area where the public access going to the river was pointed out as well as the private access and applicant stated that New Castle was interested in the amenities. Karl addressed the zone district change first. He listed the existing Rapids Subdivision improvements consisting of a public water system, paved roads with access to CR 335, natural gas installed, telephone service installed, electricity and transformers, wireless internet service and cell phone service.
- The zone district map shows five to ten lot clusters with 66% open space. The power point presentation illustrated the site plan, the proposed land use districts, and the zone district amendment request illustrating a .86 single family units per acre, Colorado River frontage and the open space and how this was planned.
- Karl stated that the general welfare of the community is better utilized to provide additional diverse housing types needed for the growth in Garfield County. Additionally, the WWTF will improve water quality by eliminating 33 septic systems.
- The site plan includes cluster design and accomplishes many of the Comprehensive Plan of 2000 with open space, housing, trails, transportation, agriculture and water and sewer service. Karl added that the Town of New Castle did not take a position regarding it's application at the July 17, 2007 meeting but they did provide some suggested conditions if the Board approves. New Castle presented the question August 9, 2006 hearing before Planning Commission and that hearing was continued. Some items heard were the desire to reduce the density, to increase clustering and to eliminate the attached single family dwellings. Revised plans were presented to the Planning Commissioner in January, 2007 and was approved with conditions. I'll talk about the Zone district amendment was first. This is to amend 97.269 acres from ARRD and 24.218 acres from AI. The proposed PUD will have a density of about .86 single

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family units per acre or the 1.16. This is much like the Blue Creek plan. Existing zoning was discussed and something to note is that a portion of this property is zoned AI and as well as a portion being ARRD. Important when we talk about height restrictions. Why is a good idea to bring this in as a PUD? The existing Rapids Subdivision is better utilized to provide additional diverse housing types needed for growth in Garfield County. The applicant explained the rising prices and varied lot sizes saying the lot price and housing costs were issues in this County. The County does not require Affordable Housing or restricted housing in this Study Area. In conjunction with LOVA trails there are public amenities planned that can provide access to the river. They have increased open space from 17.95 acres which was private open space not public to the current 79.747 or 66% of the development. PUD Design benefits:

Flexibility of the PUD design will provide for more moderate income housing types and better for the I-70 Corridor as well as the Colorado River quality by replacing the ISDS systems. This also conforms with the New Castle Comp plan. The suggested conditions by New Castle include: Urban Services such as a central water system and the current plan replaces the 33 ISDS systems with a centralized waste water treatment, this development is similar to Blue Creek and it reserves space in the central water treatment plant to expand for other lots. New Castle asked if they it could be made big enough to serve them now. No, not at this point. The applicant went on to say that this was an open field and this is more consistent with New Castle, the applicant is interested in preserving open space. These concerns as expressed in Fred’s staff report were addressed.

General Discussion Point Summary

Does the PUD Plan provide for a variety of housing types and densities?

Applicant said yes, there are mixed uses with 2 bedrooms, 2 bath single family homes and they will add a different type of housing at a more affordable price. Neighbors want to maintain the single family dwelling types so no multi-housing structures are included.

Does the PUD have an appropriate relationship to the surrounding area with the unreasonable adverse impacts being minimized? Karl said they will reduce building heights nearest the Collin’s property. Feels the relocation of the wastewater treatment facility can be mitigated by planting 3 large ash trees.

How does the BOCC wish to deal with the proposed public amenities including the public trail, parking lot, and fisherman’s easement?

The PUD proposed zoning criteria will be determined at final plat if the Board does not wish to accept responsibility.

Does the proposed design meet the intent of clustering to be consistent with the Town of New Castle’s Comprehensive Plan? 3600 sq feet of lot coverage and how they arrived at the 50% lot coverage was explained. Building heights were explained; the current construction and reason for heights were based on the 10 foot ceilings. In the AI district it would be and then they would limit the properties closest to the Collins property to the (25 feet?). Density is increased and the Rippy' commercial property along the Highway was referenced. They are protecting the hillside and open space and access to the river.

Traffic – CDOT access permit was not needed; Curtis Rowe, with Kimberly Horn will speak.

Curtis Rowe stated he found the development will not cause an impact as there is less than 20% increase in traffic. Scope for traffic study was to determine on CR 335 and no, an access permit was not needed and we were not required to study the I-70 ramp and did and find that the westbound ramp would benefit I-70. Eastbound ramp at New Castle would benefit for an all-way stop control. Stop signs should be placed on approaches to Paddle Wheel and White Water.

Karl Hanlon explained the wastewater treatment facility plans.

Does the Board wish to accept the proposed comments of the Town of New Castle?

- a. Increase in size / capacity for the WWTF
- b. Spending Impact Fee Dollars

Karl addressed this saying there was a demonstrated need and had permits to meet their goals of more open space and access to the river. One thing was the set back from residences. Options included berm or landscape thru facility and at the final site application they would determine – possibly another option is a covered facility. Copper Mountain facility was used as an example.

Has the Applicant submitted a wildlife study prepared by a qualified professional in order to adequately analyze the wildlife impacts? Additionally, should the plan be redesigned to allow for an open space break in the northern line of lots to allow for wildlife passage?

Karl explained that the covenants provide for dog control; there is a wildlife passage to the Colorado River between houses also at breaks between clusters and around the WWT facility. There is also an agreement with DOW for the units and this was recognized. This has been not deemed to be a critical range for elk and deer so they do not fall in either of these categories.

Public amenities include the Colorado River access, trails, Tot Lot, Basketball Court and Internal Open Space. They have proposed the public to have access to these open spaces. They will be indemnifying the County on trail acceptance and feel like this will come up more and more by the citizens; asked the Board to consider the public easement and assured the Commissioners that these public amenities would be insured against indemnification. Additional on the zone district amendment by saying the Colorado Division of Water Resources has issued permits for the existing two wells and added that the subdivision is better utilized with housing types and open space.

Water is provided for, they are in compliance with design, traffic study was done by Kimley Horn; Fire protection issues were dealt with; soil and slope hazard were addressed; drainage issues have been made and a floodplain permit but it hasn’t been issued yet and they added plat notes on floodplain issues; they included the vegetation management and inserted those in the plat notes.

The question - Do the findings in the revised Traffic Study satisfy the BOCC as to traffic impacts to CR 335?

Road impact fees were addressed by Lee Leavenworth.

Does the BOCC wish to vary from its regulations regarding how the traffic impact fee is collected resulting in the following difference:

a.	Original Development (33 lots)	316 ADT	\$188,206
b.	Proposed Development (104 lots)	1078 ADT	\$14,400

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1997 No. 4 impact fee – has a presumptive ADT \$226 dollars Resolution 97-111 and we really intent to comply – struggling – took 226 and multiplid it by 102 Resolution doesn't do it that way – has a worksheet – starts with the ADT and tax credits none of which have been done other than ours – willing to accept a road impact fee under the calculations – they will be happy to pay.

Commissioner Houpt – may not agree with the credits

\$118,206 agrees – Lee. But he will work with staff to come up with that amount.

Concerns of the neighbors were addressed by Karl Hanlon with respect to traffic, the I-70 intersection, water supply, wildlife, density and site location of the WWTF. These were dealt with these at the Planning Commission and at New Castle.

Water supply: 150,000 gallon storage tank and the state has signed off on a legal and adequate water supply.

Wildlife: this is an increasing issue but this plan is a better choice; there are some houses out there and we believe it is a better design with the 133 lot design.

Density: it is an increase in density; this type of development and type of density is approved by the Town. The increase pressures of finding a place have changed the plan to put this density in this area; this acre tract is perfect.

Site of WWTF: here or 200 feet up the Colorado River would be the same; the applicant will make sure to treat the affluent properly.

Karl summarized saying the Planning Commission agreed with the conditions on this PUD

Staff recommends the BOCC require the following items regarding the 100-year floodplain:

The 100 year floodplain boundary line and the floodway line should be shown on the appropriate subdivision maps consistent with the effective 1982 Flood Plain Study.

The applicant agreed with the staff recommendations:

Right to farm, one dog, standard plat notes.

SIA and site application has to be approved by the CDPHE.

Perimeter fencing discouraged.

School district fees will be paid.

100% of mineral rights and restricted by the property owner. The owner owns on the North 100% and on the South 50%

The will obtain the vacation of the previously approved site plan.

Complied with all the Planning Commissioner recommendations.

Fully bermed site plan for the WWTF.

Fred said that staff strongly recommends the BOCC consistently apply the same Traffic Impact Fee regulations to this development as it has to all other developments in the County and not make an exception for the developer when he is asking for a 215% increase in density but a 1,150% decrease in obligated impact fees.

Commissioner Houpt expressed concerns about the wildlife and asked if the applicant thought about having an expert do an analysis.

The applicant said they designed the homes and clusters for migration routes. Karl showed the open space and the breaks in-between the houses that maintain spaces between residences. Wildlife finds a way through.

Commissioner Houpt stated that in rural development we need to look at these things. She asked about covenants in place that discourage fencing otherwise they could end up with a fence all the way through Karl – perimeter fencing is not allowed and it puts a limitation so they can't do it. Some prohibitions on fencing.

Commisisoner Houpt – how can you make some amenities public and private?

Lee – the pond and basketball area will be private. The trail along the County Road and the fisherman's trail to the river open to the public. The internal trail will be private. There will be 17 public spots for access to the river.

Public comments:

Chairman Martin entered Exhibit YY, a copy of the applicant's power point into the record.

The following individuals spoke in the public comment time:

Peg Collins - CR 335 – time donated to Steve Worrall.

Earlene Alcorn – River Frontage Road and donate time to Craig Schultz.

Dale Alcorn – donate time to Ken Collins.

Kenneth Collins – 3839 CR 335 – it's my property he's got all blanked out there on the east side of his property and I'd like to reiterate that he had talked to different people in New Castle from what he's heard this afternoon. I bought this property from the developer and was assured then he'd have open space; does see it in this drawing. He requested the slide showing just the houses be shown. Peg and I bought this property 28 years ago from Hilton and he assured us then that we'd have open space and in fact he told me he intended to put 6 houses across this and it would be a nice development and I'd agree with that but I don't agree with this plan; we're quite heavily against this and it's going to hurt our rural living and what we paid our money for; I truly believe it will hurt our wells cause when you draw over 13 million gallons of water out of that aquifer there to the east of me is FAAS' property just off of my east line and they get less than 10 gallons in their well and he gets less than 10 gallons a minute in my well and the Jolley's on the west side of this, their well gets less than 10 gallons a minute. The Developer drilled and got over 80 gallons a minute. You start pulling 13 million gallons of water out of that aquifer and we're all going to be hauling water like they are everywhere else in the valley – it won't sustain it. It will look good for a while but it won't hold up. Some of the points included: talking to several people and many years building homes and all feel they have been ripped off in trying to build their homes and then have one person to come in here and make a profit at their expense. Talked to many homes in New Castle to Silt regarding the overpass and almost 100% have signed petitions against this. This development will be a high impact in this area. New Castle is low density and a rural area; this developer has asked for narrow roads and huge jumps in building size; this will have an adverse affect to the fire dept – it's all volunteer. Sheriff will need to control and these are narrow roads in the subdivision and there's no parking on roads – to me this is a high density

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development and fire will be a problem. The applicant made a statement that the fire department could be there in 2 minutes; not so, it's all volunteer and it will take 20 minutes; he is concerned about fire and when the developer in the past wanted a higher density, he came before the BOCC and they recommended open space or buffer next to the adjacent owners; now he's planning 121 houses and when I tried to talk to him about leaving a buffer area, Hilton said if you vote against me now I will make it worse.

Chairman Martin requested no personal attacks.

Ken Collins continued by saying he has talked to New Castle and this heavy density is not appropriate for this property. He has hundred's of pictures of animals going to the river on this property. This type of development we will never recover from; the whole reason we live here is for the open area. This will be an I-70 eyesore and now there are only weeds around the current houses and he's made no attempt to landscape. The last several times this has come up and there have been 8 different commissioners on previous boards that have looked at this area and they have said it can not hold more than 33 houses. The developer is saying a lot about the open space but below the CR 335 it is totally unbuildable, a person can hardly walk up there. He talked to Town of New Castle and this development does not help the Town; it causes a burden on the Town like CR 335 and to maintain it will be at the taxpayer's expense. They cherish the open space and wildlife.

Steve Worrell – attorney in Glenwood – represents the Collins family to come and was asked to assist them. He said he didn't think he can add the depth of emotion these people feel or the others who own property and are severely impacted in this change of density. No overheads or brochures to present, these people are talking from the heart. Now citing from the Comp Plan and he read from it briefly – “one of the goals Garfield County will encourage a land use pattern that recognizes the environmental sensitivity of the land, does not over burden the physical capacity of the land and is in the best interest of the health, safety, and welfare of Garfield County.” This application does not further the goal, does not meet the goal and in fact counters the goal. Regarding the P & Z recommendation, that was to some extent based on this MOU that has since expired from New Castle but it was waived around like it was the Holy Grail at the P & Z meeting. This is what New Castle says and wants: That MOU was not based on public input whatsoever, it was adopted in a public meeting but none of these neighbors knew that this was something they should be attending or interested in at all. Doesn't believe their property was posted relative to that hearing.

Regarding the site plan for the WWTF, no neighbors attended because they didn't know about it, the property was not posted. When there was public input The Town of New Castle submitted a letter and it said they are not recommending approval. These conditions only apply if the BOCC approves. The buck stops with this Board. Obviously this is a density issue and a central 315% increase in density. A 33 lot subdivision has been approved and this development right is on the books; any denial here will not impoverish this developer. Goals and objectives are incorporated in a Comprehensive Plan don't think we need to get as technical; it's not rocket science. A build out of those 33 lots will have significant impact. To say that a build out of 104 would not have much more, it would have three times the impact on everything we have talked about today. Three times the impact on traffic, I-70 interchange, wildlife and some of the things the developers said have challenged my common sense approach to this. For example the way the presented the 104 units preserve the rural character more than the 33 units. It seems to me this plan is inconsistent and incompatible with the infrastructure. Two more things: the developer has given certain concessions and impact fees to BOCC; these impact fees will in no way mitigate these impacts on CR 335 nor will it pay its own way. Ken Collins and the open space areas mentioned on the south acreage is not buildable; it is disingenuous to include in the whole package and then say we haven't got much density here or we will reduce density by including this steep hillside. The development violates common sense. You can't mitigate away this 300% plus increase in density. It either fits with this goal or not. Project history - Ken Collins stated this in the meetings over the years and expressed their position in front of P & Z; and the last times before the BOCC. Each Board has had to consider the same burdens and benefits, the increase in density, and they decided that the 33 lots were all the neighborhood could withstand. There has been a change in the BOCC but I suggest you've got to say no and request what previous Boards have done - you say no to this.

Craig Schultz – 2859 County Road 335 as you travel to the west, I'm the next property on down and his main issue is does this fit with the Comprehensive Plan? The answer to this is a resounding no. This was first addressed by the Town of New Castle when the MOU was being asked for back on 2/23/05 and I quote from their minutes – “it should be noted that the New Castle Comp Plan identifies the lands south of County Road 335 with the density of one unit per 10 acres and the property north of County Road 335 as one unit per one acres” so when you to take the land south and give it the same density as the property north, you're not using the Comprehensive Plan; the answer is no it does not fit. Look at how this property has developed over time, the property east of Garfield Creek from there to New Castle has the higher density developments and commercial use and then a 4 mile stretch from Garfield Creek to Divide Creek along 335 road and then as you head west from Divide Creek to Silt, that has all this has developed. If you count the number of homes from Divide Creek to Garfield Creek there are 28 homes, so by allowing the 33 to go that's an increase of 214% and that's a pretty significant increase allowing the 33 to go in. But if you take that up to 104, that's a 471% increase from 28 to 132 – that is a very significant increase and I would propose you've never seen a development have that kind of impact in an area around at all. We have an opportunity to protect the land from Garfield Creek and Divide Creek under the zoning that it's asked for. One thing very important, all of these plans are illustrative, even the plans presented under scale it says not to scale, there are artistic renderings of what we think it would like to look like – not the reality.

Surrounding land use, Fred you said south is BLM, directly south is the Garfield County State Wildlife area; the developer is correct, this development is not listed as critical wildlife habitat it is listed as severe wildlife habitat. It is one step below critical. The HOA, if anyone doesn't walk into this with eyes wide open they will get stung. The HOA gets to operate the public parks with 16 parking spots. They get to operate a water treatment plant, they need to keep the roads maintained, and by the way we have 2” of asphalt on these roads, which are going to be adequate for a development? They get to do all snow removal, maintain weeds on south side; operate a sewer plant and will have to police roads. You can't park on the road because they had to narrow them up. We are going to restrict parking so the fire trucks can get

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through. The mineral rights on the south side are leased in this open space south of 335 is leased. The MOU, the Town of New Castle refused to renew and the pre-annexation agreement was attempted and the Town of New Castle said they will never annex this. If this property is being planned to be more dense than Castle Valley they will annex Castle Valley. Common sense approach is that this is way too dense and this development is not in the best interest of the County.

Peter Thomas, with the Thomas Law Firm on behalf of John Olson – Who is the property owner immediately to the west, approximately 100 feet away from where the applicant wants to put the sewage. Why are we here, the applicant has a Board approved subdivision. The County already said you can have 33 units. We don't need any more subdivisions on the property; he wants to make sure they do not boot strap the development. Come in with a rezoning and this gives them a resubdivision. Clarification on the number of units because 121 units that is consistent with the allowed density under the 3 mile plan for the Town of New Castle. You can't view the concept of density in a vacuum. The intensity of the use of this property is being greatly impacted. Rural character, preservation of open space, views, wildlife and so on. If you impact that hub you will have a rippling effect on all these other issues that we are talking about in more detail. Let's take the MOU a step further. The MOU provides that if the applicant doesn't get approval within two years of the MOU that document is null and void. That doesn't mean it's just expired or voidable, the term void has some significant legal significance. And that is this document doesn't exist; rip it up, it's unfounded. How is the applicant coming in asking for rezoning? Clearly the owners have a right to rely on the existing zoning and the only other way is to come in and ask for the BOCC. The only other way is for them to come in and ask to rezone because they claim it is in compliance with the master plans, both Garfield County and the Town of New Castle. There are no factual findings; how can you give a rezoning without that information. The PUD component is there to allow you guys to say this is a great application; so much so that we should vary with the zoning and give them some flexibility. What is the community getting here; no basketball court, increased open space; all the community getting is an access easement to the river. It won't be very well published or utilized by the public?

Kent Jolly – 32 Canyon Creek Drive – I own the property along with John Olson to the west and I also own the property immediately south with Bret, his brother. This is obviously inappropriate density for the neighborhood. They have made an attempt at spot zoning way outside the infrastructure. The main concern is about the sewage treatment plant they are saying is 290 feet from my house and it is 15 feet from my property line and we bought it for the 650 feet of beautiful river frontage. Having a sewer treatment plant right on top of our property is a horrendous taking from us. Even if it works, which these small plants are suspect, if it works they do smell. I'm here to propose if there is nothing wrong with it; condition to let Hilton move in into his own subdivision and pay it's on way. P & Z said they heard the application for the sewer plant, I had no notice this application was before you. When you made the decision I found later a little sign down where the plant would be which I guess meets the letter of the law with the state as far as public noticing goes but certainly do not meet the intent to allow the neighbors to know. Sewer plant is going to be built next door and I find this is heavy handed. I have a concern about the water system and I proposed a solution. Ken Collins and he will be damaged in our water wells, so then Hilton should put us on his system; let the HOA take us on; but no concession was offered there. He is begging the County to take the river trail system – so then there'll be parking lot next to our property and a trail to attract the general public to what is a private neighborhood down there. Compared it to Schultz; these mineral rights are loaned and can't say what people may be bidding on them as we speak this will be out of the control of the HOA

Bret Jolly – donated time to John Olson

Karen Nadon – 2675 County Road 335 about 1 ½ miles west of the proposed development and I whole heartedly agree with what has been said. This seems to be so dense and hard to believe it would be considered or approved. We have been through this process repeatedly and the County approved 33 homes because that met the County guidelines. I'm not sure why now increased density is acceptable and obviously I disagree with that and I think the precedent was set with the Bershenyi Ranch it was turned down it was too dense and yet it was less dense than this proposed development. Whatever you do here you will determine precedence. We should get to have some lee way to. They have asked for many exceptions on their development. Others will expect exceptions. The setbacks obviously are 5 feet, that is 10 feet between houses. If you could drive by that property and look at those houses that are there and imagine a house in-between them that gives you a much better picture of the density than the picture you see here. The Town of New Castle has no intention to annex this property so the burden will be on the HOA and the County to maintain this and of course the taxpayers we will be paying on and on. While the developer obviously will enjoy the profits. I'm really asking you really listen to the homeowners the people who have lived here for years. We have lived here 20 years and invested time and money and now that's being threatened. Really consider the interest of the neighbors who have lived there rather than the interest of one developer.

Jamie Roth – 2870 County Road 335 I am the property next house from this development on the south side of the road and my concerns of the nature you have heard from my neighbors, the density here. I have one house on a 30-acre lot and my neighbors have single homes on 30 acre lot to the west to the north of us our neighbors have about 10 acres per house. We are talking about an incredible difference. We go from Apple Tree, which is a different sort of development than most of the area here and this is the next greatest thing down the road. We are talking about an incredible amount of density. I don't think any of us would be here if the developer was here talking about a PUD to put in 33 homes and accomplish clustering and bring in these amenities he is talking about here. The density is the question and that is our concern. I would be delighted to be getting 10 gals per minute out of my well. I'm concerned what my water system is going to look 5 years. Concerns included the section south of the road because the developer can't build on it they own 50% of these mineral rights. Frankly it is an open space it is not as though children will be playing on the land up hill. It is not something that will be usable recreation. Rocks fall off of it. When you talk about density to include that acreage it doesn't make sense. The density on the north side that is the only thing that makes sense and that is way too many houses crammed into that unit. The Staff report talks about a residential limited urban density as being an appropriate comparison, the code indicates that a

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residential limited urban density is one that adjacent to a municipality. When we talk about this development being 1½ miles from New Castle, that isn't where folks are going to get their groceries. This is not adjacent to a municipality. The road impacts I'm very puzzled as to how a road impact study that indicates there are 300 odd trips on that road now and it is going to be proposed to be increased by their numbers, 200 trips per day and that means that 26 people who live there are not leaving their house that day. 200 extra trips a day how that does not impact that road I do not understand. Staff also indicates in their report that County Road 335 is already in need of care and not in the best condition. The current Egress and Ingress lanes the developer has put it are already showing damage. And to say not only do we not want to put this in here and we don't think we have any impact on your road but we don't want to pay your impact fee or we want to reduce it by 80%. What that shows to me, this is a development that will proceed to slip though every loop hold you give them. Every inch that is given will be taken. And I ask you not to do this. If this were a 33 unit PUD where the developer was asking to make these changes, I for one would stand up and support that. I know he can put 33 units there and that is fine but what we are talking about here is creating a small city without any infrastructure and without any support and it doesn't fit.

John Olson - Owns property with Kent Jolly and is directly downriver from Hilton's property and since we are down river it makes us possibly the most impacted. The most important thing to me is the sewer treatment plant. If this is approved in any configuration in its current location it will greatly condemn my property. When I first started addressing these meetings with regards to this current application, we met with County Planners back then and Mark made it very clear that the County's position was no on this application. The members of the DOW we had spoken to as neighbors, even though they can't formally write something down I guess have stated they are very much against this. Tresi hit the nail on the head there wasn't a good answer on how 104 homes would be better for the wildlife there. It doesn't follow logic. You have some conditions of approval that were alluded to by the applicant which came from the P & Z asking for conditions of approval only because the P & Z didn't understand how much emphasis the MOU. It was treated as dogma, it was treated as the Bible and it was an MOU that was done in a vacuum with virtually no public input. When we went to the Town Trustee meeting to review the MOU which they obviously denied re-approving a couple of weeks ago, I want to read a few quotes maybe by a few of the town trustee. Gregg Rossi, a trustee he made a comment with regard to density, it was actually far too great. Gregg Rossi again stated "seems like they should be build a treatment plant that works everyone this obviously doesn't work for me at all". Another trustee "the traffic at the intersection of I-70 105 road is already a huge problem and this will only make it worse". Gregg Rossi again "when you realize the amount of importance put on the trustees MOU we spent a total of one hour on this review at that meeting". That is the entire amount of time the Town of New Castle put on an MOU that carried this project through the approvals until it is in front of you today. They had no idea it would be used as a battering ram that took it to where it was by the applicant. Dwayne, The Mayor Protem, "we had no idea the Commissioners would put so much emphasis on our position they never cared to listen to what we had to say before". Dwayne again after the vote of no position, his exact words "I hope Garfield County gets the message that we want them to handle this application". There were a few conditions they put even on their no position vote. They wanted to make sure that all the monies for all the impacts that this subdivision was going to create were appropriately required from the developer. Some quick math, if this guy sells at \$250,000 a piece, there's 100 of them, that is \$25 million dollars. 33 lots at \$350,000 that's \$10 million dollars. This is America and he has that right, but don't think for a second there is not a lot of money in either kitty for someone to make sure some serious improvements are not made for the infrastructure which is zero right now to handle a subdivision of this nature. There was a misquote by the last speaker about the number of impacts. It was almost 10 cars per day per household, I think is the calculation the county uses 9.5 something, which is 1000 cars a day with 100 lots. One of the other conditions is the sewer plant this should be one that everyone should be able to agree on. If this is approved in any fashion, which we hope it doesn't but we should be allowed to use it. The Sewer Plant needs a more detailed landscape plan should be shown showing much more visual screening. The Town Trustees were also concerned about the visual impacts from I-70 of which is impossible for this applicant to do anything about. He has no control what goes on at I-70 and what goes on there. You can't mitigate the impacts that will be seen from the I-70 corridor; you can't plant trees on the other side of the river. The height issue was talked about, 32 feet is what they are looking for. I'm a general contractor, I've built a lot of very nice homes and the height limit on the homes is 28 feet and these are 15,000 foot homes. This will impact Ken and me and anyone who drives down I-70 or 335 Road. I have spoken to the State board the people who have approved the wastewater treatment facilities and they have made it very clear they will not and cannot approve a wastewater treatment plant this proximity to a neighboring well. They cannot legally do it. But my well did not show up on their application with the state. Once again, I had no notice this application was made and had been approved by the County as a location. None of my neighbors did. What else can be done in terms of confirmation of the supply of the amount of water knowing that we get less than 10 gallons per minute, Ken gets less than 10, neighbors get less than 10. Hire an independent to do these well tests. The one thing and most important thing to me if this does get approved in any fashion is the location of the wastewater treatment plant. I stated in my opening comment this will condemn my property if approved the way it is. They talked about landscaping of about three clusters of ash trees. They also represents the size of a wastewater treatment plant that has a size currently representing something that might service 104 homes. There has been a lot of talk about this becoming a central plant up Alkali Creek. A comment was made earlier that this is the best we can do by the applicant. I don't believe that for a second. If you owned my home you would not believe that for a second. I was raised where my dad told me to sleep in the bed you make. I have no problem doing that in my life. If this applicant wants a wastewater treatment plant, let him sleep in the bed he wants to make. If he wants to put \$25 million dollars in his pocket, let him sleep in that bed. That means he can put this wastewater treatment plant anywhere on this lower section of river bank. He can move it up in the middle of his property, in the middle of his homes and let his neighbors or his new land purchasers live with the results of his actions. There is a lot of gray area in this application, you can talk about density, it can be a personal opinion. If he has the ability to put this wastewater

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treatment plant in a location where it will not impact the neighbors that is not a gray area that is perfectly right. I've talked to High County Engineering and had them review the application and there is no reason why these people cannot physically and logistically make this happen. All I can do is appeal to your sense of fairness because that's all we have.

Commissioner Martin – Swore in Mr. Fitzgerald

Pat Fitzgerald – 0600 County Road 138 - This is a difficult job and I can appreciate it after in years past I spent 4 years as a planner commissioner with Glenwood Springs and 4 years as one of your planning commissioners here. All of us by nature don't like change in our neighborhood. My soul is no whiter than anyone else's because I was upset when property was subdivided right next to me years ago. The fact of the matter is in the tough job you've got our county is projected to triple in population over the next 25 years partly because it is a desirable place to live and partly because of the energy impacts. The planning commissioner said when they looked at this said, where are the people going to live? I sympathize with the folks on 335 road but we can't turn down every subdivision. The layout of the subdivision, the density is no different from area number four of Oak Meadows Ranch, no different than parts of Elk Springs formally Los Amigos. As to some people putting emphasis on the MOU it didn't happen over night it was an extended situation with New Castle a lot of negotiating. Mr. Hilton gave New Castle everything they asked for and more and then he reduced the density. As you know one Board can not, a present Board cannot bind a succeeding Board to their actions. Now we have the present Board of New Castle and they are honorable people but when a lot of folks show up aggrieved they say well we are not going to say yes or no. The three of you know my profession is real estate and trying to find homes and lots for people and we are in a short supply situation. Yes, I have a conflict of interest; I manage the four houses Mr. Hilton built on this property. I can tell you not a week does by that I don't get a call can I buy one of those houses.

Applicant's rebuttal: Karl would like to defend a point saying he thinks it's unfair to paint the P & Z in the light of bad guys because they listened to the people and applied conditions, and took public comments. He respects the position and acknowledged they worked hard in a number of meetings and worked with the public on comments; the outcome is not always what we want but P & Z did their job and they did not rely on the MOU, they would like to see if you approve it. New Castle's position is pending, what is your position; you can't change the commitments to BOCC or to the Town because of the MOU. As far as the WWTF site application we have to abide by the application; it's a difficult thing to respond. It's an enclosed system and a direct discharge to the river – not sure what with relationship to a well has to do with it. Testimony held for development proposes and again heard some comments that we don't want public to have access to their river or infringe on the neighborhood for amenities; housing not available otherwise so we need to try to create a balance and water piece of it. They have done well tests and there are remedies built in if we injury someone. They have done what was asked of them to do. Impacts on infrastructure, the tension of the process; it is close by a PUD and what it is they are not asking for a variance but they propose standards and set backs. The process has that flexibility. The streets are much larger than most neighborhood streets; the exchange is no on street parking. This is a give and take in the PUD process. The idea is to create better planning for the needs in Garfield County – if we didn't the Town of New Castle would be impacted.

Lee Leavenworth – Requested the Board approve with the conditions and approval of the WWTF and work out the traffic impact fees.

Commissioner Houpt – Asked about the update on the status of the WWTF and if that location was approved as she is confused.

Fred – The facility was approved in a bit of time when it came to the BOCC the site application was approved to forward it to the CDPHE to make a recommendation on this location and designed at a certain level. This happened and this Board made a recommendation for approval. State said we are unwilling to approve a facility until such time as the County says the zoning is in place and meets the Comprehensive Plan. They are waiting to hear from you the BOCC.

Commissioner McCown – Isn't in fact CDPHE waiting to hear whether this particular application is approved or denied, not necessarily whether or not the application is appropriate or not?

Fred – it's waiting on the zoning approval.

Commissioner McCown – Right because without that there is no application.

Fred – That is correct. This is clearly based on zoning. The MOU has no effect; there was a discussion with the planning commission based on the MOU before it died. One point made on the original staff perspective of not having multi family housing. Based on MOU, again the question on the MOU is stated in paragraph 2; the Town of New Castle says we only want 121 single family dwellings. Now that has died and we have the provision of the PUD requiring various types of housing and density. On the height issues, 40 feet is allowed in the AI zone district, that is correct but I want to read to you in the context it was written under "Use by Right", single family dwelling and customer accessory uses only where it is accessory to the uses listed above. So single family is a use by right just all by it's self. It can only be allowed in the zone district if it is accessory to a variety of uses generically this is not an accurate representation.

Karl – That wasn't my intent.

Fred – Question on the deed restriction where they offered the 6 houses if you really want to do that which 6 are they? If these are the ones restriction in heights he knows where the Collins property but which 6 houses. Floodplain issue was reviewed and it would be approved.

Carolyn – Public easement and trail –this is going to require ongoing money for upkeep and it is a public liability and added the BOCC have they investigated this issue before on the insurance question and it has a bigger issue; will you accept on the public dedication? Haven't heard other ways to have this.

Commissioner McCown – Should this move forward I am going to remain consistent in my stance that Garfield County does not accept these types of amenities because we have nothing to do with them. We don't have a parks department, we don't want one right now, we don't have a trails department. We have enough trouble keeping our road up. I suggest for the public easement along the river, sounds like a perfect fit for DOW. It is a fishing access, it is a nature trail. The trail along 335, LoVA. They got to love it they

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are going all the way to Mesa County. They're in the trail business. I would say on condition 15 if we ever get to that point that is either going to be taken out or there will be specifics put in there on the agreement. Lee will find someone else by final plat to accept the trail.

Commissioner McCown – That will be a point of discussion but that's where I'm coming from; I don't think Garfield County is the appropriate entity, I am scared to death on this liability issue and I know attorneys have different views and this isn't the place to air those. But if we ever get to that point, I don't want to accept these kinds of entities because it would set a precedence that would overwhelm us.

Commissioner Houpt – We are still in discussion as a Commission on where we stand on this type of project so, I'm probably not of the same opinion as Larry on that particular one. We haven't come to terms on this as a Commission.

Summation:

Condition No. 6

Lee - the condition as proposed by the Planning Commission was that we do it prior to final plat and it was not intended that it be any of the Collins spot which are limited to 25 feet.

Fred – which 6 houses; looking for the offer by the development to mitigate the Collins property.

Lee – they will be lots on one of the cul-de-sacs but not on the Collins cul-de-sac.

Fred – talking about building heights. The Board would be interested in where you envision this to be.

Karl – Lots in closest proximity to the Collins property. Some questions after the P & Z as to which lots they were thinking when they made the condition, it could be 1,2,3,4,5,6,7 in the two pods that are adjacent, it could the entire pod immediately to the west, the west view sheds were talked about at the P & Z, we're flexible on that..

Lee – understood the condition to be all the lots on this pod; then there was an offer of 6 being limited to 2 bedrooms and 2 baths and those would be in the other cul-de-sacs but the condition was to tell us by final plat.

Commissioner McCown – the ones immediately adjacent to the Collin property would be the height restrictions in that cul-de-sac pod there.

Lee – yes.

Commissioner McCown – Lets talk a little about traffic impacts – formula – x number of dollars x ADT times x number of lots so how come we are so far apart?

Fred – I've only applied this same figure to the new 71 lots as if this were just 71 new lots. The way I understand when the 33 lots were approved, the timing was that the capital improvement wasn't complete. So when the development was approved, the then sitting board said you will put in real improvements at a cost of \$118,000 split by 33 lots in that Resolution as \$3,385. So that is what the credit was per lot which makes a lot of sense. The way we viewed that was the acceleration lanes, to mitigation put in place for existing 33 lots. We said well you mitigated in theory your 33 lots what are you going to do with the new 71 lots? Where I have a hard time understanding is where they come up with \$14,000.00 and I come up with \$180,000.00 for 71 new lots, I may not understand it.

Commissioner McCown – traffic impacts and the formula used x number of dollars for x number of ADT's – this shouldn't be rocket science and how come are we so far apart.

Lee – stated he will pay whatever the Resolution requires to pay. He will sit down with Fred and determine. Remember under the calculation under the Resolution there is an adjustment for present worth, an adjustment for inflation, an adjustment for taxes, it not a simple calculation.

Commissioner McCown – I was basing it on the \$226 per ADT and the standard 9.5 and took it times 71 and came up with \$152,000.

Lee stated again they will pay whatever is required.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to close the public hearing. In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner Houpt to deny this application, real rural urban density is more appropriate in a more adjacent location to a municipality; so I do not believe this is within the character of the neighborhood; there are unanswered water concerns and I know there's a letter from the State but I think we've seen what can happen over the short and long term; there are unresolved concerns that the staff has; wildlife impacts have not been answered; the land has been approved for 33 lots which previously had been deemed within the character of the neighborhood. We are in short supply of housing, don't doubt that, but that doesn't mean we still shouldn't proceed in a prudent manner.

Commissioner McCown – second for discussion.

Commissioner McCown – some of the people that testified here today are living in homes that were created by land use that probably wasn't popular to their neighbors at the time it was created as well; I am not prepared to stick my head in sand and say no more growth in Garfield County; if the Town of New Castle has made the statement and I've not heard them say that, but it has been testified to today that they've made the statement that they will never annex this property, that means they are never coming west of where their city limits is now. So all the growth in New Castle will be from Castle Valley east to Canyon Creek and that's their choice but I don't think that means that there can't be anything other than 10 and 20 acres density west of New Castle; there is still appropriate land use out there; this does meet our Comp Plan; it met New Castle's Comp Plan; is it popular, heck no, does it meet the letter of the law, heck yes; so what do you do? Do you vote for something that's is just not popular so you might get reelected when you run and not offend any of your neighbors in your County or do you do what is right by the letter of the law. They've met the criteria, do you like it, no; would I like if it was next to me, no; is it right, – probably in every case. We have to deal with reality and set aside ourselves from emotions and it's not easy; I've got friends that sit out here in the room and look at me like I'm the biggest villain in Garfield County; I'm not, I'm trying to follow our regulations that we have to abide by when we vote and rule on land use issues. I don't have the luxury of going "I'm going to vote no just because I don't like it". I can't do that.

Chairman Martin – no.

Commissioner Houpt – well then and for clarification purposes, I'm not voting against this simply because I do not like it, I stated some very definite issues that are hanging out there and you know one that I didn't mention is the question of the water well location to the Waste Water Treatment Plant and how that's going

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to be cleared up as well. There are many questions that have been posed to us today about this proposed development and if you look at the density in relations to where it is in the County I think that you have to ask a question of where the wildlife analysis is and how it impacts the community in the neighbor. Chairman Martin – well first of all I’d like to thank everybody for being here, the time and money that has gone into this application, the emotion that’s been riding high on all sides – it’s tough on both sides, we understand and Larry put it right, we have to make the decision based on the information we have, what we have found. Number one I have not found that we have an error in zoning, but PUD is an option in reference to subdivisions as well as re-subdividing etc. which is an option that we as this Board allow and encourage. If there’s an improvement, do I find that there’s going to be enough in increase positive benefits in this PUD to make a change in that zoning; well this is what this meeting is about. So we have to consider that. The very question of, is this the idea that we have when we sat down, Larry and I and you weren’t here yet (referring to Tres) but we talked about zoning, we talked about clustering, Lee was there on clustering; we talked to everybody about clustering, is it what we feel we wanted to achieve under the clustering, we have to put that right back here and we also put an agreement with all our municipalities that we would review these kinds of things with them and we would expect to have good honest answers back to us from all of the municipalities and how it again played into their future; we also said we’d harmonize with our Comp Plans, back and forth; I’m left in a lurch there, we’re going to have to call it – like they say, we’re giving baby to you, it’s a tar baby to us we don’t want to touch it. Well, that’s again, the buck stops here. The other one is that we have standards in reference to our dimensional standards in our zone, what are we going to allow and are we willing to make those compromises under the PUD and does that have enough positive to allow those changes to happen. And that’s what I have to look at. Is it really an amenity? Ms. Dahlgren is constantly on us in reference to acceptance of these types of issues such as open space, trails, fishing easements, access etc. Historically, we’ve said no simply because we don’t have the means to do so as it’s been pointed out numerous times. The other one is that road, I’ve driven that road for forty years, 335 Road, it’s not an easy one, there’s even a mine shaft that’s on one end that’s going to collapse some day and we’re going to rebuild it and that’s at the other end which is outside New Castle but it’s still coming into this. Those are the realities and those are the things that we have to have is institutional knowledge in making these decisions. And Mr. Hilton is not a villain; he’s a respectable man, his wife’s a wonderful lady and I just tell you that it’s their right to make as much as they can, that’s the American way and it’s also your right to be heard. So again, with all that weight on our shoulders, we’re going to make a decision. There’s a motion to deny based upon the findings that Tres said. Agree or not, we’ll call for the question, all those in favor of the motion to deny based on the findings.
In favor: Houpt – aye Martin – aye Opposed: McCown – aye
Chairman Martin – we have made findings in reference to this piece of property. Some of the issues we needed to answer such as height limitations, zoning and increased density etc. has not met the test. So we will go from there. This denied both.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

AUGUST 13, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, August 13, 2007 with Chairman John Martin and Commissioners Tres Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.
CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
COUNTY MANAGER UPDATE – ED GREEN
County Manager Update: Ed Green
OIL AND GAS - DISCUSSION OF PERIODIC REPORTS FROM THE OIL AND GAS LIAISON – JUDY JORDAN
Judy Jordan and Jesse Smith were present.
Judy has been on the job for a couple of months and asked for direction as to what the Board would like in reporting from her, how often, etc.
The Board discussed previously reports submitted by Doug Denison when he was filling this position and suggested that Judy seek out an example. Usually these were submitted on a quarterly basis but the Board was also alerted to what’s going on the field with permit requests especially if there is a situation arising that would generate an interest to residents. Also on questionable permits summarizing that it is basically a log of activities and could be submitted to the Board via emails unless there was something that needed the Board’s attention.
Judy said she has received referrals for the Planning Department on the rules for temporary living quarters and she has been copied on that, however, so far it seems like the Building and Planning Department is on top of these issues.
Chairman Martin suggested coordination with companies on their new ideas with technology and have that company set up an informative meeting to inform the Board and the public. He also suggested that when the vote is taken on Grass Mesa by the residents, to let the Board know how that votes come out.
b. Reprieve of Sales Tax Recovery for 2008 budget year – Carl Stephens
Mike Pifer, Daryl Meisner, Marian Smith and Carol Stephens were present.
Carl Stephens from Communication submitted a memorandum addressing the history on the sales tax recovery for the 2008 budget year.

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The County has been collecting the “Recovery” since 2001 and a total of \$3,737,332 will have been collected by 2007. These funds have been placed in the capital fund.

Because of the Recovery and Treasurer’s fees, by the end of 2007 Emergency Communications will only have received approximately 91% of the net sales tax revenues that they were allocated in Resolution 96-54.

Discussion was held as to the meaning of the Resolution and how that affects Tabor; he also called attention that these entities that receive the quarter cent sales tax do not have their own taxing authority. Don stated that the various organizations that would benefit reminded the Board of statutory regulations and had some concern that we didn’t want to put those organizations in a position to deal with limitations. In the early years of the Resolution, a 5% growth was deemed enough for those organizations and the County could use those funds. Also no one thought this would be the situation and less likely that we would exceed the 105%. The financial situation was not what it was when the Resolution was put in place. These are more on property tax versus sales – it was a general thought that this was a fair rate of 5% and more capital needs for the County were at hand and could put this revenue to a greater benefit. Commissioner McCown questioned if we can arbitrarily change the way this was set up without a vote of the people.

Patsy, Carl and Georgia and Don met and discussed this and had some suggestions. It does not say you can’t earmark funds.

Commissioner McCown stated that is the only way that sales tax passed was the earmarking of those funds. Commissioner Houpt – When you are talking about restructuring there is a certain amount that goes to various different districts and departments. That would definitely have to go back to a vote of the public but this is a recovery fee that goes straight into our general fund and is not designated for a purpose.

Don – It is actually and there are two things, this is not a fee this is part of the sales tax. There is a fee which is a separate issue. It is a form of distribution it goes back into the general fund. That doesn’t mean that money is not available to communications authority or others it simply means those organizations need to come back to the Board and ask for a type of a grant based on those funds and the specific needs of the organization. They would need to make an application and identify the funds for the grant.

Commissioner McCown – That would need to be done during our budget process. We do not have a fund set up of overages and it is not kept separate. Read the Resolution and it is specific where it can go. Larry listed capital funds, road and bridge.

Commissioner Houpt – It sounds like the way to move forward on this is to receive a proposal?

Don – I’m not sure what Carl is asking from the Board today.

Carl – We wanted to get direction or let us keep those funds.

Commissioner Martin – I think the safest way is to budget and if there is an above and beyond identify the recovery funds and put this in the budget.

Commissioner Houpt – But it needs to go in now because we are working on the budget.

Commissioner McCown – What happens if we look at \$173,000 and we grant that to them in the budget amount. This year the projection is \$173,000.

Don – If the request is included and identified as part of the budget submittal, we don’t approve budgets until the very last minute intentionally so we could make an adjustment if we have to.

Georgia and Patsy – Georgia stated one way in the budget process to say that the recovery would not be held out of the distributions to the different taxing authorities in the 2008 budget. So there would not be a specific dollar amount because the specific dollar amount is not calculated until after we have received the revenues for the sales tax which we receive after the final distribution of December. This is not received until after the budget has been passed. A way around putting specific dollar number on it would be to say that in this year’s budget we would not hold back the recovery as listed in the sales tax Resolution.

Don – I don’t think this is legally permissible.

Georgia – The amount collected would then be used to help fund these different organizations.

Commissioner Houpt – So you’re suggesting that we could designate it up front to go to those entities that the tax would go to.

Ed – I think what Don is saying the resolution insists you have to collect the recovery.

Don – It’s not that simple for instance if you had a budget proposal looking at your general fund, account it in the budget for receipt of those funds but also budgeted an expenditure of those funds in the same budget you would meet the literal terms of the resolution.

Patsy – One way we could do it is a portion of the sales tax goes to Human Services Grants, the non-profit and each year after we have done a projection of what sales taxes will be I get with Ed and Linda Morcom and let them know the revenue amount that we are going to budget for the Human Services Grants is X amount. That is the amount then that is budgeted for that expenditure. If we had the same thought process of we are looking at the recovery amount for Communication that is over 5.5% and that amount could be expensed as a grant in your budget. We would meet the spirit of the Resolution but it would not be, we are going to give them the sales tax recovery amount, it would be the way it is determined we will calculate that grant amount is based on what that recovery amount is going to be. They would be seen as two separate items in the budget.

Don – On an annual basis we would still treat it as a grant because it goes through the general fund. We do this already.

Commissioner Houpt – This would give us the flexibility of not doing it in those years when our budget would not be able to handle it. If we do this we I would want to do it across the board.

Commissioner McCown – The years we wouldn’t be able to handle it would be those years that wouldn’t exceed 5%. It is only fair to assume we will hear from all the municipalities we are going to hear from everyone that receives the funds from the sales tax. – This fund is going to the general funds. What will this do to the overall system if we go forward with this process today as far as all of these withdrawn funds?

Patsy – As far as some of the areas that receive the sales tax now that recovery goes into the general fund.

When the sheriff, public health put their budget requests in, in essence you could say that revenue is coming into the general fund and that’s what’s funding the sheriff. It is the entities outside of the county and that would be the municipalities and communications. Recovery only applies to the .75. It would apply

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to all of the human services agencies as well. When Patsy projects here's the amount plus the recovery. Right now this is part of the general funds.

Commissioner Martin – That is my next question, the last sentence of this resolution, if not appropriated in the year received shall be placed into a reserve account that reserve account is the general fund is that what you are telling me?

Commissioner McCown – Well it is clearly not appropriated in the year received because it's going to be given a credit in the following year.

Patsy – At this point it is going into the general fund. We have not established a reserve account for the recovery as we said it goes into the general fund balance and then along with all the other sources of revenue it is appropriated for in most cases personnel operations in the general fund. We do not have it actually reserved in the general fund we certainly can do that we just traditionally have not.

Commissioner Martin – I think we need to explore that, I think that is what the resolution is really saying.

McCown – I think we have to keep this separately if we are going to issue grant out of it.

Patsy – I would need to check with the auditors it comes into its own line item. It's not locked in with all the other sales taxes. Does that meet the spirit of the Resolution or not I would have to run it by the auditors.

Don – I have no doubt you can do that. What I am thinking about is Patsy's last comments and the wording of the resolution. I don't know if that would be an easier process, establish a separate fund or some type of account to hold these monies so they are easily identifiable.

Patsy – I wasn't hear when the resolution was prepared but if the point is to easily identify this amount, we can. I would be able to quickly tell you how much has come into that line item since the time this happened.

Commissioner McCown – Can you tell monthly when that reaches that 105.5% or is it at the end of the year that you have to tell?

George – No it is as soon as it reaches the 105.5% so on a monthly basis we know what the total revenues are from the prior year or the prior two years.

Patsy – If you were looking at the budget for grants that were in essence being funded by this there would be a lag.

Georgia – At the end of 2007 we can calculate how much we received in 2007, how much above 105.5% of 2006 in collections.

Commissioner Houpt – We can calculate it on years before, what are the limitations of using that pot of money, the only one we can identify is 2006 are we just using that as a projection? You said the project would be calculated from the 2006 numbers so potentially it could be lower or higher. I guess what we have to decide is what level of commitment, when we grant these grants...

Commissioner McCown – Nothing would be done until after the year is over.

Patsy – We have the 2006.

Commissioner Houpt – But those won't be the final numbers that we are actually working with.

Patsy – But 2006 amount would be. The amount that went into the revenue line item called .75 sales recovery tax that amount for 2006 we know. What ever that amount is for communications, let's say it is \$150,000.00 that in 2008 budge what would come directly to communications would be the actual sales tax recovery, that would be the direct and then the amount of the grant that they would ask for would be based on the actual amount that was received in 2006.

Georgia – No it would be the actual amount in 2007.

Patsy – But how could we budge in 2007 for 2008 when we don't know what that actual amount is going to be? That is why I was saying 2006.

Commissioner McCown – That is exactly the point I made, your going to be shooting in the dark on all of these.

Ed – We'd have to go back two years.

Commissioner McCown – And that is pretty scary if you look at some of these bar grafts in here on actuals if your going two years back in 2007 according to this we have collected \$557,092.00 for emergency communications. If you go two years back it was 89,037.00 if we budget that we can easily meet it.

Commissioner Houpt – so you do what Larry is suggested and you allow the granting process but you don't grant it until the end of the year when you know what the recovery is.

Ed – But Patsy's point is you don't know that amount at the end of the year you have to wait until the final audit occurs which is more like March or April right?

Commissioner Houpt – If someone has a recommendation on how this could work without putting our budget on the line, because the fluxation has been pretty big recently and I'm not certain what we would be basing this projection on.

Jesse – Another option is cut off in 2007 and take through November, calculate your 105.5% based on November of 2006 you are only going to be off a small amount and that would give you an estimate that you could put into the budget before the budgets approved. You only have two months left in sales tax it is not going to be a significant amount. Since budgets are estimates only just go back to November of 2006 compared to November of 2007 do your calculation there put that in as your grant fund and let this thing wash out over time.

Lou – I like that idea it doesn't get two years arrears it is only one. What Patsy was suggesting made sense too since the 2006 money, we will not know for sure how many dollars that is until into the middle of 2007 we can't budget that in 2007 so we would have to wait until 2008 to spend 2006 monies. We would always be a year in arrears. Our budget process for 2007 is done by November 2006. We either go back in an re-appropriate that back into the fund or we carry it until 2008 budget we know for certain how many dollars that generated. I like your method because we are only one year in arrears.

Jesse – You can do it August to August, October to October it gives you that estimate and that is all a budget is to start with.

Lou – I guess the only other question is since it seems like that last line in the resolution we have been doing it wrong, if you're going to set up this identified reserve funds and it is going to be a granting process what would be the perimeters of that? It that going to be strictly defined by that

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Commissioner Martin – The word only, is what shall only be appropriated by Garfield County for capitol, personnel and other operational needs including road and bridge if not appropriated in the year received such shall be placed in that reserve. It defines how it is supposed to be used.

Lou – I would define that as those entities that are receiving those sales taxes should be the ones that can come back and say...

Jesse – Don based on the language of this, the language is very clear it has to be used for capital, personnel, or other operating needs but if you did an annual cut-off and said this is how much it was don't put the money into any kind of a special fund bring it on in the way it is but take that amount and say okay we're going to award as part of our budgeting process and equivalent amount out of our general fund that the Commissioners can use discretionary. It's not this money it's a similar amount out of our capitol fund, then you meet the language of the resolution

Patsy – And Jess is saying in a much clearer fashion what I was trying to say.

Commissioner McCown – We are pretty restricted on what we can do with capitol funds, I think it would have to go into the general fund.

Don – I'm a little concerned about spending the money out of capitol fund

Jess – Has to be out of general

Commissioner Houpt – If I were one of the entities receiving the tax I would still want to have that fund because it is easier to track. If it is just discretionary money from the Commissioners we may give it all to trails one year. I think this is very clear about where that money should go and I want to be up front with our stakeholders on where this money goes. I don't want to mingle it with the rest of the budget I want to be true to what this resolution says. I think it needs to be segregated.

Daryl – Spirit was to fund these on the entities.

Lou – The reason I spared interest in this to as you know we have a couple of major projects going on with new systems and certainly these extra dollars while times are good would help pay those things off. That to me is a value being able to recovery that money back.

Commissioner Martin – That's the whole idea of the fund that wasn't appropriated so you could do that. I think that is going back to budgeting wisely. But you have a reserve fund and that is what needs to be there. But we need to identify it and we need to start doing it and Patsy says we can and we will and then we can have another discussion on what is there on reserve.

Commissioner Houpt – I think where we go from here is to make sure that you know and the other entities know that they can come forward with grants or do we need a motion to establish that?

Commissioner Martin – It is in the resolution I don't know if we need to I think we need to follow the Resolution and set it up a little bit tighter than we have had in the past.

Commissioner Houpt – The process isn't set up and I think the process would be that you come to us with a proposal for that money.

Ed – What period are we evaluating? Are we evaluating a period like Jess suggested like an August to August time frame?

Commissioner McCown – I don't think it matters as long as it is a twelve month period.

Patsy – As far as pulling out the reserve amount again we have a fund balance, a reserved fund balance and unreserved fund balance. Do you want that amount to go back to the beginning? Go back and say each year this is the amount that went into the fund balance and it resides in fund balance and this is the amount that you want to pull into that reserve amount.

Commissioner McCown – No, that money has been spent we can't track that. We don't know if it's in the fund balance or if it was spent on a project and other funds went into the fund balance. We have to pick a date specific and start from there and they are requesting we do it for the year 2007 and the 2008 budget which from what I have heard today will be, 2006/2007 and that amount will be appropriated. We can't go back to 1996 when this started and try to find those funds because they have been used like the resolution says for other purposes.

Commissioner Houpt – But from now on they are held and if communications wants to wait three years to access that money we would know how much had been accumulated over that period of time. So it's their reserve it's not a general reserve but it is the reserve for that...

Commissioner McCown – I would hope they didn't wait five or six years to draw if it's that critical to the operation. I don't want to get into a situation where we are banking everyone's money for them that is not the intent of releasing this recovery fee either. It's to give them the money not bank it for them. If we are going to bank it for them they don't need it.

Lou – In theory what I hear Jess say if we were to evaluate October to October in October of this year we would have a good idea of the access or this recovery would be this year. Would we be able to say plug it into the budget at the last minute we want it in 2007 as opposed to waiting 2008 budget.

Commissioner Houpt – We would always be a year behind?

Commissioner Martin – Always because it is identified funds and we know they are there.

Commissioner Houpt – Does that work for you Patsy with your audit process?

Patsy – the auditors other than looking to see did we go over what was appropriated they don't really concern themselves with our budget process. For me absolutely how you direct us to handle it we can certainly do that.

Commissioner Houpt – I guess I would ask Georgia and Patsy would August to August make sense?

Georgia – I think it is fairly complicated right now to be talking like this as far as the specifics of the process. August to August it really is a full year you have to deal with because the following year it is twelve equal installments. If we stop in the middle of the year it gets complicated because it is complicated enough as it is so I would, I would like to be allowed to work with Patsy to come up with a process that is understandable and I think we can do that without putting the specifics on now. That is why I was saying we can budget without the very specific dollar amount because we will know approximately pretty close to that dollar amount by the time you are doing the budget in December.

Commissioner Houpt – You can bring this back to us with a proposed process for this? And we don't have to do this today.

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Patsy – Am I hearing we are going to get the process in place as far as setting up a reserve but as far as Carolyn is concerned am I hearing that I need to work on putting into grants that expense?

Commissioner Martin – You have to identify the money above the 105.5% which would be 2006 which would be available through the budget 2008.

Patsy – That comes back to the specifics, the one thing Georgia mentioned we want to keep in mind is that the resolution does say that it has to be paid in twelve equal installments.

Commissioner McCown – Will the payments have to be paid in twelve installments?

Everyone said No.....

Jesse - Georgia's process would not change. All you're going to do is come up with an estimate and that is going to be a budgeted figure it doesn't affect your twelve month recovery at all.

Commissioner Houpt – Why don't we have Georgia and Patsy put this on paper and what I'm hearing today is that we are in agreement to open this up for granting to those entities that are identified in this tax to use these recovery funds. I think what you need to do then is to find out from Patsy and Georgia what that number is going to be and during our budgeting process you need to submit a written proposal to us to grant that money to you for your budget.

Lou – I would suggest one more thing just to clarify maybe for these folks while they are drafting this is what years are we talking about? Are we going to start on 2007 estimate through a period of time available before the 2008 budget?

Commissioner Martin – That is what I heard.

Patsy – When I am budgeting the grant portion based on the estimated revenue portion, shall I do that for all entities even they are not in front of you today?

Everyone said yes.....

CR 204 - OUT OF CYCLE GRANT FOR ENGINEERING, UTILITIES AND STORM DRAINAGE IMPROVEMENTS TO CR 204 – JEFF NELSON

Jeff Nelson submitted a copy of the contract for Garfield County Roan Creek Improvements EIAF #5730 and requested the Board sign three copies of the contract for the Department of Local Affairs, Field Services Section.

Commissioner Houpt – the scope of services is different from what we talked about.

Jeff – We sent them a summary of what we want to use it for and then Jack (from DOLA) he put in his summary. Obviously the comment was there wasn't engineering; it was only for the constructions. We want to use it to get the engineering completed and if this project does come to light we want to be able to relocate utilities and storm water along that road.

Commissioner Houpt – But if it doesn't one of the things we discussed was having this broad enough statement that we could use it for other improvements on that road and when you use a certain stretch of that road is that limiting what I heard road and bridge could do?

Jeff – There are two options, option A is you find storm water infrastructure utilities that need to be relocated along that road from Cowboy Chapel down to the county line which could burn up a million and a half right there. Or you give it back. If we just complete the engineering we hand the money back.

Commissioner Houpt – So this limits us to ten miles?

Jeff – Yes it does

Ed – This is a discretionary grant and was given to us for whatever purpose we see fit.

Commissioner Houpt – And I wanted to make sure this wording allowed us to use it for any purpose we saw fit on that road and didn't tie us into something that we haven't agreed on yet.

Jeff – It allows us to use it for exactly what it say, DOLA doesn't want it used for any purpose they want it used for an energy impact. It has to be related to energy impact. That is why when we send it to him he rewords it.

Don - Let me bring it back to where we stand right now. The action of the board previous was to authorize John actually to sign an agreement for design of roughly the first 10 miles and to do improvements to the entire length of the road. Perhaps the quickest way to address this is to take new action if you want to go forward with this contract. Since it is somewhat different than the original approval language. If this is what you want to do you should approve this contract as opposed to relying on the previous action if you don't want to do that then Jeff needs instructions to go back.

Commissioner Houpt – For clarification purposes I'm hearing that the entire length of the road is ten miles. Because our agreement was improvement.

Jeff – Since then I actually met with Kraig Kuberry and he stated a lot of that storm water infrastructure above the ten miles has already been replaced.

Commissioner Houpt – I'm going to be frank about this, I don't want someone to come back and say well you agreed on spending the money in this manner so you must support spending millions of dollars on rebuilding this road and that is not what I would be saying today. That's why I was very clear that it would be general so that we weren't putting ourselves in that position if those negotiations didn't come to fruition.

Commissioner McCown – Well if it takes action I will make a motion we accept this contract and the Chair be authorized to sign because I don't have a bit of trouble spending a free million and half dollars on this section of road to possibly leverage another nine to ten million dollars to get this section of road improved. So I will make that motion.

Commissioner Houpt – I'll seconded it but I also want to be very clear that nine or ten million dollars sounds like a lot of money but not when your rebuilding a road and it make twenty million dollars to that. I'm far from committing to spending funds on rebuilding this road. I agree that there are projects along this road that probably need to be done to maintain service but I'm not committing to a multi-million dollar rebuild of this road with this motion.

Don – I have a question for Jeff, if the Board goes forward with Commissioner McCown's motion and we do the engineering, will there be any other DOLA funds expended on this road prior to receiving the engineering design?

Jeff – The only funds that could be spent would be utility relocation storm water drainage and that would be after the engineering construction drawings were complete which will be Oct 1st.

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Don – So the remainder of the funds over and above engineering would not be spent until we actually have the design?

Jeff – correct

Don – Now what happens if we take that design and put it out for bid and those bids come in at a very high figure and it is decided we don't want to go forward with the project, what happens to the remainder of this grant?

Jeff – As stated earlier we can give it back to DOLA

Commissioner McCown – or we could improve the culverts and drainage and not build the road.

Ed – You can use it for something else we can go back to DOLA and say let's reprogram it for another purpose because as I said it is a discretionary grant it is not in the normal grant cycle. It's already given to us. Moffat County used it for road and bridge equipment.

Commissioner McCown – On this grant we would have to go back on the ballot as not used in the design and renegotiate that portion if we didn't want to spend it on drainage. That was my point earlier on that ten miles road from the Cowboy Chapel to the county line we can spend \$750,000 easily on drainage on that existing portion.

Don – To go directly to the question that Commissioner Houpt raised, if we go forward with this agreement and the engineering design goes out to bid and comes back at an excessive figure is there anything in the DOLA grant agreement that will require that the county finish the project?

Jeff – I don't believe so.

Don – You have had the discussion with DOLA what is their understanding?

Jeff – You give the money back.

Commissioner Houpt – When you say give the money back is that a requirement?

Jeff – I believe it is spelled out in the contract. There is a paragraph for reprieve of funds or release of funds. –

McCown – It still allows us to upgrade the drainage on those ten miles of road if we choose to. Whether the new road gets built or not is irrelevant. With this million and a half \$750,000 goes to design and the other \$750,000 can go to drainage.

Ed – We are signing a standard form contract they use for all their grants. This is a different grant.

Commissioner Houpt – So Ed you feel confident that this is really flexible money and we are not committing ourselves to pouring millions of dollars into a particular stretch?

Ed – If we decide after \$750,000 this isn't going to work I think we can easily go back to say we want to use the other \$750,000 on a completely different road and bridge project.

In favor: Houpt – Opposed McCown – aye Martin – aye

LANDFILL - SELECTION REPORT FOR MAINTENANCE BUILDING AT THE LANDFILL – RANDY WITHEE

Marvin Stephens and Randy Withee submitted the design/build of the Landfill Maintenance Building. A request for proposal was prepared and submitted and notification was posted. Proposals were received from Mueller construction, Rudd Construction, White Construction and CMC Group. Tim Arnett, Bob Prendergast, and Randy Withee evaluated the proposals and stated there was a clear separation of the four firms with CMC being the selected bidder.

The recommended action is to have the Board authorize staff to proceed with price and scope negotiations with CMC.

A 4500 square foot – metal building, concrete floors, bays for compactor to be worked on, storage for fluids, oils, etc. 44 x 100 feet. They will come back with an amount not to exceed.

Ed - Around \$750,000 and we budgeted \$500,000.

Commissioner McCown – Would it be smart and looking at leaving a portion of that inside building without a paved floor so that you could run the dozer and the compactor in to service it and not damage the concrete floor.

Everyone agreed.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to authorize staff to move forward with CMC.

In favor: Houpt – aye McCown – aye Martin - aye

AIRPORT - FAA GRANT APPLICATION – BRIAN CONDIE

Board complimented Brian on the airfare.

Brian Condie and Carolyn Dahlgren submitted a preliminary grant agreement for the FAA for acquiring land for Airport Development, Parcels X, Y & Z and Improve Runway Safety Area Phase III Design Engineering. Preliminary proposal. FAA needs to write their grants this month, if they release on the 16th or 17th – need signature – grant us up to 1.5 million and requested the Chair be authorized to sign 95% of the contract.

Commissioner Houpt so moved.

Commissioner McCown – seconded.

Carolyn informed the Board of the standard language and I need to sign a certificate that you are legally able to enter into this grant agreement and that will happen by way of your vote on the motion.

In favor: Houpt – aye McCown – aye Martin – aye

Ed – I have two things for executive session, negotiations with Rifle regarding a possible grant to them and second legal advice regarding the contract with extension. Patsy and Dale will be needed

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE – PROVIDE ADVICE AND DIRECTION CHILD ADVOCACY – RANDY PRESENT – MICHAEL ON VEZZOSO – QUICK UPDATE ON 319 AND 209 – EXTENSION, DIRECTION AND AUTHORIZATION ON A LETTER TO BOE APPLICANT; CAROLYN AND BRIAN DISCUSS – ITEM ANTERO AND HOLY CROSS EASEMENT.

CORRESPONDENCE BACK FROM SURVEYOR – UPDATED

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A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken:

Consider the Child Advocacy center and take a position in terms of utilization of that facility right now as of Friday afternoon a written temporary Certificate of Occupancy was issued by the City for that building. As the Board has been advised the exiting leases and contracts for that building provide those documents become effective upon issuance of a Certificate of Occupancy not a temporary certificate additionally the temporary Certificate by its own terms indicates certain items have not been completed. The building is being utilized and occupied and I think the Board needs to take a position in regard to that use there are potential risks.

Commissioner Houpt – I will make a motion that we acknowledge the temporary Certificate of Occupancy and allow the use of that building at this time understanding that the landscaping and asphalt issue that needs to be covered before the CO come into play that doesn't impact the building.

Commissioner McCown – seconded.

In favor – Houpt – Aye McCown – Aye Martin - Aye

COMMISSIONER REPORT

Commissioner Houpt – Strategic planning; I-70 corridor meeting; Commissioners cookie jar contest – must say best cookies; Saturday morning there was a USDA dedication of \$50,000 to The City of Rifle for Energy Park. This week I will be in the office. -

Commissioner McCown – Fair – Took all week, strategic planning as well. 21 and 22nd two more sessions. 8 am AGNC and Judy on the coordination of the; Northwest RAC – Kremmling Wednesday afternoon and all day Thursday.

Chairman Martin – Fair, parade, strategic planning; missed the cookie jar harvesting peaches. We had water meeting in Edwards but they cancelled the technical discussion. They set another date, didn't have it with him. Mesa is opposed to a pump back.

CONSENT AGENDA:

- a. Approve Bills
- b. Authorize the Chairman to sign the special Use Permit for a resort facility including one lodge, three cabins, one trout pond and fish cleaning facility, one laundry facility, an engineered mount septic system, and one gazebo for day use activities. Applicant is Thom and Camille Toler – David Pesnichak
- c. Authorize the Chairman to sign the Final Plat and SIA for Panorama Reserve. Applicant is Cort Lewis – Fred Jarman

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the consent agenda as presented.

In favor: Houpt – aye McCown – aye Martin - aye

TREASURER & PUBLIC TRUSTEE SEMI-ANNUAL REPORT – GEORGIA CHAMBERLAIN

Georgia Chamberlain, Jean Richardson and Bob Slade were present.

Georgia submitted the reports and reviewed them with the Commissioners and she asked that she be requested to publish the report.

Commissioner Houpt - I appreciate the extent you go to.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to accept and publish. In favor: Houpt – aye McCown – aye Martin – aye

Georgia – Second report is the Sales Tax Collection and it is for ten years. The comparison between the years shown on the graph and by month for the past 5 years. The sales tax collection in 2006 is \$11,938,833.00 up to July of this year we collected \$7,319,835.00. Next is our Public Trustee activity showing the release activity, foreclosure activity, what bank interest we have earned and miscellaneous income.

Bob Slade – Our releases are ahead from last year right now we are projecting we will do about 6,500 releases for the year. Based on current activity our foreclosures are less than a year ago. Our interest so far we have made almost \$11,000.00 as of June on our bank accounts and on money being held for other people at this point in time. Total income is about \$64,120.85. The good news is most of our foreclosures even though we are still opening a lot of them are being withdrawn and people are able to get out of trouble.

Georgia asked if there were more reports the board would like to see.

The Board felt these reports were well prepared and good to review.

TRAILS AND TRANSPORTATION – REQUEST FOR 2008 FUNDING – LARRY DRAGON

Larry Dragon, Dale Will and Mike Hermes were present and submitted the status report of regional trails and projected 2007 needs.

They will request \$50,000 each for the Crystal Trail, LOVA, and RFTA.

RFTA - Mike Hermes presented. This is the Rio Grande Trail from CR 114 to Glenwood leaving one gap from Carbondale to CR 114, which RFTA has committed to complete by 2010. RFTA requests the funds to assist in leveraging funds from other sources.

Crystal Trail: Dale Will presented. This is the 5 mile trail along Hwy 133 from Snowmass Drive in Carbondale to the BRB bridge on the Crystal River. Engineering plans have been submitted to CDOT and they expect final approvals within the next few months. GOCO have invited a Legacy Grant Proposal from POST, Carbondale, and the Aspen Valley Land Trust for a list of projects that will include this section of the trail. They request \$50,000 that was earmarked for 2007 to be put on hold and an additional \$50,000 for 2008.

LOVA: Larry Dragon said our travails with the South Canyon Project are well known and will not be repeated. LOVA request \$50,000 for 2008 for continued planning on the South Canyon Project and for the Coal Ridge Trail.

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Commisisoner Houpt –I agree some projects that are getting to the point where we need to discuss the level of participation we are willing to do this year. I think this takes care of the conservation trust fund money discussion but if during this the budget season you have more information on needs that needs to come forward as well.

Ed - Our projection is based on historical president of \$150,000 it may be more. If it is more do you want us to hold it in the kitty and let you decide who gets to bring a separate project or do you want us to distribute?

Larry – I think it is a good idea to hold it and we work together well.

Dave Will – Two notes about the Crystal Valley Trail the two take away points there and number one we are waiting for a response from CDOT we hired an engineer and did everything by the book and submitted the drawing and I hope we have a license in the next two months. Secondly we were invited by GOCO to submit a legacy grant and we are including this trail project in that grant. It is due August 29th and it's possible we might want someone to sign another letter of support.

Commissioner Martin – It took us two years just to get a license to work on I-70.

Commissioner Houpt – Yes of course we can sign a letter

Mike Hermes presented the IGA for funds to be released for 2007 the \$40,000 I was granted last year. It hasn't been submitted and he hasn't been paid. Hopes to have the trail done by Labor Day.

Chairman Martin assured Mike this would be processed through the channels and he would get his check.

Commissioner Houpt – Thanked everyone

FINANCE - PRIVATE ACTIVITY BOND (PAB) INFORMATION FROM COLORADO HOUSING AND FINANCE AUTHORITY – CHFA REPRESENTATIVES – PATSY HERNANDEZ

Patsy Hernandez submitted Colorado Department of Local Affairs has certified the amount of \$2,153,603 as being allocated to Garfield County for the purpose of issuing Private Activity Bonds in 2007. A telephone conference will be held. In January a standard request was made and the Board asked what they do with this money.

Two CHAFA representations will be on the conference and hopefully the Board will give Patsy direction on what to do.

Susan Shirley was also present.

Scott and Jamie from CHFA.

Patsy explained the meeting with Dale Hancock and asked CHFA provide some information with the Board regarding specifically when Garfield County does an annual allocation of our PAB to CHAFA, how are those funds used. Can you share that with us?

Karen – What has happened in 2004 and 2005 the assignment of allocation that you provided to CHFA was very specific about what the Commissioners wanted it used for and they had asked in both 2004 and 2005 to use that assignment to purchase mortgage loans at least in the aggregate amount of whatever the PAB was available to them for single family housing facilities located in Garfield County. And we did that in 2004 and 2005. In 2004 you transferred PAB in the amount of \$1,897,640.00 and CHFA purchased mortgage loans meaning we used all of your PAB plus some of CHFA's PAB to purchase \$2,610,678.00. So effectively we more than matched what you had put in there. In 2005 you assigned to CHFA \$1,935,840.00 in PAB and CHFA purchased \$5,530,119.00. In 2006 you allocated \$1,973,000. went to the statewide balance and then was later reallocated to CHFA and it was unclear what was your intention was other than for "qualified projects" so basically that's sitting here and it has not been used. Although we continue to use our PAB in Garfield County purchasing \$4,945,663.00.

Commissioner Martin – We tried to make sure that affordable rental housing was used on 2006 dollars.

That obviously was our definition of qualifying projects.

Jamie Gomez – Director of Commercial Lending – The only project I know we have been working closely with Susan Shirley and her group regarding some multi-family housing and that is not at the point of being ready to be for financing.

Susan Shirley – Also represents Geneva Powell. We are clearly trying to identify a finalized project, we have a couple in mind and would like to encourage attention again of this years cap to add to, can we reserve the last years allocation and then add to it this years with the qualified project in Garfield County which would be our recommendation and then in February when we know we have to file more definite IRS from we would give more specifics as to the project.

Scott – I think the 2006 allocation sounds like it is already here in the amount of approximately \$1.9 million. 2007 you would like to also reserve for multi-family use? That is definitely possible.

Jamie – Is it possible to expand that to mix use?

Karen – What we have had in other communities when they have had a project they identified and their not 100% sure that it is going to go they will have in their assignment of allocations to be used for multi-family housing unless there is not a qualified project identified in which case it reverts to single family. That way you don't have to go back and take it before the Commissioners again.

Commissioner Houpt – What if it's a combination? If the project had both multi-family and single family.

Karen – I don't see why that wouldn't work we'd have to really think about that. Some of those projects are a little hard to design and finance. Not just from the PAB side but just from the mortgage lending side in general. Certain things you can't mix together very well. That is not necessarily a PAB role that might just be a mortgage lending world rule.

Shirley – Sounds like we should leave the language flexible then to multi-family which would work well.

Karen – I think that is the best leave it flexible and maybe be a little more specific than what you have in here instead of qualified projects perhaps identify that it should be for a multi family project and we keep that allocation for two years. What we don't want to have happen at the end of two years it goes unused because you couldn't identify a project.

Commissioner Martin – I think the project will be definitely be identified within the two year period. And the question being can we continue to go ahead and do this year for this project the \$1,973 added to the \$2,153 which is the letter from the Department of Local Affairs on the PAB's giving a total of \$4,126,603.00 and then allocate that to a design project?

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Susan – Is it possible that we might partner with CHFA given our two year allocations and CHFA having its own on the budget we might identify?

Karen – Well the other think we could talk about doing is partnering and or doing a request to the statewide balance. If we identify that this project you have is a \$6 million project and you have \$4 plus million we might jointly go to the statewide balance and ask for the additional funds and then if we don't get it for some reason then CHFA would contribute to round that all out. I think that would be an eligible use. As much as the people on the PAB committee want to see more rural activities I would think they would look upon this type of project very favorably.

Jamie – In the past whenever we have worked with municipalities and local officials on multi i housing and they have contributed a portion of the cap we have frequently contributed the remainder of the cap to make the project work and yes that is very doable.

Ed – Isn't it also true that you can get PAB money from surrounding counties if they want to relinquish it?

Jamie – If they are willing to relinquish it absolutely. They can assign their allocation to a neighboring municipality particularly if they think the project is going to have a regional benefit and we see that fairly often.

Shirley – I recently attended CHFA's training on this and left some overviews of what is available to us.

Ed – The question is you cannot use private activity bond money and tax credits at the same time on the same project is that correct?

Jamie – You actually can. There are two separate types of tax credit you can access the 9% competitive which cannot be used with private activity bonds but the 4% non-competitive tax credits can be combined with private activity bond financing.

Karen – What you can't use and maybe what you're thinking of is you can't use a mortgage credit certificate with an MRB. A first time home buyer finance with tax exempt financing, that's double dipping.

Susan - Happy to have a CHFA loan office on the western slope.

Commissioner McCown – Do we need a motion allocating these funds for specific be held and to be combined with the 2006 funds for the multi-family project?

Patsy – that is the next item on the agenda

FINANCE - 2007 PAB ALLOCATION REQUEST – PATSY HERNANDEZ

Patsy requested the BOCC to direct the 2007 PAB for Garfield County be allocated to the Colorado Housing and Finance Authority (CHFA) and authorize the Chairman to sign the necessary documents to accomplish this.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to allocate these funds to be held and combined with the 2006 for 2007. \$2, 153,603 to go with the \$1,973,000.00

In favor: Houpt – aye McCown – aye Martin - aye

WATER - ROARING FORK CONSERVANCY - UPDATE ON PHASE I OF THE ROARING FORK WATERSHED PLAN AND PLANS FOR PHASE II – MARK FULLER, RUEDI WATER AND POWER AUTHORITY AND RICK LOFARO,

Rick Lofaro and Sharon Clark were present.

A power point with the watershed plan as we move into the second phase.

Rick and Sharon talked about the Roaring Fork Watershed Plan and how they are a contractor working on the project. This is an update noting that this is the first year with funding from Garfield County. A preliminary report was given and they hope to begin Phase II in 2008. This is to tie together the Counties and federal ownership to look at water issues. They are putting together the pieces and working to identify the mutually beneficial projects.

Phase I has two components first is to build public support and participation. We have been doing that through meetings and also have given numerous group presentations. They have a Website www.RoaringFork.org/WatershedPlan. They also started a news letter. The complete report is on the site.

Other component is the state of the watershed report. We found at least 50 to 60 existing studies and reports that addressed issues throughout the watershed. They are consolidating all the information into one state of the watershed report. This will all be available on the website and the State of the Watershed report will be done by the end of 2007 and the report will be out in January.

A Report outline was submitted that contained the Regional Water Planning Context, Water topic overview - discussion of issues by sub-watershed, summary and next steps.

Discussion included the economic value of the watershed; the tremendous benefits and impacts of water resources; Recreation focus on the value of activities; Land Use using a graph showing the growth; GIS maps; and irrigated acreage with graphs.

Commissioner Martin – A question in reference to your irrigation does that include the conversion from flood irrigation to sprayer systems or are you still considering the spray above ground as irrigation or not within your study.

Sharon – That is information that came from aerial photos and then they have gone to landowners. There are two types of irrigation one is flood irrigation and one is sprinkler irrigation.

Commissioner Martin – The consumption of water is diminished with sprayers. Measuring that amount of water in irrigation poses a problem to me in reference to how much is being used in irrigation.

Sharon – This is just looking at the acreage not the amount of water that is being consumed. Water quality section this is the USGS they are doing this part and in your packet it lists all the perimeters they are looking at. We will be addressing climate change in this report. Showed maps. Phase II we will actually draft the Watershed plan and will have the stakeholders as well as technical advisors come in and look at the issues, the data gaps and determine what the objectives are and what the recommended actions are.

Commissioner McCown – Given the loss of 11,000 acres of irrigated ground in the seven year period from 93 to 2000 is that a trend that is continued into the seven years past 2000 and if so what has happened to that water? Has it been reallocated to another use? That is a significant amount of water.

Sharon – We don't have the data for 2005 but if you drive up the watershed you can see that a lot of that land has been converted to development.

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Commissioner Martin – But what happened to the water? Who bought it, did the Front Range buy it for the continental transfer of water?

Sharon – I couldn't answer that question.

Commissioner Martin – That needs to be part of our plan. When we do lose this irrigated land where are the water rights going and who has been filing on them and I think we need to track that as well.

Sharon – The other interesting thing is there is a lot of conditional water rights out there that we are also trying to track down.

Chairman Martin – You need to take into consideration also the availability to lease that water under the new state statutes you can lease it for a number of years to convert to a different use and how are those leases affecting the watershed and also the quantity and quality. Where is it being diverted to on contracts?

Sharon – I think you can only lease that three out of ten years and nobody has done that yet.

Don – Have you had any discussions with the Colorado River Conservation District on the impacts of Denver Water Board and Northern Colorado Conservation Development plans for the Upper Colorado River?

Sharon – We talk to them frequently I'm not sure exactly what your talking about.

Don – Specifically in regard to the proposed or discussed Green Mountain pump back and it's depletion of the Colorado River; have you considered any potential impacts on the Roaring Fork Watershed if that came to fruition?

Sharon – That would be part of the regional water planning context, I'm not the expert in that section.

Mark Fuller could address this but stated it would be incorporated into the regional water plan.

Don – I've asked some technical folks on the River District to come before the Board next week to discuss some of the proposals and potential impacts on the Garfield County. I am concerned they are discussing depletion of up to 63,000 acre feet a year and whether or not that would impact flows out of the Roaring Fork. I don't know if you want to be involved in that. Suggested they be here to listen to this conversation. He would also like to have Mark Fuller participate.

A date was set for August 20, 2007 at 10:15 p.m. An invitation will be given to Chris Treese and Mark Fuller but they were not aware of other individuals who might want to attend this discussion from the Colorado River District.

BUILDING & PLANNING ISSUES - CONSIDER AN ANNEXATION IMPACT REPORT FROM THE TOWN OF RIFLE TO ANNEX 150 ACRES FOR RESIDENTIAL AND COMMERCIAL DEVELOPMENT KNOWN AS “THE FARM” – CRAIG RICHARDSON

Craig submitted the annexation Import Report for a 150 acre parcel located east of the City of Rifle.

The proposed development is anticipated to consist of mixed use development including approximately 400 single family dwellings, 150-250 multi-family dwelling units and 2.5 acres of commercial development and a 23 acre school site. The site will be accessed by city streets recently annexed into the City (a portion of CR 293 and CR233).

It is staff's opinion that the annexation will have little or no negative impacts on Garfield County and recommends the Board of County Commissioners accept the Annexation Impact Report as submitted.

Commissioner McCown – My concern is knowing a lot of the normal travel patterns in that area I was wondering if there was any conversation with our Road and Bridge department or anyone about those normal traffic patterns and the possible impact on County Road 293 and German Hill.

Craig said staff discussed as a group but I can before I send out comments discuss it with Road and Bridge and make part of our comments sent to the city.

Commissioner McCown – I would like to hear their feedback. A lot of folks that live in Highlands East come that way.

Craig will email the comments to the Board.

BUILDING AND PLANNING - CONSIDER THE REFERRAL FOR A REQUEST TO VACATE A PORTION OF COUNTY ROAD 304. APPLICANT IS LARRY A AND KAREN KLEBOLD – CRAIG RICHARDSON

Craig submitted the request to vacate a portion of CR 304 also known as Richardson Road south of the Town of Parachute.

The portion of CR 304 that lies within the applicant's property boundary does not appear to serve as access to public or private property other than the applicants, and as such, staff recommends the Board consider the comments from the required agency and department referrals directly and not refer this item to the Board of County Commissioners.

John Savage was present.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to refer this directly to the Board of County Commissioners for a hearing.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER A CONDITIONAL USE PERMIT ALLOWING A BOARDING HOUSE. APPLICANTS ARE RICHARD, LINDA, REBECCA AND JASON SEGAL. – CRAIG RICHARDSON

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. RFTA and State Division of Wildlife were public owners. There are no separated mineral owners. Posting on County Road 106. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Craig submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Application materials; Exhibit E - Staff memorandum; Exhibit F –Email from Garfield County Environmental Health Department, dated May 30, 2007; Exhibit G – Memo from Mountain Cross Engineering, dated June 8, 2007; Exhibit H – Memo from Garfield County Road and Bridge Department dated May 11, 2007; and Exhibit I – Letter from Dan R. Dennison, P.C. High County Engineering, dated May 22, 2007.

Chairman Martin entered Exhibits A – I into the record.

Description of the Proposal:

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The applicants are proposing to utilize five (5) rooms as a Boarding House retaining an owner's wing within their existing single-family residence. The proposed use is contemplated as a conditional use within the ARRD Zone District. The applicant has represented that the Board House will accept guests on a year round basis generating a maximum of 16 daily round trips per day.

Staff Recommendations

Staff recommends the Board of County Commissioners approve the requested Conditional Use Permit for a "Boarding House" on a property described as 0635 County Road 106 with ten conditions. Craig read the conditions.

Discussion:

Commissioner Martin – Clarification on Number 5 in reference to all written improvements that means in Garfield County?

Craig - Associated by this use deemed necessary.

Commissioner Hought – I have a concern about that wording because that can be interrupted to mean that just by use of this road these folks would be responsible for potentially anything that is deemed problematic on that road. I think that takes it a bit too far.

Craig – That is why I added as a result of the proposed use.

Commissioner Hought – Have we required stop signs for other Bed and Breakfasts?

Craig – Yes, road and bridge requires a stop sign on many different types of access permits they issue.

Jason – I could help clarify, I think one reason for the stop sign is we are entering onto a County Road versus say a lot of the work we needed to do for the building department and the road cut was because it was County Road 106 and not say Lewis Lane. That was what we got from road and bridge and we wanted to make sure there was one road cut and a stop sign there.

Commissioner Hought – I have a questions, Jim Rada sent you a letter with five concerns and I'd like to know where you stand on these concerns because I don't see them in the conditions.

Craig – The ISDS was engineered design and I believe Jim Rada spoke with Dan Dennison over these concerns and I thought they were straightened out. We can have Dan Dennison respond to Jim Rada's comments prior to but I am 99% sure that this has already been addressed over a phone conversation.

Commissioner Hought – I just want to make sure our environmental health manager responds with concerns they are addressed.

Craig will look into this.

Jason – I have one update, at our last attempted meeting we had not had our State well permit in place it did arrive around July 20, 2007 and it was issued on July 18, 2007 so it is not just an application now we have the Basalt allotment for the extra water needed for the site. We now have our state water permit in place. I will make copies and leave them with Craig

Commissioner Martin – Ask questions of the public?

Alexandra Daugh – I am a neighbor slightly beyond the property in question and I came here mainly for more information rather than rumors. I have a couple of questions regarding the boarding house; I understand this is a business for fishing people is that what you are trying to do?

Jason – In the idea of what we are trying to do, we are trying to make best use of the location.

The best use of this location in the sense of who is going to be staying with us will be quite a bit of fisherman.

Alexandra – The area next to you have quite a few boats on it is that part of your operation?

Jason – It is a separate business altogether. I have a small storage yard where we store drift boats. That is not on my property and has nothing to do with this application.

Alexandra – Do you foresee any extra traffic going from your house to the closed Sutank Bridge as it stands at the moment?.

Jason – That is a very good question. There are a couple of things that really make our location for the fishermen actually less traffic. There a couple of things going on in the community, the Rio Grande Trail is currently being paved in the next several months; we don't mention the Satank Bridge, we have no plan, we don't want people near the bridge. It's condemned and fenced. We have no use of the bridge. Happy about the trail to get across the river.

Alexandra – So you don't foresee any extra vehicles, cars going and parking by the bridge? Because that road is in very bad condition. There are no plans to pave or improve it. I would prefer not to see any added traffic.

Jason – One reason why this area gets such abuse is a lot of people don't realize that is not the boat ramp. We have 450 feet of private water on our property. Fisherman now can walk out of our back door and fish either our private or the public water each side without having to get in their car. This saves traffic impacts. Bed and Breakfast will draw fisherman.

Alexandra – Will you be the owner operators of the business or will someone else take on that responsibility?

Jason – You are looking at a family run business. It is a group effort, the family cannot be there 100% of the time. We have a third gentleman whose father was a fishing guide. I don't anticipate it more than a week or two vacations a year.

Alexandra – Will it be operating all year round or seasonally?

Jason - I'd like to say we are going to be packed in November early December but I see fall being our time where the doors close for 30 days. I don't see much of an off season in the spring. I anticipate a slow down in the fall.

Alexandra – And for the boats you will be using will these belong to guides or people bringing their own?

Jason – We are just the Bed and Breakfast. The boat you see is my boat.

Mary McCarney – Passed out handouts (Exhibit J) I am an adjoining property owner. The property I have has been there for years and already has grandfathered in commercial use which is where the boats are. It has two residences which are older trailers and provides low income housing. This property probably affects ours the most of anyone and I would say our major concern is people on vacation and in fact a lot times a group will come in and they haven't seen each other and they party late into the night and so it

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would be the noise. When we have taken vacations we definitely notice this as the groups come and go. We were wondering if there could be an enforceable noise policy. We get along well with Jason he has been a great person to work with. It is not a personal relationship problem it is just if something happens and Jason sells and we get someone else in that really doesn't have a concern for us as neighbors. Our question is what would be our method of resolving this problem if it continued and the person who had the bed and breakfast didn't care? It is on the river and a nice place to be. Also because this is very close to the road and the traffic going from the RV Park and the boat put in drives very fast. You can see in the one picture, the line ditch how close our tenants are and they are upset about this. How to deal with enforcement on noise or if this tends to grow and more people than twelve people staying there?

Commissioner Martin – The maximum is twelve if more they would be in violation and they could lose license.

Commissioner McCown – I think it is important to point out that as a Conditional Use Permit and if there was noise generated from this you would have more leverage as far as controlling that noise than you would against one of your neighbors. Garfield County does not have a noise ordinance unless you're an industry. With a Special Use Permit we can handle that through the land use side of our building and planning department and a complaint will result in them being called in for a hearing and they could be revoked. You have more leverage as a neighbor if there is a permitted land use on there. In your letter you asked about zoning they are not changing the zoning this is a use allowed in the zoning with a conditional use permit.

Mary – Thank you for the clarification

Jason – I can add a couple things too that since our last meeting here it worked out well for us also it gave us a month to get feedback from our neighbors. From that time until today it made us step back and say okay what do we need to do. Our public space is located directly on the far side of the home of the trailer. Most of our activities will be on the far side of the property. With the noise of the river, to be honest I pushed the envelope this last month, I left some lights on I wanted to hear neighbors come back. But one thing we did do in that last month is take the light bulbs that had long shank we put short shanks on so the lights are up. We actually disconnected one on a porch that wasn't needed for our stair well just to help with light mitigation. All of the lighting we did is very conscious of the neighbors across the river. We have started doing some re-vegetation. Some visual barriers and holding off on seeding until the fall. As far as noise, I think we talked earlier about sort of a time that anything that went on in this lodge is done at 10 p.m. Plan on having signs once open to the public; they will post with signage of entering a public area please respect our neighbors.

Alexandra Daugh – Just a comment, asking about speed bumps, I now have a plastic neck and I can assure you that speed bumps are a dreaded thing. It might not be the ideal answer. About a year ago we did have the Sheriff down there trying to stop people from speeding.

Jason – There is a stop sign, but believe it or not it's the boats, the shuttle people violate the stop sign.

Being there and taking an owners stance he will watch.

Commissioner McCown – I agree on your speed bump theory. We don't usually use them at all.

Jason will work with Road and Bridge on the stop sign.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing;

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown to approve the Conditional Use Permit for a Boarding House on the property as described at 0635 County Road 106 with the ten conditions of staff and I'm going to leave number 8 in there. It will be irrelevant at this time since you already have your well permit, we just need you to submit it.

Commissioner Houpt – What do you think of the wording of number 5 it seems....

Commissioner McCown I didn't change it because I think we have discussed the intent and that intent is always part of the testimony that is taken place. We don't expect this boarding house to improve the full length of 106 it has got to be something that is directly related to the activity of this house that would cause degradation and as we know that is very hard to determine that from any single location on the road.

Commissioner Houpt – Seconded. Would like to look at the wording on this road improvement condition number 5 in the future.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR A TEMPORARY OFFICE ON PROPERTY LOCATED APPROXIMATELY 17 MILES NORTH NORTHWEST OF DE BEQUE AT THE END OF CR211. APPLICANT IS CHEVRON USA, INC. – MARK BEAN
Mark Bean, Carolyn Dahlgren, Sally Cuffen, and Tim Barrett were present. Chevron owns 40,000 acres of land and each of these is 4,000 acres plus. Posting at end of County Road 211.

Carolyn asked to do noticing of the first three all at the same time. Temporary office, Washington Group was the owner.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. One public notice included the Temporary Office, Fresh Water Pond and Employee Housing. She advised the Board they were entitled to proceed on the first three items.

Chairman Martin swore in the speakers.

Mark submitted the following exhibits:

Temporary Office:

Exhibit A –Proof of Mail Receipts; Exhibit B - Proof of Publication for each of these Chevron hearing on the first three hearings: (A, B, & C) Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff memorandum; Exhibit E - Application materials; Exhibit F – Memo from Steve Anthony of the Garfield County Vegetation Management Department dated 8-2-08 and Exhibit G - Memo from Jake Mall, Road and Bridge Department dated 8-3-07.

Chairman Martin entered Exhibits A – G into the record.

Fresh Water pond.

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Exhibit A –Proof of Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff memorandum; Exhibit E – Application material; Exhibit F - Steve Anthony of the Garfield County Vegetation Management Department dated 8-2-08
Chairman Martin entered Exhibits A – F into the record

Temporary Housing

Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff memorandum; Exhibit E – Application materials; Exhibit F – Steve Anthony of the Garfield County Vegetation Management Department dated 8-2-08 and Exhibit G – Memo from Jake Mall, Road and Bridge Department dated 7-12-07; Exhibit H – Email form Jim Sears, Garfield County Sheriff’s office dated 8-3-07.

Chairman Martin entered Exhibits A – H into the record.

The individual applications were addressed. The map where these facilities will be located was shown on the screen.

DESCRIPTION OF THE PROPOSAL

The Building and Planning Department received a Special Use Permit (SUP) application for “Support Facilities for Natural Resource” for a Temporary Office on a 4311.69-acre property owned by Chevron USA, Inc. The site is located at the end of County Road 211, approximately 17 miles north of De Beque . The location of the 2.19-acre temporary office facility is just beyond the private gate at the end of CR 211. More specifically, the Applicant requests approval from the Board for a Temporary Office for planning and coordination of on-site operations centralized emergency response capabilities, and general site security. The Temporary Office will be used in the interim, while a permanent office facility is being built south of the Hiner Gate. It is anticipated that the office complex will house 20 supervisory personnel, with a significantly larger number of employees going through the gate to the drilling activities on the property. The facility will include four (4) 12 ft. x 60 ft. manufactured offices, one 32 ft. x 10 ft. manufactured office to be used as a site security and check in facility; a 30 ft. communication tower and an 8 ft. x 9 ft. modular communication trailer. There will also be two 1,000 gallon above ground tanks with secondary concrete reinforcement.

Water is proposed to be hauled to the site by an approved hauler and placed in a 1,000 gallon storage tank. Use residential consumption is 50 to 100 gallons per day, but the office is expected you use less water than a residential use. It proposed to place 5 – 8,000 gallon above ground sewage collection tanks, which will be pumped by a local vendor. There are also portable toilets proposed to placed near the guard trailer for use by personnel passing through the gate.

SITE DESCRIPTION

The proposed site that the Temporary Office is to be located is situated at the entrance to the applicant’s property on Clear Creek. The Temporary Office is placed on approximately 2.19 acres of the total 4311.69 acre parcel owned by Chevron. The area where the office is to be located is on the valley floor of a fairly narrow valley that has very steep walls to the plateau on top. Past use of the area has been for grazing live stock.

ZONING & ADJACENT USES

The subject property is zoned Resource Lands (Gentle Slopes and Lower Valley Floor). The type of use requested falls under the definition of “Support Facilities for Natural Resources” which are contemplated as special uses in the Resource Lands (Gentle Slopes and Lower Valley Floor) zone district.

Noted previously, the applicant is proposing to put temporary storage tanks in for domestic water and sewage disposal. Due to the temporary nature of these facilities, it appears that the proposed facilities will be adequate for the proposed office complex.

The Temporary Office will have an estimated 20 vehicles directly associated with the personnel using the offices. These people are supervisory personnel and will be accessing operations on the property. It is estimated that during that there will be 150 to 500 round trips a day of vehicles checking in and out at the gate that are associated with the drilling and construction operations on the applicant’s property. Primary access to the site is CR 211, which does allow for the type of traffic proposed, provided compliance with the County Oversize/Overweight system. Additionally, Road & Bridge has requested that a stop sign be placed at the entrance to CR 211, in conformance with the Manual on Uniform Traffic Control Devices.

The property is located at the end of CR 211 and is relatively isolated from the properties to the south. The area is predominately industrial operations associated with various gas drilling activities. There does not appear to be any screening or landscaping needed to visually protect any nearby properties. Staff does not feel it will be necessary for the applicant to do more than they are proposing to do, particularly given the temporary nature of the facility. .

The facility site has been designed to insure protection of ground water and nearby streams through the development and implementation of a Storm Water Management Plan specific to the area, which is contained at the rear of the application. Staff notes that while this plan is not specific to the Temporary Office site, the applicant submitted a larger Storm Water Management Plan for the general area. Provided the applicant develops the site consistent with the guidelines and BMP’s in the SWMP, there should be surface water issues.

All other water will be imported to the site and will come from legal sources of water.

During construction there will be some dust and smoke generated, but it is not anticipated to have any impact on adjacent properties. No other emanations are expected from the property. All lighting should be downward and inward to avoid any impacts to neighbors, since this operation will be going 24/7.

The applicant submitted a biological survey for a pipeline going up Clear Creek, which included the proposed site for the office complex. The survey indicated that they did not anticipate any impact to any threatened or endangered species along the valley floor. No other impacts to wildlife were identified.

As noted earlier, the office facility, once fully operational, is expected to 20 vehicles directly associated with the personnel using the offices. These people are supervisory personnel and they will be traveling back and forth between the various operations on the property and off the property. The entire drilling and

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exploration activity on the applicant's property will generate 150 to 500 round trips per day from vehicles having to check in at the office facility.

County Road and Bridge has commented that they have no issues with the proposed office, provided a stop sign be placed at the entrance to CR 211, in conformance with the Manual on Uniform Traffic Control Devices and that all vehicles comply with the County oversize/overweight vehicle regulations.

The operations at the facility will not involve any abutting property. The proposed facility will not encroach upon existing setbacks or reduce current separation distances to abutting properties. Staff agrees that the existing facility is located well within required setbacks and is sufficiently separated from adjacent properties in all directions.

The application includes a reclamation plan that would govern treatment of the site once the new permanent office facility is built. Reclamation will include:

- 1) Removal of all of the buildings, except the communications tower and building;
- 2) Restoration and re-contouring of grade to approximate original conditions;
- 3) Revegetation using native vegetation for the area.

In the past, the Board has required, as a condition of approval that "*A sufficient monetary security, determined by the Board of County Commissioners, to ensure rehabilitation of the site once operation has ceased shall be provided by the Applicant.*" No security has been proposed.

Should the Board approve the request for the Temporary Office, Staff suggests the industrial performance standards be considered conditions of approval as they are specifically intended to ensure that any industrial use such as the proposed offices function in accordance with the proper best management practices and within the parameters of the State Statutes.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) the remote location of the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic, 3) and the fact that the site itself will be situated in an industrial area already characterized by intense industrial activity from the oil shale exploration / processing activities, 4) the proposed expansion is to an existing office facility, Staff recommends the Board approve the request for a Special Use Permit for a Temporary Office on the North Parachute Ranch with the following conditions:

That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.

That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.

That the Applicant shall comply with the fire protection provisions included in the rules and regulations of the International Fire Code as the Code pertains to the operation of this facility.

Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.

Vibration generated: the compressor shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located. Omit compressor.

Emissions of smoke and particulate matter: the Compressor shall be so operated so as to comply with all Federal, State and County air quality laws, regulations and standards.

Emission of heat, glare, radiation and fumes: the Compressor shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.

Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size.

Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.

Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.

That all proper building permits are obtained for the structures associated with the operation of the Temporary Office.

That a stop sign be placed at the entrance to CR 211 in conformance with the Manual on Uniform Traffic Control Devices and that all vehicles comply with the County oversize/overweight vehicle regulations.

The following recommendations and requests of the County Vegetation Management Department shall become conditions of approval:

- Provide a copy of the weed survey done in the spring of 2007 to follow-up the November 2006 survey.
- Before leaving the site, all off road major construction equipment (graders, dozers, etc) working in areas of mapped noxious weeds should be power washed at a designated washing station to remove seeds, soil, and vegetative matter.
- The applicant provides a quantification of the surface area to be disturbed and subsequently reseeded. Once this figure is established, a revegetation security will be recommended. The applicant shall provide the Vegetation Management Department with the original tags from each seed bag. The seed mix in the Plan shall match the seed mix used in the field. Do not use a seed mix containing yellow sweet clover (*Melilotus officinalis*) or annual yellow sweet clover (*M. indicus*). The amount of seed specified to be planted in the Plan shall match the quantity of seed used in the field.

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- The security shall be held by Garfield County until vegetation has been successfully reestablished according to the Reclamation Standards in the Garfield County Weed Management Plan. It is the responsibility of the applicant to contact the County, upon successful revegetation establishment, to request an inspection for security release consideration.
- Straw and hay bales-All bales used shall be certified as weed free.

Discussion:

Commissioner Houpt – We didn’t receive a response from the fire district but was it the fire district in the area that received this?

Mark – I was told it was sent to the wrong, apparently went to Parachute Fire District.

Commissioner Martin – I know the DeBeque Town Hall received a copy.

Mark – DeBeque did receive a copy and no response from the Town was received.

Commissioner McCown – Actually there is just a mutual agreement with DeBeque Fire Department because it is Mesa County based and they help going up into Garfield County.

Commissioner Houpt – Typically wouldn’t we want a fire plan to go along with something an office space or housing. They want a fire plan and be assured that there is going to be a reservoir of water that will be available to them.

Mark – There is water available but included in the application was their emergency plan for dealing with all kinds of emergencies which I believe includes fire response.

Sally – It has been refined since then and Chevron people have been out visiting with the local fire departments.

Commissioner Houpt – Will the fuel tanks be 1,000 gallon tanks or 3 to 4,000?

Sally – Things were changing and that was still in a state of flux.

Tim Barrett – Working with the local conceair provides to us. Once we know the true measure we can be more definitive.

Commissioner Houpt – So it could be 1,000, 3,000 or 4,000?

Tim – That is the best information I have for that. If you want me to pick a number today I would go with the 4,000 gallon tanks.

Commissioner Houpt – And the permanent office is coming later with another application?

Sally – Basically they need office facilities to coordinate all the activities that will be going on associated with this development. The initial development will involve four well pads and they will be drilling up to 22 wells on those well pads. These office facilities will be there to support those operations in addition they will be building a central compression facilities, central production facility it is called. This will provide support to the facilities in the drilling of nature gas.

Commissioner Houpt – About the temporary nature of this office what is the though with that. –

Sally – Basically they wanted to have something for the initial activities but they are looking at a more permanent location where they would put better facilities in where they would have a warehouse and shop facilities which couldn’t be done in the amount of time they had prior to drilling activities starting. They are already drilling in the area.

Carolyn – I did notice in the materials that there was an insertion that if production schedules are longer than expected that we might need to extend the temporary office time frame. I just wanted to make sure Chevron gave you enough information about what temporary means since we don’t have an amendment process we don’t want Chevron having to come back saying we need to start over.

Sally – At this point in time we could look 6 months to a year is what we might expect but it might go a little beyond a year.

Tim - Do we have something in the interim that we might agree to?

Mark – I guess what Carolyn is suggesting we put an outside time limit on this to give yourself enough time to get your permanent facilities built or I guess another alternative is within X number of days after CO is issued for the permanent facility this one will be removed.

Commissioner McCown – Did I see anything in the conditions that gave a limited time on this?

Mark – They represent in their application it’s about a year. Nothing recommended in the conditions.

Tim - It’s going to take us longer than a year to put the permanent office in. I would be comfortable with 18 months Commissioner McCown – What do you anticipate for your construction phase for the new permanent facility? How long will it take you to build your new building?

Tim - 4 to 5 month construction phase

Commissioner McCown – I’m just questioning if 18 months is going to be, I’m thinking more along the two year line..

Jason – I will accept 24 months.

Commissioner Houpt – I would feel more comfortable coming up with a date certain not to exceed I would be more willing to go with 24 months.

Commissioner McCown – Are we going to review all three while we have opened them with one notice?

Commissioner Martin – I think we can make a motion on each one, we’ll go ahead and see if there is a closing statement, any testimony in the audience or any other questions on this particular subject.

Showing on Map where office site is proposed

Leaving all three issues open.

Motion will be made after all three are heard.

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR A FRESH WATER POND ON PROPERTY LOCATED APPROXIMATELY 17 MILES NORTH NORTHWEST OF DE BEQUE AT THE END OF CR 211. Applicant is CHEVRON USA, INC. – Mark Bean

The public notice was under the temporary office. All three were included in one posting.

DESCRIPTION OF THE PROPOSAL

The Building and Planning Department received a Special Use Permit (SUP) application for “Processing and Material Handling of Natural Resource” for a Fresh Water Pond on a 4311.69-acre property owned by Chevron USA, Inc. The site is located 2.3 miles northwest of the end of County Road 211, approximately

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15 miles north northwest of De Beque. The location of the 1.6 acre Fresh Water Pond is just beyond the private gate at the end of CR 211.

More specifically, the Applicant requests approval from the Board for the placement of 2.6 million gallon Fresh Water Pond. The water will be used to supply water for the drilling operations that the applicant is proposing on their property. Because of the remote location of the drilling operations and the fact that the applicant does not have industrial water rights in Clear Creek, it is necessary to haul the water to the site for storage. It is anticipated that it will take 20 to 40 truckloads a day for one to two months to fill the pond. Once the pond is full, trucks will haul water to the various drill sites on the property. The applicant may, at a future date add a pumping facility and water transmission lines to the drill sites, to cut down on the need to haul water by truck.

The pond will be lined with a 60-millimeter geosynthetic liner. The pond will be enclosed in a 6 foot chain link fence to prevent wildlife from being trapped in the pond. The gate will be locked when no one is present on the site. The upper portion of the pond liner will be sufficiently rough to allow the slope to be climbed by someone slipping into the pond and ropes will be provided every 50 to 100 feet to aid escape.

SITE DESCRIPTION

The proposed site that the Fresh Water Pond is to be located is situated about 2.3 miles northwest of the entrance to the applicant's property on Clear Creek. The Fresh Water Pond will be placed on approximately 1.6 acres of the total 4311.69 acre parcel owned by Chevron. The area where the pond is to be located is on the valley floor of a fairly narrow valley that has very steep walls to the plateau on top. Past use of the area has been for grazing live stock.

ZONING & ADJACENT USES

The subject property is zoned Resource Lands (Gentle Slopes and Lower Valley Floor). The type of use requested falls under the definition of "Processing and Material Handling of Natural Resources" which are contemplated as special uses in the Resource Lands (Gentle Slopes and Lower Valley Floor) zone district.

The fresh water pond is an unmanned facility. Therefore, there will be no need to have potable water and sanitation on the site. Although the applicant has stated that they may place a portable toilet on site.

The application states that once the initial construction of the pond is complete, it will take 20 to 40 truckloads of water a day for one to two months to fill the pond. After that time, the delivery of additional water and loading of water to take to the drill sites will depend on the level of activity.

The road to the pond site is an existing road that meets the County's standards and the County is scheduled to make improvement to the surface this year. County Road and Bridge has not stated that there are any issues with traffic on the roads.

The property is located in a secluded portion of the property which is practically screened by adjacent steep topography and is located approximately 2.3 miles from the entrance to the property. There should not be any impacts to adjoining property that need mitigation. At this time, no lighting is proposed, but if they do add it, it will be downward and inward.

The facility site has been designed to insure protection of ground water and nearby streams through the development and implementation of a Storm Water Management Plan specific to the area which is contained at the rear of the application. Additionally, the pond will be lined with a 60-millimeter geosynthetic liner to protect from direct discharge into ground water.

Once the construction is complete the vapor, dust, smoke, noise, glare or vibration, or other emanations from the pond will be minimal and will not affect any adjacent property.

The applicant is proposing to fence the entire site to minimize conflicts with wildlife. The water in the pond is not expected to be dangerous to birds.

The application states that once the initial construction of the pond is complete, it will take 20 to 40 truckloads of water a day for one to two months to fill the pond. After that time, the delivery of additional water and loading of water to take to the drill sites will depend on the level of activity.

The road to the pond site is an existing road that meets the County's standards and the County is scheduled to make improvement to the surface this year. County Road and Bridge has not stated that there are any issues with traffic on the roads.

The operations at the facility will not involve any abutting property. The proposed facility will not encroach upon existing setbacks or reduce current separation distances to abutting properties. Staff agrees that the existing facility is located well within required setbacks and is sufficiently separated from adjacent properties in all directions.

The application includes a reclamation plan that would govern treatment of the site once the useful life of the facility has expired which includes:

- 1) Removal of the synthetic liner;
- 2) Restoration and re-contouring of grade to approximate original conditions;
- 3) Revegetation of the site with native grasses.

No security has been proposed to guarantee the reclamation.

In the past, the Board has required, as a condition of approval that "*A sufficient monetary security, determined by the Board of County Commissioners, to ensure rehabilitation of the site once operation has ceased shall be provided by the Applicant.*" No bond has been proposed.

Should the Board approve the request for the fresh water pond, Staff suggests the industrial performance standards be considered conditions of approval as they are specifically intended to ensure that any industrial use such as the proposed Compressor function in accordance with the proper best management practices and within the parameters of the State Statutes.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) the remote location of the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic, 3) and the fact that the site itself will be situated in an industrial area already characterized by intense industrial

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activity from the gas drilling activities. Staff recommends the Board approve the request for a Special Use Permit for Processing and Material Handling of Natural Resources for a Fresh Water Pond with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.
4. Vibration generated: the Compressor shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
5. Emissions of smoke and particulate matter: the Compressor shall be so operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
6. Emission of heat, glare, radiation and fumes: the Compressor shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
7. Any lighting of the area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
8. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.

Plans to pump more water out of the river.

Applicant – looking at temporary piping to pump the water.

Intent is to fence this out and keeping large animals out.

Sally – This is for drilling and fresh water is required. We need this is place to support the activities and reduce the truck traffic.

Barrett – long term plan is to have piping.

Commisisoner McCown – Where are you looking on the recycled water.

Barrett – Shortly permits will be filed soon with the B & P.

A motion was made after the next hearing.

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR TEMPORARY HOUSING ON PROPERTY LOCATED APPROXIMATELY 12.5 MILES NORTH NORTHWEST OF DE BEQUE AND 0.6 MILES NORTH OF THE INTERSECTION OF CR204 AND 211.

APPLICANT IS CHEVRON USA, INC. – MARK BEAN

DESCRIPTION OF THE PROPOSAL

This is the third hearing under one notice.

The Building and Planning Department received a Special Use Permit (SUP) applications for “Temporary Employee Housing” on property owned by Chevron USA, Inc located on a 4,678 acre property approximately 20 miles north of the Town of De Beque (See location maps). The site is 2.75 and 3.0 miles north of the end of CR 211.

More specifically, the Applicant, requests approval for two (2) Temporary Employee Housing site to house personnel for the purpose of providing living quarters on approved COGCC well pads to eliminate the need to for the rig workers to commute to housing that is estimated to be 1 to 2 hours from the site to housing, since the Town of De Beque cannot accommodate the housing demands of the company. The rig workers work 12 hour shifts on and 12 hours off and having to travel long distance to and from work is dangerous to them and the public using the same public roads.

These sites are located on approved COGCC well pads, Skinner Ridge 598-26-AV and 598-35-AV. The sites will accommodate the drilling rig crews for two wells, ending up with a maximum of 24 men at a time.

Housing Structures

The Applicant is proposing to place six buildings on SKR 598-26-AV and five buildings on SKR 598-35-AV. Each facility will be capable of sleeping 24 people, one Rig Manager House (2 beds), one Crew Change House on SKR 598-35-AV only (no beds), one Chevron DSM House and attached office (2 beds), two eight-man sleepers (8 beds each), one four-man sleeper with office (4 beds)

Water: The Applicant is proposing to haul water to the site using a water hauling contractor. The potable water is to be supplier has been identified as Mountain West. All water will be treated prior to delivery at the site.

Each site will be equipped with an 80 barrel potable water storage fresh water storage tank. Drinking water will be brought to the site in sealed 5 gallon containers.

Sewage: Each site is to be served by three 2,000 gallon sewer tanks, each equipped with a flag gage to warn of overflow. Sewage will be hauled off by Mountain West on an as needed basis.

Refuse: Each unit is to be provided with a 30 gallon, bear-proof refuse container. Each site will have one or more large bear proof roll-off dumpsters to accommodate all of the trash on site. Mountain West will provide at least weekly and more often if necessary service to the sites.

Density: Since these facilities are entirely contained within the COGCC approved well pad, per 5.02.21 (2)(D), this site does not have to maintain at least a one mile spacing from all other Temporary Employee

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Housing SUP sites. As this is the first Temporary Employee Housing site to be reviewed under the recently adopted 5.02.21 regulations, there are no other approved housing sites within one mile of the proposed site. Proximity to Permanent Available Housing: The applicant states that there no available housing in De Beque and the nearest housing is an hour to 2 hours away from the site. Creating a potential for accidents due to exhaustion from 12 hour shifts on and 12 hours off during an employees work schedule.

Renewal: The Applicant is not anticipating the need to renew either of these permits and will be moving the facilities to other sites within a year.

Reclamation and Revegetation: All housing structures and associated equipment will be located on the COGCC approved well pads and will be reclaimed consistent with COGCC specifications. The well will go into production and the housing facilities will be removed. COGCC regulations pre-empt the County regulations and will control reclamation.

Staff feels that provisions made for water hauling and sewage disposal as described above and in combination with the staff recommended conditions, this standard is satisfied.

Overall, the approval of this Special Use Permit for Temporary Employee Housing will reduce traffic on the access roads to the site. For this reason, staff feels that additional road improvements are not necessary.

As this site is very remote, located primarily on an already approved COGCC drill pad and will ultimately reduce the amount of traffic to and from the site, it is staff's opinion that this Temporary Employee Housing facility will not adversely effect any nearby neighbors as proposed.

SITE DESCRIPTION

The proposed site is to be located on a 4,678 acre parcel owned by Chevron USA Inc. The primary use of this land is currently grazing and natural gas extraction operations. The site is remote as it is estimated to be at least an hour or two from the nearest available housing for the company employees. There are no other adjoining properties that should be affected by the proposed housing site.

Zoning

The subject property is zoned Resource Lands – Lower Valley Floor. The type of use requested falls under the definition of “Temporary Employee Housing” which are contemplated as special uses in the RL zone district. As this site is very remote and the parcel is large (4,678 acres), the only adjacent use is grazing at this time.

Each temporary housing permit is valid for one year, unless a request is received to extend the approval period. These permits are not expected to extend beyond the one year period, so staff is not suggesting an annual review.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3) the fact that the site itself will be situated on an existing well pad with an active gas operation, 4) and that the Temporary Employee Housing facility meets the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing on in the Resource Lands – Lower Valley Floor (R/L) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
4. Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.
8. If applicable, the Applicant shall provide a copy of the appropriate bond supplied to the Colorado Oil and Gas Conservation Commission (COGCC) intended to guarantee reclamation of the Temporary Employee Housing site prior to the issuance of a Special Use Permit. If the COGCC does not require reclamation and revegetation bonding, the applicant shall work with County Staff to establish a bond appropriate to guarantee reclamation and revegetation of the Temporary Employee Housing facility.
7. All Special Use Permits for Temporary Employee Housing is subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
8. Water and wastewater systems proposed to service temporary employee housing must comply with all applicable state and local laws and regulations.
9. Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. For facilities serving twenty-four (24) people or less, the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.

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10. In no case shall unsafe water be used for drinking nor shall raw sewage or used water be discharged on the ground surface.
11. The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners.
12. Inhabitants of the temporary housing shall be applicant's employees and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.
13. Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.
14. Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff's office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid or electrical fires (Class A, Class B and Class C), carbon dioxide or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher.
15. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.
16. The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.
17. If a Special Use Permit for Temporary Employee Housing is granted, the applicant shall notify the County when site development begins. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.
23. No animals shall be allowed at temporary employee housing sites.
24. The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Housing is twenty-four (24).

Mark added Suggested condition: Water will initially be hauled to the site and it may be changed to a domestic well supply and we are suggesting it be a temporary use and that a permanent well or other public water supply be provided to the site by the end of the second renewal. A well or a company to deliver water either option is fine.

This was an approved well site but it was never drilled. The bond may no longer be in place.

Sally – It is a stripped off pad and I will have to verify the status

Commissioner Houpt – We could put in the condition if there isn't a bond in place, then a bond will be needed.

This permit will be renewed annually.

Applicant: Trying to mitigate the traffic and assist the employees on the well sites.

Commissioner McCown – I thought we had a more permanent man-camp regulation which allowed for longer than one year stay.

Mark – I thought this was the case as well. I checked and the way it's written here it allows for longer term use but technically doesn't allow for over a year without a review. Look at it to see if things are going as proposed.

Commissioner Houpt – You are also working well with the fire district?

Sally – Yes the entire area.

Commissioner McCown – As a point of clarity Mark you mentioned \$3,000 reclamation fee on this last one, is that simply because of the extended time?

Mark – yes.

Closing the public hearings of the three hearings:

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearings;

In favor: Houpt – aye McCown – aye Martin - aye

Temporary Office Motion

A motion was made by Commissioner McCown to approve a Special Use Permit for an Industrial Support Facilities, Temporary Office, for Chevron USA, Inc with the conditions provided by Staff with the condition omitting the ones pertaining to compressors and adding an additional condition that a reclamation bond in the amount of \$2,500.00 per acre of disturbed ground be put in place. Application valid for a 24 month period. 5, 6, & 7 and will take cash, letter of credit any spendable fund.

Commissioner Houpt seconded.

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In favor: Houpt – aye McCown – aye Martin – aye

Fresh water pond motion

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve a Special Use Permit for a Fresh Water Pond for Chevron USA, Inc with the conditions provided by Staff adding condition #9 for the reclamation fee of \$2,500.00 per acre of disturbed site and all recommendations and changing the compressor to fresh water pond.

In favor: Houpt – aye McCown – aye Martin – aye

Temporary Housing

A motion was made by Commissioner McCown to approve a Special Use Permit for a Temporary Employee Housing, which has to be reviewed annually well sites for Chevron USA Inc. with the conditions provided by Staff and adding No. 21 at the time of the second renewal adequate and legal water other than hauling has to be in effect.

Commissioner Houpt - Second

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR A TEMPORARY HOUSING ON PROPERTY LOCATED APPROXIMATELY 12.5 MILES NORTH NORTHWEST OF DE BEQUE AT THE END OF CR211 AND IDENTIFIED AS SKINNER RIDGE 598-26-AV AND 598-35-AV. APPLICANT IS CHEVRON USA, INC. – MARK BEAN

Carolyn Dahlgren, Mark Bean, Tim Barrett and Tim Defransky with Cordilleran Compliance Services Property from Getty oil and Chevron owns this property.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

These are two separate hearings but covered in one set of proof of publications and exhibits pertain to both. Mark Bean submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff Memorandum; Exhibit E – Application; Exhibit F - Memo from Jake Mall, Road and Bridge Department dated 8-3-07 and Exhibit G – Steve Anthony of the Garfield County Vegetation Management Department dated 8-3-07; Exhibit G

Application materials; Chairman Martin entered Exhibits A – G into the record.

DESCRIPTION OF THE PROPOSAL

The Building and Planning Department received a Special Use Permit (SUP) application for “Temporary Employee Housing” on property owned by Chevron USA, Inc located on a 4,678 acre property approximately 12.5 miles north west of the Town of De Beque (See location maps). The site is 0.6 miles north of the intersection of CR 204 and 211.

More specifically, the Applicant, requests approval for one Temporary Employee Housing site to house personnel for the purpose of providing living quarters within reasonable commuting distance from the drilling pads located on the applicants property. . The field in which this facility is to be located is known as the Piceance Basin Non-Conventional Gas Project (PBNCGP). This project follows the initial project exploration program on the Skinner Ridge Field. This next phase is expected to operate through 2009. If this project is successful, the program will go into full scale production with the use of 6-10 drilling rigs, for an additional 10-15 years.

This site is centrally located on a previously graded well pad. The Temporary Employee Housing will be in use during the entire phase of the PBNCGP and if it goes to full scale production. The site will accommodate the 5 man drilling rig crews for two wells, ending up with 10 men at a time. There may be emergency situations where the rotating crews will all be on site at the same time. The maximum number of people to be housed at the site will be 20.

Housing Structures

The Applicant is proposing two 15.2 ft. x 76 ft. manufactured buildings and each will include a living area, three bedrooms, two baths and a kitchen/utility/dining area. The plans anticipate a total of 6 rooms that can sleep up to two people each per the 2003 IBC. The facility will have potable water storage tanks; generators; and an ISDS system for sewage.

Water: Initially the Applicant is proposing to haul water to the site using a water hauling contractor. The potable water is to be supplier has not been identified yet. All water will be treated prior to delivery at the site. The applicant is in the process of developing a non-exempt well to supply domestic water for the long term of the proposed facility.

The site will be equipped with initially with a 2,000 to 8,000 gallon potable water storage tank to be supplied by a potable water vendor, yet to be selected. The facility will be designed for 50-100 gallons of potable water use per day. At this rate, the facility is anticipated to use approximately 500 to 1,000 gallons of water per day.

Sewage: The site is to be served by one ISDS system. The proposed system is designed to handle 2,000 gal of sewage and wastewater/day. This would accommodate up to 33 people, based on 60 gallons per person/per day.

Refuse: The applicants one 6 to 30 cubic yard, “bear proof “dumpster at the site.

Density: Since this facility is not entirely contained within the COGCC approved well pad, per 5.02.21 (2)(D), this site must maintain at least a one mile spacing from all other Temporary Employee Housing SUP sites. As this is the first Temporary Employee Housing site to be reviewed under the recently adopted 5.02.21 regulations, there are no other approved housing sites within one mile of the proposed site.

Proximity to Permanent Available Housing: As this site is over 12.5 miles from the Town of De Beque, the nearest municipality by car, staff has concluded that this is not a very remote site and is proximate to permanent housing located in the De Beque area.

Renewal: The Applicant is proposing keep this site in place for the time that they are active in the area, which will require them to renew this annual permit each year that they are proposing to operate.

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Reclamation and Revegetation: All housing structures and associated equipment will be removed and the site regarded and revegetated to meet the standards set for in Section 5.02.21 (11). A “Storm Water Management Plan” has been included in the application, which identifies the final grading plan. The inventory of Noxious Weeds and Management plan deals with the revegetation. Since the area disturbed is just over 2 acres, the applicant will provide security in the amount of \$3000/acre to the County as recommended by the County Vegetation Management Director.

Staff feels that provisions made for water hauling and sewage disposal as described above and in combination with the staff recommended conditions, this standard is satisfied.

Overall, the approval of this Special Use Permit for Temporary Employee Housing will reduce traffic on the access roads to the site. For this reason, staff feels that additional road improvements are not necessary. This site is located on property owned by the applicant and has very few nearby uses that will be impacted and it will ultimately reduce the amount of traffic to and from the site, it is staff’s opinion that this Temporary Employee Housing facility will not adversely affect any nearby neighbors as proposed.

SITE DESCRIPTION

The proposed site is to be located on a 4,678 acre parcel owned by Chevron USA Inc. The primary use of this land is currently grazing and natural gas extraction operations. The site is approximately 12.5 miles north north west of the Town of De Beque.

ZONING & ADJACENT USES

The subject property is zoned Resource Lands – Lower Valley Floor (RL). The type of use requested falls under the definition of “Temporary Employee Housing” which are contemplated as special uses in the RL zone district. As this parcel is large (4,678 acres), the only adjacent use is grazing at this time.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3) the site will be located in reasonable commuting distance from the drilling operations proposed on the property, 4) and that the Temporary Employee Housing facility meets the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing on in the Resource Lands – Plateau (RL) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
4. Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.
6. All Special Use Permits for Temporary Employee Housing are subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
8. Water and wastewater systems proposed to service temporary employee housing must comply with all applicable state and local laws and regulations.
9. Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. For facilities serving twenty-four (24) people or less, the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.
10. In no case shall unsafe water be used for drinking nor shall raw sewage or used water be discharged on the ground surface.
11. The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners.
12. Inhabitants of the temporary housing shall be applicant’s employees and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.
13. Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.
14. Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff’s office and resident employees. All fires are

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subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid or electrical fires (Class A, Class B and Class C), carbon dioxide or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher.

15. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.
16. The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.
17. If a Special Use Permit for Temporary Employee Housing is granted, the applicant shall notify the County when site development begins. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.
25. No animals shall be allowed at temporary employee housing sites.
26. The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Housing is twenty-four (24).
27. Prior to issuance of the Special Use Permit, the applicant shall provide security in an amount of \$6000 as established by the County Vegetation Management Department. Additionally, a copy of the 2007 weed inventory will be provided to the County Vegetation Management Department.

These two sites are within a mile of each other but because they are on active drill sites the one mile separation does not apply to these sites. The applicant is not anticipating the need to renew either of these permits and will be moving the facilities within a year to a new drilling location.

Commissioner Houpt – Something we haven't talked about is alcohol and drugs on these sites. We have had extensive discussions with other companies on this subject.

Commissioner Martin – We suggested they do self policing they are subject to visitation by the sheriff's office, employees only no family members and I noticed it says no dogs, no cars. Carolyn - Number 12 identifies the inhabitants.

Applicant is working on a permanent parking facility that is not part of this application.

Commissioner Houpt – Concerned about drugs and alcohol issues because they can be called into work at any time.

Applicant: Any drug and alcohol that is imposed with be abided by.

Chevron – Stated they have policies in place and will enforce those rules.

Applicant: We are hoping to get this permit to decrease traffic and increase safety.

Commissioner Houpt – Are these people who are staying on the site essential personal? Applicant:

Combination of both – essential and non-essential.

Everyone working on the pad will be working for Chevron or companies working for Chevron.

The need for non-essential personnel is due to the need to drive long distances to arrive.

Commissioner McCown made a motion to close public hearing and Commissioner Houpt seconded

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown to approve a Special Use Permit for Temporary Employee Housing for Skinner Ridge 598-35 AV and 598-26 AV with the conditions 1 through 20 and 20 being no alcohol or illegal substance allowed on a location.

Commissioner Houpt - Second

In favor: Houpt – aye McCown – aye Martin - aye

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

**AUGUST 20, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, August 20, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

Roll call was taken

COUNTY MANAGER UPDATE – ED GREEN

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HUMAN RESOURCES - CONTRACT REVISION FOR PHYLLIS LUNDY FOR STRATEGIC PLANNING

Ed – Phyllis Lundy helped with Strategic Planning and we originally envisioned it to be less than \$10,000.00. Ed feels we need to do a thorough approach to strategic planning this year and as a result he thinks it is going to take at least seven meetings to get through this. This contract before the Board bundles that entire requirement.

Commissioner McCown asked if this was a separate contract or an extension and Ed replied it was separate for the entire strategic planning.

Commissioner Houpt – I’ll make a motion we approve the purchase of services agreement with Lundy Professional Development Resources for strategic planning in an amount not to exceed \$15,000.00.

Commissioner McCown – Second

In favor: Houpt – aye McCown – aye Martin - aye

AIRPORT - POWER LINE RELOCATION AUTHORIZATION – GARFIELD COUNTY AIRPORT – BRIAN CONDIE

Brian Condie presented a letter from Holy Cross Energy to Kip Castanzo at Antero Oil & Gas in Rifle, Colorado. The letter was an estimated cost of construction for the power line relocation in the amount of \$56,400.00.

Brian explained Antero wants to drill a well next to the airport and they need to relocate the power line. He explained we were looking to bring the power on to the airport for the general aviation taxi lane area. Brian explained the map in the Boards packet was not very well designed and he brought a large map with him to show the Board. He explained that it was not in any construction area and is located in our environmental control area.

Commissioner Houpt asked if it would interfere with air traffic at all and Brian explained he had spoke with Mark and he has been working closely with Antero to make sure it is out of the air space and not in any future water way, gas way etc. and Antero will pick up the cost. We just need an approval.

Commissioner McCown – It is a win win. I make a motion we approve the easement on the airport property for the new Holy Cross overhead power line.

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – aye

AIRPORT - FAA GRANT

Brian – Next thing Commissioner Martin was authorized to sign the Grant from the FAA, I have half of it here.

Ed – Does the Board have any objection?

Commissioner Martin – No we need to get them done.

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Advice and receive direction concerning a contract with AG & C on an Impact Study. Carolyn needs to discuss CSU contract, provide you advice on a liquor code matter that is set for public hearing later this morning, Discuss County Road 162 & 162A and a presentation from the surveyor that will be coming up also.

Ed Green– I would like to have Dale and Patsy involved with the CSU discussion.

Commissioner Martin – I had a request in reference to advice or direction on Historic property in Sweetwater. We have had two incidents there and we need to discuss and see what our future direction is going to be.

Commissioner McCown – I move we go into Executive Session and discuss the items alluded to by the County Attorney. Commissioner Houpt – Second; Motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken:

COUNTY ATTORNEY - HOLY CROSS

Carolyn stated this is not out of Executive Session, if Holy Cross wants easement signed by the Board of County Commissioners I’m asking for a motion where you would be authorized to sign such a document that goes along with the documents given to you this morning

Commissioner McCown – So moved

Commissioner Houpt - Second

In favor: Houpt – aye McCown – aye Martin - aye

COUNTY ATTORNEY - INTERGOVERNMENTAL AGREEMENT – AG & C

Don – I provided you with some advice and direction concerning a proposed intergovernmental agreement with AG & C to complete accumulative energy and mineral social economic impact study and out of that discussion I am suggesting you might want to authorize Chair to sign an agreement with AG & C to allow Judy Jordon to provide leadership and direction in completing the study. We reviewed a draft of the agreement and in reference to that draft at paragraph 5B, I believe you should consider instead of AG & C the AG & C task force should be inserted to provide direction to the staff. Also continuing reference to the draft at Exhibit A second line of the scope of services, the study should be related to all mineral extractive activities. In Exhibit B, project costs under Item 3 we should add the parenthetical phrase that Judy Jordon’s billings will encompass salary not loaded and expenses. With those changes to the draft I would ask you to authorize the Chair to sign it.

Commissioner Martin asked if by loaded did Don mean benefits and extras?

Don replied yes.

Commissioner McCown – I would make a motion we approve that the Chair be authorized to sign with corrections.

Commissioner Houpt – Second

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In favor: Houpt – aye McCown – aye Martin – aye

COMMISSIONER REPORT

Commissioner McCown – Last week had the Northwest RAC, Wednesday and Thursday in Kremmling in addition to regular activities. This week we have strategic planning sessions.

Commissioner Houpt – Last week I was in the office a lot. This week Thursday evening I have a dinner with the State Transportation Commission and then on Friday the CCI Western District is meeting in Montrose.

Chairman Martin – I will be in Montrose for CCI and also meeting with some folks in reference to the Roan Plateau on Tuesday the 28th. This will be with the Delta County Commissioners.

FAIR - UPDATE/DEBRIEFING ON COUNTY FAIR

Jessie – The committees are meeting this week and next. Looks like the auction brought in about \$406,000.00 which was about \$60,000.00 over last year.

Commissioner McCown – Mesa County’s was in the paper at about \$330,000.00.

Jessie – The number of exhibitors were down but the total sales were up.

Ed – We will have a follow-up to air fair and see what we can do better next year. We have negotiations with CMS on the land fill building this week and also negotiations with the construction on the police facility.

CONSENT AGENDA

a. Approve Bills

b. Wire Transfers

c. Inter-fund Transfers

d. Changes to Prior Warrant Lists

e. Authorize the Chairman to sign an approval for request for partial release #2 for Callicotte Ranch

Subdivision Letter of Credit – Applicant; Neal, Rodger, P.E. – Christina Montalvo

Commissioner Martin – Are there any items on the consent agenda that need to be discussed individually, added to or removed from? None

Commissioner Houpt – So moved

Commissioner McCown - Second

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Consent Agenda Items a - e; carried.

In favor: Houpt – aye McCown – aye Martin - aye

HUMAN SERVICES COMMISSION

PRESENTATION OF 2008 HUMAN SERVICES GRANTS

Kay Vasilakis – Garfield County Human Services Commission – Kay explained they granted all of the requests at their asking amounts except for one which did not comply with the criteria. They were still funded at the request they had last year.

Commissioner Martin stated the amount awarded was \$572,500.00. Chairman Martin remarked he noticed two of them had been reduced. One was Alpine Legal Services as well as The Gampa Team which had a small deduction.

Commissioner McCown stated the Gampa Team did receive what they asked for and the only one was Alpine because they didn’t follow the conditions and criteria set out by the grant committee and the previous grants awarded to them last year.

Ed Green said they asked for \$7,500.00 and they received it.

Commissioner Houpt – So Moved

Commissioner McCown – Second

In favor: Houpt – aye McCown – aye Martin - aye

Children’s Health Care Task Force

Kay Vasilakis– I’m also here because of the Children’s Health Care Task Force and asked for approval.

Commissioner McCown asked if this was something new and Kay stated it was. It was discussed in June and asked for the Board of County Commissioners to appoint a task force. She presented a list of interested people who have agreed to serve on the task force.

Commissioner McCown – I would make a motion we approve the names as presented to the Children’s Health Care Task Force for Garfield County.

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – aye

YOUTH ZONE - PARACHUTE

Debbie Wilde, the Director of Youth Zone and I have with me Robin Dove who is a case manager with Youth Zone. The Human Service commission asked that I come for a moment to give you an update on our Parachute happenings. We are delighted to bring Robin on staff to be our point person for Youth Zone in Parachute. She has had some training with Garfield County Department of Social Services and is working on her Masters Degree in counseling. She has done three months of training with us already. We will be doing parenting classes in Parachute this fall, begun to work in municipal court. We have been serving Parachute families and kids but the issue was to have us on location there. Right now as we had told you when we had proposed this, the school district has given us a space in the old high school which is the early learning center. We are very much in construction right now. With recent talks with Dr. McKee we are on line to have a room or two there. The funding, you helped us last year with emergency money out of Human Services. We wrote that into our regular request which you have approved. I will tell you that getting money from the Oil companies is like trying to take shale out of those rocks. We had hoped that we would have more participation there and we have not stopped. EnCana is very supportive and Williams has been supportive.

Robin Dove – I live in Battlement Mesa and I think just as a community we have felt so detached from any kind of resources even though Rifle doesn’t seem a long trip for me it is a long trip for some of the people we serve. I think Youth Zone will help the kids in that community. And your continued support is so much appreciated. Thank you

Commissioner Houpt – Is this going to be a full time office?

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Debbie – Yes – What we would really like to do, every place needs a persons face. Robin is our person on the spot there. The ideal thing for that community is for us to be able to use different folks there. May not always be Robin.

BOARD OF HEALTH – MARY MEISNER

PUBLIC HEALTH - CDPHE HCP CONTRACT

Mary – This contract is for children with special health care needs and the amount is \$19,959.00. It is a blend of both federal and state dollars.

Carolyn Dahlgren – This is based on the states Master Contract? Business as usual

Commissioner McCown – I make a motion we approve the contract for CDPHE prevention services division HCP in the amount of \$19,959.00 and the Chair be authorized to sign it.

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – aye

PUBLIC HEALTH - CDPHE EMERGENCY PREPAREDNESS & RESPONSE CONTRACT – MARY MEISNER

Mary – The contract amount is \$28,714.00. Carolyn and I have reviewed there is a lot to the contract. It is pretty well defined as to what is expected for us to receive those funds.

Commissioner Martin – You’re confident we can make that with your staff.

Commissioner McCown – I make a motion we approve the contract to CDPHE in the amt of

Commissioner Houpt – second

In favor: Houpt – aye McCown – aye Martin – aye

PROGRAM UPDATES

Mary – I would like to introduce two of our Public Health Staff members.

Kery Godas– I’ll be a Health Educator with the Department of Public Health. Previously I came from another Public Health Department serving Routt and Moffat counties and have my masters in business and have been working in Public Health for the last three years. Looking forward to getting involved in special projects working with some of the oil and gas issues.

Paul Reiser – I am assisting Jim Rada in the Environmental Health Department. I was recently hired in July and I came all the way from Detroit, Michigan which is where I was born and raised. Prior to that I was working at Harvard University working on a series of public health research projects. I’m also looking forward to being here.

Commissioner Martin – Thank you

BOARD OF HUMAN SERVICES

APPROVAL OF EBT/EFT DISBURSEMENTS FOR JULY, 2007 – LYNN RENICK

For the month, client and provider disbursements for allocated programs totaled \$244,544.56. Client benefits for food assistance totaled \$122,476.11. Total EFT/EBT disbursements for July equaled \$367,020.67.

Lynn Renick– First I’m requesting the certification summary approval for electronic transfers for July, 2007 in the total amount of \$367,020.67.

Commissioner Houpt – So moved. Commissioner McCown – Second

In favor: Houpt – aye McCown – aye Martin – aye

CONSIDERATION AND APPROVAL OF KIDS FIRST CONTRACT - LYNN RENICK

Lynn – There is a slight increase this year for the not to exceed amount of \$13,554.00 is paid out of child care transfers.

Commissioner Houpt – So moved. Commissioner McCown – Second

In favor: Houpt – aye McCown – aye Martin – aye

CONSIDERATION AND APPROVAL OF AREA AGENCY ON AGING CONTRACT FOR CAREGIVER AND SENIOR EQUIPMENT - LYNN RENICK

Lynn – Renewal for notice of grant agreement with area agency on aging for the services provided to a four county area, Garfield, Eagle, Moffat and Routt in the not to exceed amount of \$74,400.00 this is a slight increase from last year around 4%

Commissioner Houpt – So moved

Commissioner McCown - Second

A motion was made by Commissioner Houpt and seconded by Commissioner McCown

In favor: Houpt – aye McCown – aye Martin – aye

CONSIDERATION AND APPROVAL OF OUT-OF-HOME PLACEMENT AND CORE SERVICES CONTRACTS - LYNN RENICK

Lynn – I received a couple of additions after we put the written report in. That is why you have a separate list for area clinical services, State ID-Y625962 in the amount of \$17,011.50. Hill Top Youth Services an agreement to purchase, specific addendums are for \$58,846.94 an agreement Common Works with a child specific addendum for \$20,358.80

Commissioner McCown – I make a motion we approve the Out-of-Home Placement contracts as alluded to by Lynn.

Commissioner Houpt – Second

A motion was made by Commissioner McCown and seconded by Commissioner Houpt

In favor: Houpt – aye McCown – aye Martin – aye

CORE SERVICES - Lynn Renick

Lynn - Core Service Contract is also included for Griffith Center for Children who are now working out of Grand Junction, still able to provide community services in Garfield County. This is for multi therapy and functional family therapy in the not to exceed amount of \$21,700.00.

Commissioner Houpt – So moved

Commissioner McCown – Second.

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Commissioner Martin – any discussion?

Commissioner McCown – This is the same entity we contracted with before only they are in Grand Junction now?

Lynn – That is correct

A motion was made by Commissioner Houpt and seconded by Commissioner McCown

In favor: Houpt – aye McCown – aye Martin – aye

PROGRAM PLAN – RENEWAL PROGRAM ALONG WITH CORE SERVICES CONTRACT – Lynn Renick

Lynn – Along with the core services contract I did add a very late request, actually a program plan with the list of out of home placements. It's a renewal program plan that requires board signature so we can get it in sorry it is due August 31st and just received on Thursday. The amount of the plan is for \$19,145.00 for federal fiscal year October 1 through September 30, 08.

Commissioner Houpt – I make a motion we approve the plan as presented

Commissioner McCown – Second

A motion was made by Commissioner Houpt and seconded by Commissioner McCown

In favor: Houpt – aye McCown – aye Martin – aye

POSITION RECLASSIFICATION REQUEST – CHILD SUPPORT ADMINISTRATIVE CLERK III TO CHILD SUPPORT TECHNICIAN - LYNN RENICK

This reflects a level change from 3 to 5. The long-term employee who currently fills the Clerk III position is at 118% compa-ratio. This clerk has worked in the Child Support program for several years. With an incremental increase (3-4%) to reflect added job responsibilities, the reclassification would place this staff member at approximately 95% of market. The Child Support Enforcement Unit is currently restructuring the duties and mandated responsibilities of the Technician staff. For several years the department has specialized the duties within the Child Support Enforcement Unit in certain areas, such as establishment, modification, contempt of court, case initiation, etc. The enforcement technicians have a caseload of over 400 cases per staff member. The restructuring is planned to improve customer service, equalize the workload, provide cross training, increase retention and improve compliance with state and federal performance goals. Based on the restructure, the duties of the Administrative Clerk will be absorbed within the Technicians' responsibilities. The additional technician provides an opportunity for advancement to a long-term experienced staff member, as well as assisting the overall program to best meet the needs of families.

Lynn – The Child Support Program has and continues to go through some structural changes in order to increase its collection goals. So we can provide and give more money to children in Garfield County who are eligible for child support from absent parents. Part of that is putting in a customer service plan and process in both the Rife and Glenwood office. With this structural change and reorganization we are asking for the clerk responsibilities to be distributed among all the technicians. We are asking for a re-class of our current administrative clerk to child support technician.

Commissioner McCown – Is the child support technician a new position are you creating a new FTE?

Lynn – Well the administrative clerk position actually will go away.

Commissioner McCown – Those duties will be absorbed so your not adding an additional person just changing the classification?

Lynn – That is correct

Commissioner McCown – so moved. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

REQUEST TO INCREASE FEDERAL POVERTY LEVEL FOR CHILD CARE ASSISTANCE PROGRAM - LYNN RENICK

Lynn – Since 1998 our Federal Poverty guidelines is actually FPG rather than FPL has been at 185%. We are asking for an increase to 225%. We have seen a reduction in numbers of families who are eligible for the child care subsidy at 185% but there is a gray area of several who are almost eligible but not quite. So we are asking for consideration to move that up to 225%. For what it is worth Rio Blanco, Mesa, Eagle have all increased to 225%. This goes in conjunction with a couple of things both close out as well as our TANF reserves. Our TANF reserves have been growing because our basic cash assistance participation in TANF has decreased substantially over the last three years. A lot has to do with the economics of Garfield County. Our reserves or our transfers in child care has continued to increase. We are looking at having to do a spending plan or possibility down the line be it next year or three years from now with the legislature possibly pulling back some of those reserves. We can pay the additional FPG cost which is about \$14,000.00 per month. We can pay for that through our reserves plus we were under spent by about \$48,000.00 in our total Child Care Assistance Program allocation last year. One of the things that is incorrect in my report there was a negative supplemental on our Child Care. Our initial allocation was at \$656,000.00 and I put it at \$609,000.00.

Commissioner Martin – So the request is to go ahead and move from 185% under the Federal Poverty Guidelines to 225%.

Commissioner McCown – I sincerely understand the reason for the request but who sets the Federal Poverty guidelines?

Lynn – Statewide the minimum is 130% and we are at 185%. That really is a county by county request.

Commissioner McCown – That is where I'm going with this, why is that a county by county request why doesn't the state that administers the program put out a realistic Federal Poverty guideline. If it's too low and the counties have to go to 225% of it, it should send a message that it may not be a realistic number.

Lynn – I don't disagree with you on that. It goes part to the state supervised county administered process so that each county can make that determination how and where to spend the funds. I will tell you over the past eight years what Garfield County has done we have actually paid provider rates at a higher rate than many of the counties statewide. And that is because of cost of living factors and other things. That is how we determine the cost to this point. Last year was the first year, state fiscal year ended June 30th until last year we were always over expended in the child care assistance program allocation. With that we have always been able to use and continue to use direct service costs directly out of our TANF allocation. Last

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year, my opinion is the state hasn't done a very good job assisting counties with making adjustments for those under expenditures and so now the counties look like they are trying to save money. I don't think that is really the case it's just that there has been a shift and the state hasn't assisted counties in determining.....

Commissioner McCown – I hope your not indicating that is a bad thing saving money.

Commissioner Houpt – No, but when there is a need and in some ways this is a better system for counties because we have such different economic pictures around the state and this allows us to then adjust up to where we need to be to really provide a service that is going to meet the needs of our population. It does sounds like a high number but maybe it will give the state or whoever sets that level incentive to change it too.

Commissioner McCown – My fear is that if we move forward with this and should the economy in Garfield County goes back to where it was in the mid 80's then are we going to be able to full fill this obligation with our funding stream. If we are doing 225% knowing there will be far more people qualified and probably less money available.

Lynn – And that is the debate we have internally within the department as how, or is this going to fix its self down the line. I'm going to switch over more to the TANF reserves, we have 3 pots of reserves and that is child care, which also funds our quality and licensing program fully. Child Welfare Title 20 we can transfer monies and then we have our TANF reserves and all of this is based on the works allocation that is under expended each year. We are likely in a use it or lose it situation with the state. That is one of the things we are trying to look we would rather provide the services to the residents of Garfield now rather than turn it back over to the state.

Commissioner McCown – And I support that but I can't imagine the political will of a future Board of County Commissioners when money gets tight cutting this back 185%.

Lynn – I think at that point we would have to look at one option we would end up looking going to a greater meet option on a sliding scale.

Ed – Is there some middle ground between 185% and 225%? Why did you settle on 225%?

Lynn – I can give a list of where every county is and there is just a natural jump from 185% to 225% and I'm sorry I don't know if that is just the way it is or what. All the counties seem to go from the 185% to 225%.

Commissioner Houpt – You did have some numbers that made sense. It doesn't raise it significantly these are still households that desperately need this type of support. We are not suddenly creating a system where we are helping people who don't need that kind of assistance.

Commissioner McCown – Under today's environment.

Commissioner Houpt – Absolutely and that is going to be the charge of any Board that is in place. If it needs to be restructured later on that will happen but in the meantime I think this is really important and I will make a motion that we increase the Federal Poverty Level for Child Care Assistant Program from 185% to 225%

Commissioner McCown – Second

Commissioner Martin – Understanding the guidelines will help us along the way or we have that issue and have to reduce it down.

Commissioner McCown - I can't support this. I see out in the future your going to be serving fewer people with more funding and the waiting list will occur but will any future board have the political will to cut that level back to where you are distributing it to more people at a lesser amount of money? I don't think so. I think the jump is significant, it's clearly 40% increase and I can't support it.

In favor: Houpt – aye McCown – opposed Martin – aye

DISCUSSION OF TANF RESERVES - LYNN RENICK

Lynn – We are likely going to have to provide a written spending plan to the state at some point in time on how we are going to look at revenues for next years budget. There's more to come and will keep you up to date. One of the recommendations going to state is to maintain reserves 50% allocation. The next is not in my written report because the issue has at least been taken care of at this point in time. It was the discussion third year contract with the Colorado Department of Human Services, Alcohol and Drug Abuse division. Either last month or the month prior to we presented the new application and for about \$109,000.00. There was a concern because the state was coming back and saying we had to survey the schools in the fall in order to continue this. It was just surveyed at the very end of the school year and we were questioning and posing our concerns about having to re-survey. We have negotiated with the state to do this March of next year. State fiscal year 07 close out summary there is a spread sheet in your packet. Going to the bottom first which is showing the total revenues we received from the state is 7,594,632.49 with total expenses of \$9,260,477.99 if you calculate that all out, 15.87% shows county share. The bad news go to top of sheet with the county administration, we ended up over expended. The initial over expenditure was 148.5% with surplus distribution 34.2% this year. Last year it was a much higher percentage at 61.58%. We did end up in that category begin a county share of \$116,774.05. It will continue to be our area of concern. We did receive our preliminary allocation letter that began July 1st on Wednesday afternoon. We are receiving a bit of an increase of \$77,484.00 in that line will not cover our needs.

Commissioner McCown – And what's the answer to that?

Lynn – The workload study that was done may eventually assist with some adjustment.

Commissioner McCown – Are they still relaying on the random sampling?

Lynn – Yes – The study showed we are 2.5 technicians short based on the work load and that is eligibility only. The solution continues to be an issue at the state legislature. We ended up in child welfare mitigating for \$111,831.25 so we are fine with that but we did end up a little over extended.

Ed – What is the total segregation?

Lynn – Truthfully we haven't had a chance to take a look that for. With the budget request we put in for 07 I would not see that it would significantly hit the fund balance per the 07 budget.

Ed – As we plan for 08 do you envision us keeping a fund balance? Does that make sense?

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Lynn – I’d have to think about that certainly the issues with, the growth, economic health of the county stays long term or not. It’s a very healthy fund balance for Social Services. I’ll be honest I think its high on a state wide basis. But again it goes back to this particular county it may be absolutely appropriate because of the volatility with the county growth.

Commissioner Martin – I think there needs to be discussion about that because we need to look into the future and exactly how we are going to be able to recover if we need it That fund balance may not be out of order in fact it may be increased.

Michele – And we still not know the results of spending down our TANF reserve. If we are forced to give some back or spend down quickly then that is what we will talk about.

Commissioner Martin – That goes back to Larry’s question what’s going to happen in the future and what is going to be the political will and how are we going to be able to handle that. Those are some of the remedies that we have that little cushion there that we can make those decisions without again losing the benefits to those people who are needing them.

Lynn – Right now short term and long term are two separate issues especially with human services.

Commissioner Martin – Where you going to talk about the Fatherhood Grant Issue?

DISCUSSION OF RESPONSIBLE FATHERHOOD GRANT AND POSITION REQUEST

Lynn Renick received a letter from the Colorado Department of Human Services informing her that their agency has been awarded a Promoting Responsible Fatherhood Community Access Grant (PRF) for October 1, 2007 through September 30, 2008. The grant award consists of the following:

Parent Skills Training: \$50,000.00

Lynn will be receiving a contract for her review and signature in the coming month.

Lynn also submitted a job description for the position of Case Manager for this topic. The position would be for the length of one year.

Lynn – We did get the \$50,000 grant and with that we are requesting a case manager. This is new position but it is based because of the project grant and is only in place because of the grant.

Commissioner Martin – It’s only good for twelve months then we would have to reconsider it if we have funding for it.

Commissioner Houpt – Do you anticipate receiving this grant again on a multi-year basis?

Lynn – My understanding is it will be available on a multi-year basis but there are absolutely no guarantees. Again, this is an opportunity for us to also pull in some of our TANF dollars to assist with this entire program. It is looking at a shorter term possibility but certainly within the next 12 months it will assist a lot of the residents out of the community corrections program, child support and some child support cases.

Commissioner Houpt – This is really a position you need but the bonus is you have a \$50,000.00 grant to jump start this program. Is that what your saying or are you just doing this because you have the grant?

Lynn – The request today is coming because we received the grant and the grant starts October 1st and we would like to go through the hiring process.

Commissioner Houpt – But in the grand scheme of things you applied for the grant because this is an important program for your department.

Lynn – Yes absolutely. It is part of a state wide, actually not even state wide a national initiative and in order to promote having two parents involved in a child’s life instead of one which often happens after a divorce or single parent situation. We had the article in the Post Independent which received a very positive response and now we are sitting on about 15 to 20 referrals people seeing the article and calling. Some are incarcerated saying I really want a relationship with my child.

Commissioner Houpt – Do you have a budget for this case management position, do you know what the cost needs are going to be?

Lynn – We do I’m sorry I don’t have it with me.

Ed – What is the annual salary?

Melissa – Case manager around \$36,000.00 plus the benefits, it would be in the 50 range.

Lynn – There is a budget with the application and the grant but I didn’t bring it with me.

Ed – This will pretty much cover it.

Commissioner Martin – But only good for one year then you have to review and seek out funding to continue it. That is one of the hiring criteria you have.

Lynn – Our basic cash assistance has decreased approximately 75% over the last 3 years.

Commissioner Houpt – I’ll make a motion we approve the case manager position for the Responsible Fatherhood Grant Program and recognize the \$50,000.00 grant will go toward that position and the county will cover the balance.

Commissioner McCown – Second – Is the individual that will be hired for this going to be aware that it will be on a year to year basis?

Lynn - Absolutely

Ed – Would it be logical to assume that this person can migrate to another position?

Lynn – Yes given the movement.

In favor: Houpt – aye McCown – aye Martin – aye

PROGRAM UPDATES – LYNN RENICK

Lynn – On Out-of-Home Placements – I am aware that we had an eleven child decrease in one month.

Change of benefits came through and a couple of sibling cases. Lowest numbers seen in many years.

CR 162 – 162A - COUNTY SURVEYOR REGARDING COUNTY ROAD 162 AND 162A – SCOTT AIBNER

CROUCH PROPERTY – MISSOURI HEIGHTS

Commissioner Houpt – I am going to recues myself from this discussion there is a potential conflict with Miss Crouch’s property and my husbands firm.

Scott – As per your request to do an on ground survey of County Road 162 and 162A as of October 7th I was out on the site and preformed an on field survey and from that information and other recorded information plotted findings on the exhibit you have. My findings indicate that the original County Road

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162 falls within the 60 foot right-of-way as indicated on the Crouch Exemption amended plat. County Road 162A falls within the easement listed in book 848 of page 23 except for a portion at the southeast corner of Lot 2 of the Crouch Exemption Amended. I calculated the area of roadway that is approaching the southeast corner of Lot 2 to be 83 square feet. There is also a fence in place at the southeast corner of said Lot 2 which is also encroaching and the area between the fence and property lines for the southeast corner of said lot 2 is 377 square feet as shown on the map provided. Other issues with 162, the original 162 road, are the intended areas to be vacated. I read through the descriptions in resolution number 02-104 and found some mathematical errors in that description. Actually there is one error in that description. It's either a typo or just purely a map error. Also in the intended area to be quit claimed in the quit claim deed book 1412 page 974 there is a similar error with line segment where the bearing is mislabeled. These errors occur on the Crouch Exemption Amended plat as well as in these documents. However; on the plat its self these areas are graphically depicted correctly. I believe the intent is there on where these areas are to be vacated and quit claimed. In addition I did plot the 1913 Road description based on two items. One was a county road map dated sometime in 1913 with bearings and distances and ties from the northwest corner of section 29. The other document is a written deed from Mr. Blue to the BOCC, 1913 which describes the center line of the road through Mr. Blue's property exiting out the south. As you can see on the exhibit I plotted those on there and using the current position for the northwest corner of section 29 and the current position for the west sixteenth corner between sections 20 and 29. For the most part this 1913 road lines up with the existing 162 road. There are some exceptions however it's acceptable given the age of the road and the description being 94 years I could see why possibly the description and the existing position of the road could vary some. It is my opinion that the 1913 road and the 162 road are within the Crouch property are one in the same. Other than that I think that is all the issues I had to address the 162 and 162A road.

Don – I think Scott has addressed the issues the Board has asked of him to address at this point. The Board may have a different view of that and if so you need to discuss that with Scott. I have also given you a packet of information this morning this is all information the Board has seen some time ago. One question I would like to ask Scott and I ask this knowing that you and I have already talked about this issue. Back in 2003/2004 did you go on this property to conduct either a survey or platting of 162A?

Scott – I did.

Don – And have you had a chance to review the plat you did then which I think Mr. Beutner's' provided us most recently to see how it compares with your current work.

Scott – Yes I have

Don – And how does it compare?

Scott – The comparison is in 2003 I believe we had an 11 foot encroachment with the existing roadway as it was constructed. Currently we have a 6foot encroachment on that same roadway so it is not as extreme as it is now. Excuse me it was a greater encroachment in 2003 than currently.

Don – That was one of the questions that came to the Board and in that packet of information I have included a memo that I did to the Board back in 2003 describing the issues that have not been resolved on this road and also at the end of that packet are the minutes where the Board took action in regard to the Stirling Subdivision. With that I think it is open for the Board to tell us how you want to proceed.

Commissioner Martin – Asked if any question – no one had any – looking at map, went over the roads.

Commissioner McCown – The primary encroachment you keep talking about, it's down and Commissioner McCown is looking at the map pointing out the areas

Commissioner Martin – Back to map asking questions of Scott

Commissioner McCown – So the County Road 162 as shown on this plan is in the same location as it was in 2003 when you went out on site and checked it? That road has not moved or been moved?

Scott – I did not verify the County Road 162 on the property in 2003

Commissioner Martin – So the intended area to be vacated by the resolution in 2002 has it been vacated?

Scott – According to the documents and record, yes

Commissioner Martin – On the ground?

Scott – On the ground no

Commissioner Martin – That is an issue we will need to deal with

Commissioner McCown – What is there on the ground?

Scott – The roadway you see in place which is currently a driveway for Ms Crouch

Don – Actually both are still on the ground right now. The alignment of 162 as it goes by the Crouch residence and the new alignment?

Scott – That is correct they both are.

Commissioner McCown – So the area north of the little Y will continue to be quit claimed?

Scott – That was the area to be vacated by the resolution.

Commissioner Martin – Which is still in place

Commissioner McCown – And is the area further south from there is it in place has it been constructed and is currently being used? Showed area on map

Scott – The area that was quit claimed?

Commissioner McCown – No and pointed out the area

Scott - It is yes

Commissioner McCown – Only the areas outside the hashed area?

Scott – It is the whole rectangular area.

Commissioner Martin – And it was still the 60 foot?

Scott – It is 60 foot except for where it widens at the mouth to join with 162A.

Commissioner McCown – This roadway was intended to stay in place, this was intended to be quit claimed (showing road on the map to everyone)

Don – That is right the intent was to effectively trade parcels to take the travel portion of the roadway away from the front door of the Crouch residence and so at Mrs. Crouch's request the county accepted the deeded property and vacated the existing.

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Commissioner McCown – So with that vacation there would have been a vacation at the historic 1913 road that shows up on the dotted line?

Don – Just that small area, both the vacation and acceptance were dependent on receiving good title. The county couldn't vacate a public road unless there was a connecting public road to that.

Commissioner McCown – For point of conversation would that road had it been vacated would that historical use been transferred to the now existing road 162A and go down to the Y and then go back?

Don – Yes because 162A was accepted as a public road.

Commissioner McCown – So there would be no loss of public access?

Don – Correct as a matter of law we could not deprive access.

Commissioner McCown – Where does that leave us today?

Don – I think Scott is correct the intent is clear. This was a request undertaken at the behest of Mrs. Crouch to benefit her property and the Commissioners felt it would benefit the public. The descriptions at the time, this is right about the time Scott and the previous county surveyor were transitioning and I think Scott is correct the legal descriptions should be cleaned up but I think the intent is clear. I think that the acceptance and the vacation are effective as they stand. If they are not then there is no vacation just as there is no dedication and the current alignment of 162 would be the old alignment if for some reason that vacation was not effective. But I think the intent was clear on both parties it is platted and that plat is recorded.

Commissioner McCown – The encroachment on the south end 162A is still.....

Don – There is no doubt that is an encroachment that still has to be resolved and that was an issue that we told the developers they would have to resolve as a condition of moving forward and it appears it was partially resolved but its not completed. One quick thing on the 1913 right-of-way is you can see even in part it still forms the basis for the alignment of County road 162. Also what is not shown on this plat is, because we didn't ask Scott to do it, the deed dedicating that right-of-way connected to a road that was much more extensive than is shown on the Crouch property and runs for some distance to the south and slightly to the west almost to Katherine's Store.

Commissioner Martin – Which would have still been 1913? Dedicated?

Don – 1913 road, I don't know. The center line of the old right-of-way is the one that runs to the south and to the west. 162 that runs to the property line actually provides access to one lot in the Stirling Subdivision. This is the alignment of the road the was represented as the county road on the Crouch exemption plat that is recorded

Commissioner McCown – Does our planning department need to contact the developers from the Stirling Ranch Subdivision and cite them for being out of compliance on the encroachment, is that the next step?

Don- I think that needs to be done we need to provide them with advice as to what the finding the County Surveyor is and they need to rectify it. It is a planning issue. I asked Craig to be here to represent the planning department, take notes so they could move forward and it might have to come back to the Board again.

Commissioner McCown – Well there were clearly conditions that had to be rectified and it was the developers responsibility and at their expense. There is a void or breakdown somewhere and according to the testimony from the surveyor there still is an encroachment there. We need to correct even though some action was taken it was not adequate to alleviate the encroachment.

Don – I think the planning department needs to contact the developer on that issue.

Mr. Beutner- I have the 1913 road map here for you to look at to see how extensive it is.

Commissioner Martin – You're talking about how far it goes down to Catherine store?

Mr. Beutner - Yes

Commissioner McCown – It does have George Blue on there to who owns several parcels.

Mr. Beutner – Blue was the original patentee of the property that the Crouch's did own. Commissioner

Martin – And using those measurement Scott, you had access to that road reviewers report anyway the original one and it plots out the same as this one.

Scott – Using the existing northwest corner and the 16th corner of section 29.

Commissioner Martin – And it does plot out the same?

Scott – Yes it does

Mr. Beutner – While you have that you will notice I have some notes in red where they have tied to the section corner for that property. Actually there is almost three ties; the first tie is just before the Crouch property. There is one tie on the Crouch property and there is a third tie just off the Crouch property. The big problem in locating the road today if it is located from present county surveyor's monument for the section corner, it locates approximately 150 feet southerly of the, what I believe to be the 1913 road as it was constructed. The 1913 deed states that the road was constructed at the time they did the survey of the center line. Using the present county surveyor's monument the center line as shown on the map, 1913 map (he provided) does not match the ground. I have requested the information pertaining to the county surveyor's monument. There has been no response to that. I don't believe there are any county surveyor's notes available to tell which survey corner he established there. The section itself has been resurveyed by the government I believe five times since 1913. So if the county surveyor located any one of those five government corners this corner could not be used to locate the 1913 road. I walked the property and I found what I believe is the 1913 road as it was constructed and used. In the packets I gave you earlier I believe it was Exhibit E, it shows how I took and located the road itself that I believe was the 1913 road and then took the description and I placed it on the road and this shows about a 150 foot error in the county surveyor's monument.

Commissioner Martin – Are we talking about the present day surveyors?

Mr. Beutner – The present county surveyor's monument.

Commissioner Martin – That has been the question, where is the corner?

Scott – This monument was established in 1963 and I haven't done any research to check it to its position however; when using its position to establish the 1913 road on this plat it falls within an acceptable range. I do understand where Mr. Butner is saying there is an old road cut and some evidence of an old road out

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on the side however; I don't believe you can use the evidence of an old road that might be the 1913 road to describe an error in a monument.

Commissioner Martin – That is still the burning question have we located the proper location for that monument?

Mr. Beutner – Your referring to the 162 road as matching the existing drive way through there. I'm talking about the full length of that area there, all the way down.

(Commissioner Martin is pointing out area on the map)

Mr. Beutner – What my question is, is there any description documented for this road? Commissioner

Martin – Up 162?

Mr. Beutner – Here again I requested this from the county staff and no information was forth coming on that. I do say we can fit the 1913 road description within the area shown there but without a description and a dedication of that road I do not believe we have a 162 road there. And with the question as to the county surveyor's section corner we don't know where 1913 is. Because it is a deeded roadway. I had a question I asked back in November of 06, is the 1913 dedication road document is it a fee document or is it an easement document? I have a belief in that but I would like the parties concerned to make that decision. And the grantee for that deed was the County Commissioners and their successors. I would also like to throw out when the board here I believe will probably talk to the county attorney staff pertaining to that, that the county has been taxing the Crouch property for this road. If it's a fee, the county has been taxing it. If it's an easement then we can proceed from that point on. I do agree there is an encroachment on the southeast corner of the property. I was out there and in doing the boundary survey of the property I naturally went through this area. I have a plat I would like to give you for this encroachment area.

(Presented a plat to the board)

Commissioner Martin – Put on wall and Mr. Butner gave one to Scott

Mr. Beutner – I noticed on Scott's drawing he located the steel rod and I not only located that steel rod but I also located another surveyor's monument a foot away from that. Apparently he didn't find in his field work.

Mr. Beutner showed two photos to Scott and then passed on to the board.

Scott – What are the dates on those photos?

Mr. Beutner – The 8th the day after you were there. When I was there I noticed that someone had dug the one hole and they came up with steel rod. When I took my metal detector around and using the calculations that I calculated from doing the complete boundary of the property it put me into the area of the steel rod with the cap on it belonging to Mr. Harrington. For some reason surveyors do not agree on measurements.

Scott – I did not see that plastic cap its obvious it's above ground and like Mr. Beutner said its one foot away from the steel rod. If it had been that visible to me on the day I was there I would have seen it.

Mr. Beutner – The thing is it isn't on the surface it was approximately ½ inch below the surface.

Scott – And again I used metal location device as well, scanned the area. However, we are looking at a foot of difference.

Mr. Beutner – We are also looking at four different properties that come together at that point I believe.

Commissioner Martin – So we are going to start with the first one and take care of the encroachments, identify the property owners; allow them to correct that so they can come in with the approval process. If not we will have to do other actions.

Mr. Beutner – May I, we have also asked for the drainage of 162 to be taken care of because the drainage of the newly constructed road flows down through the Crouch property.

Commissioner Martin – We are talking the newly constructed road, Commissioner Martin looking at map asking about road.

Mr. Beutner – I'm talking about the new road coming from the counties Henderson Stirling Road, 162A.

When that was constructed that comes all the way down from – All looking at map now pointing out roads.

Don – Mr. Beutner is that the drainage problem for the whole length or are there specific areas where it discharges?

Mr. Beutner – What happens is the specific areas where water builds up and drains across.

Don – I only ask that it might make easier to rectify if those can be identified. I'm not aware of any drainage easements that were obtained across the Crouch property for that road so they do have to deal with that issue.

Adrienne Crouch – Presented pictures to the Board – to enter drainage problems

Don – The planning department could benefit from those photographs so they could discuss with developer.

Commissioner Martin – Is that acceptable Mr. Beutner?

Mr. Beutner – Yes. If you go down there and walk the driveway, the Crouch driveway, you can see where the water has flowed across and eroded it. It is also eroding across the other property. I'd also like to point out at this time once again I do not believe the Crouch property has ever been divided into lots one and two. The Board approved a drawing but there was no creation of lots one and two on that and there was no routing of the road way as being a county road other than the surveyor's indication. The original subdivision exemption was never recorded. As I say there was no dedication on it among numerous survey drafting errors.

Don – Just as technical matter on the exemption, personally I agree with Mr. Beutner but probably for different reasons. There is an amended exemption plat that is recorded and because of the way our regulations are written that amended exemption plat functions the same way as if it were an original exemption plat. So there is a recorded exemption plat however; as a matter of law even with the recording of that plat those lots don't come into existence as separate lots until they are actually conveyed. I'm not aware of either of them conveyed so while the plat is recorded, no split has occurred because no conveyance has occurred. That is one issue. The other is the road itself is portrayed on that recorded plat at the direction of Mrs. Crouch. That statement is perhaps broad actually it was our surveyor at the time who determined the location and platted that road but it was their representation in asking for those exemptions that located that road as it is today.

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Adrienne Crouch – Historically, the County Commissioners in 1993 brought a law suit which I have given to you that said you didn’t know where County Road 162 was. You didn’t present me with the law suit I haven’t know anything about it. I have two or three different deeds out for my family’s property that goes to the Crouch exemption in 1993 that I paid for. But the point is that County Road 162 also is not located properly north of me. Like Mr. Beutner told you last time we presented seven pages where you have had significant discussions through many many years starting in 1980’s about the Sun Mesa Subdivision and the Henderson Stirling Subdivision of which you tell the developer that you need to do a number of things associated with County Road 162 and that has all been documented. If you don’t know where County Road 162 is I in good faith have spent numerous, numerous, numerous multiple, multiple times with surveyors both on my family’s property and my property through the years starting in 1989, 1990 and I didn’t know I didn’t have the approved lots one and lot two until I went in 2002 to the Assessors Office and they said you don’t have any. So when you elude that it is all up to Miss Crouch that I was the one that drove this that I’m the dynamic one or the proactive one, the bottom line is you guys knew in reality you needed access and so had me in 2002, after I signed another document Crouch Exemption Amended in 1999 that essentially I pay \$12,000.000 for the little triangle up there where John Martin had pointed before, the lower one. I personally pay \$12,000.00 when in fact the county really already knew that the access into Sun Mesa by this 162A really was not in compliance. Engineering wise, in fact it says that the developer is supposed to upgrade, smooth out the curves all the way from the Strang Ranch, which has not been done. In additional to that just last week on 102 road of which we still continue to ask where that easement description is. There were fire trucks up there where the county road people had gone through the gas line of which was originally my water ditch which the gas company said oh go ahead and do it anyway. The corner up there between 102 and 162 is a giant curve and it’s at about 260 degree angle on a curve to from 102 back to 162. I’d say this is minor compared to a law suit you’re going to have over 102 going over and back down on a curve to 162 and I would suggest that you guys really take a look at that. Commissioner Martin – We can’t solve it all in one day. The issues that are coming up we will have to handle as they come through. We have at least three that have been identified that we need to get corrected now and we will continue to do so. I don’t see this going away in a short period of time. We need to stop now, identify the three items we have there, get those corrected and then continue to move so we can get it all done.

Don – I’ve got two, the encroachment on 162A on the southeast corner of lot two of the Crouch property and I’ve got the drainage issues off of 162.

Commissioner Martin – I had actually two, I separated the fence, if it is just going to be the encroachments that will be fine.

Don – I’m glad you mentioned the fence, was that put up by developers or Mrs. Crouch did you put that up?

Adrienne Crouch – Ironically the Stirling Ranch had built the road at the fence going west/east at the bottom of my property and so I decided to match her fence to my land going north and south. I had no idea because no one had ever contacted me that there had been an encroachment all this time. The reason I made the fence curve to their subdivision was purely to be nice until they got it off of my property so nobody would get killed. As you can tell its right out in the middle of the road so I put that fence in. The original fence in my opinion was east of 162A. I had discussions where 162A has moved into my property, the sagebrush has been killed and the gravel is now going into that 5 acre lot two and there’s just a lot of problems because my house along with my property is lower than the road and I panic every time it rains.

Don – The reason I asked that is in rectifying the problem I think we all recognize that it exists at that southeast corner, in terms of your expectations you want the obvious road improvement removed. What about the fence do you want it relocated just so we know what we are telling them? Don showed fence, this is a pretty good picture.

Mr. Beutner – I think with the relocation of road the fence should be brought out there to emphasize the fact that the roadway goes along there.

Adrienne Crouch – I would still appreciate you mentioned that you received easements or documentation for 162A.....

Commissioner Martin – That is at a different time we will continue.

Adrienne Crouch – But isn’t that kind of dependent on the other part John?

Commissioner Martin – It could be. We will be asking Scott more questions and get him to do more things for us.

Mr. Beutner – Asked for map back of 1913 road. The County seems to lose these maps. I have been told that maps I have requested have been lost.

Don – Does the Board give any further directions to Scott in terms of any additional work at this time or not?

Commissioner Martin – (gave back map) I think it is an ongoing issue if we can get these resolved then we can continue to ask him if we need it.

Mr. Beutner – I have a couple of cases pertaining to just this type of thing in the location of the 1913 road. One of the cases goes so far as to say an accurate survey today does not relocate the property.

Commissioner Martin – We have been exposed to that a couple of times on the BLM doing different surveys. Three Mile Road is a good example of that and a few other places.

Mr. Beutner – Well if you could figure out what the county surveyor located back when, then we could probably go through with the BLM surveys and we could locate that section corner at that time.

Commissioner Martin – And if we decide to do that we are going to ask the county surveyor to do that since he is the one who is going to have to certify that is the corner that it is going to go on from there.

Mr. Beutner – As I say with out the field notes, currently I’m looking at another county surveyors monument just north of Catherine Store just off of 100 road right at the base of the hill. It is a witness corner but it doesn’t say what the witness corner is. It could be in four different directions.

Commissioner Martin – I’m not going to solve that today Louis.

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Don – So that everyone is properly advised on meetings does the Board expect a report back from the planning department at your next regular meeting?

Commissioner Martin – That would be in September and we will need to notify the Stirling Subdivision on their issues.

WATER– COLORADO RIVER WATER CONSERVATION DISTRICT TECHNICAL WORKSHOP

Chris Tresse, Eric Kuhn and Dick Stephenson were present.

Chris – This is a follow-up meeting to the one we had a few months ago. We discussed Colorado River Basin proposal little bit of history and the Commissioners indicated your desire to participate in the negotiations that were on going. You have since entered into a legal agreement with West Slope parties that are jointly negotiating with Denver Water and now the Northern District which Eric will describe more. We wanted to take this opportunity to bring you up to date. Also to thank you for sending Mr. DeFord to the last meeting that was an all parties meeting.

Eric – My understanding is that we are just going to give you a briefing and answer any questions. We want to make it clear there are a number of things going on in the water world right now. We are as confused as anyone first since the House Bill 1177 process which your representative there is Louis Meyer. This forum is dealing with what I call the big picture issues, the issues from 30 thousand feet. Those are very important and they are inter-related to everything else that is going on. Those big picture questions of course are let me just give you some of them on the Colorado River how much water is left and how is that remaining water going to be developed? How are we going to deal with it legally? Protection of agriculture on the South Platte is a big issue, water for energy and I think the elephant in the room and everyone's question is what role is the Colorado River going to have in the Front Range for providing water for the Front Range? That process is moving on. A separate process that involves Grand County, Summit County, and Eagle County etc... is specific to project permits and issues related to two entities, Denver Water and Northern Colorado Water Conservancy District. The way I look at is those entities are at top of the river but they effect everything on the Colorado River down to the state line basically. That is why I think it is very positive and important that Garfield County is a participant. But those entities are looking at the same big picture issues, all of us are but they don't have rights, they don't have plans and hopefully they don't even know that the Roaring Fork exists. What does it do with the Roaring Fork? Well, at this point in time Denver Water, Northern Colorado are not involved and don't have any plans or water rights or anything else involved in the Roaring Fork River.

Commissioner Houpt –We also invited other people to talk about Roaring Fork....

Eric – Roaring Fork is an important issue for House Bill 1177 and it's important for the state. It's not necessarily with Grand and Eagle, Summit counties that are dealing with some specific problems. Grand County is facing some projects that are going to go ahead whether House Bill 1177 proceeds or not that has to be addressed. The Colorado River Basin Proposal was specific to it. It will ultimately have to get involved in water for the Front Range. There have been some discussions about projects. I think in a lot of ways those are premature it's like having a discussion about the next Grand Avenue Bridge what color is it going to be before you even decide whether it's going to be there or not. I think the first question that has to be addressed is how much and what kind of role is the Colorado River going to have in providing water for the front range and how can you do that in a way that it is acceptable to the west slope, west slope environment and the state. Some of my concerns are one of my fears are that in Colorado we have had a long history of solving problems through creating legal fictions that ultimately fall apart. I'll give you an example of that, pumping water from the Platte River ground water right next to river and the assumption in the 50's and 60's and 70's and even early 80's was that river would not impact the flows of Platte, South Platte and senior water rights on the South Platte. Unfortunately facts caught up with us, Colorado Supreme Court decisions were no that doesn't work folks. Now you have farmers on the Front Range literally in areas that are third generation farmers who relied on water and now do not have a water supply. That's creating a huge issue. Governor's created a task force but the only solution they see is to bring in more water. Well where does that water come from it's not on a Platte. Same thing happened with the Arkansas River, pumping of ground water that was tributary to the Arkansas River wouldn't impact state line flows with Kansas, the United States Supreme Court said no. Continued with examples..... The problem on the Front Range is everything surrounding Denver. What I hope never happens and I'm really pushing our river district, the West Slope and I think you agree with this lets not create a legal fiction on the Colorado River that more water exists than really does exist because the same thing will happen. The facts will catch up with us and in the future we will have to deal with it. We are stepping back even further maybe now from 20 or 30 thousand feet to about 20 or 30 miles looking at Colorado River Basin. It is shared by seven states and two countries. Mexico and seven US states. In many ways the lower basin and the upper basin, they're different worlds. We're largely above Lake Powell and Lake Mead and they are largely below. The Secretary of Interior is the water master it's a boundary stream. Here we have a state engineer that deals with things you don't have a state engineer on the main stem of the Colorado River. So the Secretary of interior and the US Federal government is the water master on a boundary stream. Right now the Secretary is in process of developing something that has never happened before and that's shortage criteria. If we don't have enough water how are those shortages going to be allocated. I'd like to point out it took us about 15 years, states and the federals governments, to decide how to allocate surplus water. Now were in the process of allocating shortages.

Chris – Big challenge, unlike the Arkansas, the South Platte, North Platte, the Rio Grande, the Colorado River doesn't leave Colorado at one point it's not just the main stem. It's the whole Colorado River Basin leaving Colorado and entering three other states. It's a little more challenging than some of our other basins and our compacts, our interstate agreements on the Colorado River are not written the same way for the Colorado River as they are on some others. So the numbers, the determination of how much water the Colorado River has to develop and therefore yet to develop isn't a simple mathematical determination it involves an awful lot of politics and law and policy as well.

Eric – The last thing I wanted to mention what was happening this year was Shoshone. I think there was some confusion there. The plant of course there was not confusion a 98 year old penstock burst flooded the

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plant. The damage was extensive I think you saw the press release last week they expect to have it repaired, 12 million dollar repair, by next spring. That's one turbine or two and whether next spring is next March or next June we don't know. Probably closer to June than March, With the plant out it changes the way river water rights are administered and that in theory could have caused some problems with stream flows and the Colorado. Two of the largest rafting areas on the West Slope are what we call the Pump House Wash and then of course the Shoshone reach and we were concerned along with others that we not reduce flow levels to a point where you don't have good rafting flows, that has not happened. We have a general agreement that is more of a gentlemen's agreement than anything else to operate upstream reservoirs in a manner that keeps flows in both the Pump House Wash and the Shoshone reach that has worked today. We only have about two weeks left of the recreation season. I think the flows this weekend were 1700 CFS. When I say there was some confusion there was an article that talked about our targets are 810 CFS in Palisade which is down below the big diversion structures and 12 to 1300 here and one of the local rafters said we can't raft on 810, but your rafting in Shoshone not in Palisade so their happy with what they have in Shoshone. We've done a job that I think 90% of the credit goes to Mother Nature and 10% maybe to us. The plant is going to be out for the winter and that will create new challenges that we haven't began to address.

Commissioner Martin – We also see some activity down at the roller damn

at Cameo. We are very curious about what is going on over there, how that is going to affect us.

Eric – That is a part of the Colorado River, the fact that it is happening is probably a good thing, and we don't have problems with the endangered species act. They are building fish ladders and fish screens. That program has been going on for almost 20 years and I think the fish ladder at Palisade is the last piece. That actually will reduce the necessity to keep real strict flows in the Palisade region because it opens up more habitat. Whether the fish are going to use it, these are warm water fish and how far they come up who knows. We haven't had any permit problems and we haven't had an entity not get a federal permit because of endangered fish species in Western Colorado for over 20 years because of the recovery program.

Commissioner Martin – The other issue was just below the roller damn in reference to all the sediment when they did drop the level and they diverted to a different gate you could see a tremendous amount of silt buildup.

Eric – They flush that out in the spring and fall.

Commissioner Martin – I don't know how they can flush that much out. There was a lot there.

Eric – That project was completed in 1912, it's close to 100 years old.

Chris – One thing the board might need to consider at some point for the next meeting of the Colorado River Basin proposals, you all have mentioned a desire to have commissioners more involved. It was very hopeful to have Mr. DeFord there. Do we have another meeting scheduled?

Eric – No the next meetings really right now Mr. Bickerman who is the facilitator is focusing on some specific issues specific primarily to Grand County. Why Grand County, they have projects pending two of them actually and it is much more immediate. His focus now is to have some smaller groups more targeted and then bring back the bigger group at a later time.

Commissioner Martin – Our conflict and why we weren't there is because it's on Monday.

Eric – We are trying to do that on Wednesdays and Thursdays. With a group this big, there's a fairly narrow window when everyone is free.

Don – I was very interested in presentation the Denver Water Board made on the Green Mountain Pump Act Issue. I expressed this to Chris at the meeting after listening, from a lay person's perspective and the first time I had seen this it appeared to me if that project goes forward there will be actual depletion in the river. The concern I had about the Roaring Fork was if there is depletion in actual flows of water how would that affect water rights in the Roaring Fork? Another words if senior down stream rights, particularly the Mesa County group had to issue a call would it be Roaring Fork rights that had to answer rather something on the Colorado.

Eric – If the project were developed the Wolcott Reservoir it would be developed on Junior Rights and it would be the junior right on the stream. Right now on the Colorado River and this is true of most streams outside of the Yampa if you're going to develop water only the water that's available to develop occurs in the spring. Everything else is spoken for. That is why the Shoshone plant is so important. What the Green Mountain Pump Act does or what any other project will do is take water from March, April and May and store it and then release it some where else. Those rights would operate on a very junior right. The Roaring Fork is in a very interesting situation because it has some very senior ditches along the Roaring Fork. Even the Trans Mountain diversions are quite senior and it's unlikely the order of which you curtail rights will be changed by the development of that project or any other. The big question here for the Green Mountain Pump Act is again as I said Denver Water doesn't really need the water. If that is going to be a project it's going to be a project for Front Range communities outside of Denver. What is going to be the political price? What does the West Slope as a whole have to get in order to support a new trans mountain diversion? And that's not the only one Northern wants to look at the Yampa. The unfortunate situation is that you can't, Douglas County has the same right to appropriate water on the West Slope as Carbondale. So how are we going to do this so this is the last one. You don't create another legal fiction. Instead of having South Platte irrigation be the target or be the problem in 20 or 30 years it will be the Grand Valley or West Slope recreation that's the big concern.

Don – Different issue all together in terms of the Shoshone call will the agreement informal or otherwise leave sufficient flows to protect Rifle's intake?

Eric – We don't. The agreement does not cover the winter months. It only lasts through the irrigation season. Rifle in the past has had problems not with their flows it's been the salts you get from Dotsero down to South Canyon are going to continue and as the salinity goes up and the flow goes down then it's not health problems it's really a taste problem. I suspect that this year without a plan and if it gets dry Rifle won't have a problem diverting water whether the residents want to use it or not is going to be a problem. I think right there that the communities along the main stem have a basic problem but it's an aesthetic problem and their ultimately going to have to do what Clifton has done which is go to some sort of RO to remove the salts. It's a choice you make. Nature only provides about 8 or 900 CFS in the winter months

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and the reality is Shoshone has almost no impact on the steam in the winter months except in odd years where folks upstream are concerned that we are going to have flooding. They get a big snow pack you're going to drive your reservoirs down so you don't have a serious problem so then we put a lot of extra water in the stream. Denver water might be diverting 10, 15 CFS in the middle of the winter. We don't use a lot of water in the winter months. Most of what we use on the West Slope in our houses goes right back to the stream. Rifle will have some taste problems if it is a dry year.

Mark Fuller – Director of the Ruedi Water and Power Authority. I understand you had discussion a few days ago with Sharon Clark, who talked to you about the Roaring Fork water shed plan that is currently under way. The Ruedi Water and Power Authority is the sponsoring entity for that plan. I'm happy to answer any questions that may have come up at that point that Sharon couldn't answer and Albert Slab is here representing the Nature Conservancy who is one of our co-operating partners on the Roaring Fork Watershed Plan and has some watershed issues they are working on independently.

Albert Slap – I worked on the Colorado River Head Waters Project for the Nature Conservancy which I have been doing for the 2 ½ years. I would like to say there are a lot of in my opinion having looked at these issues fairly carefully for the last 2 ½ years there are a lot of issues that are on the horizon that affect Garfield County. The river district and the gentlemen here are really the experts in the area and they are doing a great job but in terms of the county's interest as opposed to the river district interests, we have in Aspen Phil who's really an expert and is doing a great job. We have Roseanne Sullivan for Pitkin County and they have been involved in obviously the watershed plan, competing legislation that's being proposed now how that is going to affect the Roaring Fork Watershed. Ruedi water the remaining water for marketing, the endangered fish program how these things are going to come down in the coming years. The amount of water that Twin Lakes takes and the 3,000 acre foot exchange with Aspen and Pitkin County but that is not enough because there are dry reaches up there how can we get possibly more water flowing down the Roaring Fork from the Twin Lakes diversions. Obviously you talked about the Shoshone Power Plant but the Denver Water Agreement they have been nibbling away at those water rights which do tend to keep the water flowing through Glenwood Canyon, flush out the sediments and provide water for the endangered fish. There are a lot of issues and I guess if there was one thing that I would throw out on the table is whether there is someone on the staff who could be assigned, we had Randy Russell he was very involved but I don't know that we have anybody right now who is really up on water issues. It might be worth while to think about whether the county should be meeting with its counterparts like Phil and Roseanne and someone from Eagle County to figure out what is in your best interest. How you're going to relate to the watershed plan, all these issues. And Chris, his testimony in front of the committee that was just recently investigating the peace proposals was excellent and really did a great job in representing West Slope interest but it's still not Garfield County's interest. We'd like to have another person like Randy to work with us.

Commissioner Houpt – It is a good point and we do have somebody who was hired to be a long range planner and now we have a full staff in our planning department and we can pass that along to Fred.

Commissioner Martin – We also appointed Dick he is on the board and has reported back to us. I've been to a few meetings not all of them. As well as getting Don involved in reference to the legal aspects and yes it has been a focal point that we definitely need to be involved more and more which this Board is trying to do. We've been also on the Ruedi board all the way back to Walt Stowe, Marian Smith etc. so we have had a history and we know what is going on. We don't have the water companies such as Pitkin County and Aspen because they are making money off it generating electricity etc. and going into contracts. We don't have that and again we are trying to take care of our municipalities and making sure they are safe. We do that through Chris. We have been talking about the Trans continental diversion, the diversion out of the Roaring Fork which also affects the Crystal and the Frying Pan etc. Being politically involved again up with the support with the Colorado River District and also looking at the natural resources sub-committees, CCI and working on that.

Commissioner Houpt – I don't think there is a question that we weren't there and your right John we have been involved on several different levels. I think you probably were asking for a new point person to help really coordinate that effort.

Albert – But the other thing is Pitkin County and Aspen have a position on what they want in the Peace Op Legislation and any negotiations that would come out of that and they provided that position to both John Salazar and Ken Salazar and if they were successful in getting that it would benefit Garfield County because there would be additional flows down the Roaring Fork. So the question is does Garfield County as Garfield County have a position, what would that position be, how would Garfield County want to position itself in any negotiations that might take place which is a political matter. That's just an example of hopefully have positions that would ultimately work together with the other political entities that are making these positions know.

Commissioner Martin – That why we also joined the QQ, which is out of there and we have sat down and entered into mediation and negotiation with the Denver and the northern getting our position on the board so we are doing that and that's the commissioners role. Again we took our legal representative to make that. Again we do it through our committee we're not doing it out there on the front page of the newspaper saying this is what our position is. We will relay it to everybody and I think we do it through the right channel it has more strength than to go out standing on the street corner beating the drum saying this is what our position is. That's been our approach and it may be low key but we are there and very strong on it. We put our money where our position is.

Dick – The River District does a very diligent job. We are just going to have to try to work the best deal we can but these guys do a tremendous job.

Commissioner Martin – There are so many back doors as to where the water is going and you have mentioned it and they are nibbling away at it. We have to face that we are going to have water delivery from Mother Nature in a different manner. We have to start thinking new and we push that philosophy as well. We can't always go up on the mountain and measure the snow and say this is how much water we are going to have. It's coming in a different delivery system and we how to think again in a different way. How are we going to capture that, how are we going to benefit. Spring time run off let it go all down the

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stream. What about the old impounds, what about the new approaches? What can we come up with to keep the same amount of water that we can use year round instead of just again depending upon snow fall? Eric – Tresi, one more issue if your planning department has some time and this isn't the river district, we are just one party of this, the state, Yampa, White Round Tables and the Colorado River Round Tables are doing a water energy study. I think it is going to be very important and I don't know if the results will be ranges I don't know. Don't expect any clear black and white answers but at least within the shades of gray we are going to get I think it's going to tell us what we need to do from Glenwood Springs maybe down and then Rio Blanco Counties but I think that's also very important to your....

Commissioner Martin – We have to worry about the White and the Yampa because we have some of the head waters and the tributaries in Garfield County that feed to those two.

Eric – The other thing, what's happening with energy development? The communities that may service that may be in Glenwood Springs. The project its self may be in one basin but the impacts are spread out among that. The state has been very generous in funding it.

Commissioner Martin – The allocation of those historic impoundments up off the Yampa those are affecting us they are all in Garfield but there also to ditch companies but now we are going to have other demands because it's not allocated. So we've been involved in that.

Commissioner Houpt – So also in response to your concern Albert is the watershed group meetings still, you know that Randy was very involved in that and so when there was a bill or policy issue that we really needed to pay attention to and take a position on he could bring that to us. Are staff members still meeting and discussing those issues?

Mark – The watershed collaborative is still meeting twice a year. There most recent one was up at the Eagle County building a couple of months ago.

Commissioner Houpt – We can talk with Fred about that now.

FINANCE - DISCUSSION OF THE 4TH SUPPLEMENT TO THE 2007 APPROVED BUDGET AND THE 4TH AMENDED APPROPRIATION OF FUNDS – PATSY HERNANDEZ & CATHLEEN VAN ROEKEL

Commissioner Martin – Notification was done through the paper?

Don – Correct and notification did occur and is adequate.

Commissioner Martin – Swore in the speakers and asked for Exhibits to be identified for the record.

Patsy – We do, before that I would like to introduce Cathleen Van Roekel. Patsy is in the process of training. Patsy presented Exhibit A; Supplement to the approved budget and a contingency transfer. Our request for you is to approve the supplement and the contingency transfer.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the resolution concerned with the 4th Amendment to the 2007 budget and the 4th Amended Appropriation of Funds. Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin - aye

ASSESSOR - ABATEMENT - RIVER VALLEY RANCH GOLF, LLC – LISA WARDER

Schedule No. R590324

Tax Amount - \$5,738.08

Commissioner Martin – Swore in Sean McCourt from the assessor's office.

Sean – Abatement for 2005, total for the abatement is \$21,621.06. Explained how they came about amount.

Don – These values are for both tax years with the BAA decision?

Sean - Yes

Commissioner Martin moved to close public hearing. Commissioner Houpt - Second

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – Made a motion to include all abatements, reading them separately and stating each amount. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

Abatement – River Valley Ranch Golf, LLC – Lisa Warder

Schedule No. R590323

Tax Amount - \$1,086.28

Abatement – River Valley Ranch Golf, LLC – Lisa Warder

Schedule No. R450041

Tax Amount - \$8,937.40

Abatement – River Valley Ranch Golf, LLC – Lisa Warder

Schedule No. R590277

Tax Amount - \$5,859.30

BUILDING AND PLANNING: CONSIDER AN AMENDED PLAT FOR LOTS 34 AND 35 OF THE ROARING FORK MESA AT ASPEN GLEN, FILING 2 – APPLICANTS: ENIS AND KAREN ALLDREDGE – CRAIG RICHARDSON

REQUEST

This is a request to amend the Plat for Lots 34 and 35 of the Roaring Fork Mesa at Aspen Glen, Filing 2.

The parcel is located at 0281 Golden Stone within the Aspen Glen PUD.

The owners of the parcels, Enis and Karen Alldredge, would like to dissolve the lot line between Lots 34 and 35, in order to create one large lot. The Applicants request also includes realignment of the platted drainage easement to conform to the drainage ditch as constructed.

STAFF RECOMMENDATION

Staff is in support of this amendment. Planning Staff therefore recommends that the Board of County Commissioners approve this amended plat request with the following conditions.

- 1) That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
- 2) Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the

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Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.

Discussion:

Craig – Presented and recommended approval with two conditions.

Enis – Lot is adjacent to us and we thought it would be a great opportunity to assure we some elbow room than we would otherwise normally have. So we bought the lot and would like to join the two to make a nice size living area

Commissioner McCown – I make a motion we approve the amended plat for Lot 34 and 35 on the Roaring Fork Mesa at Aspen Glen filing two conditions of staff. Commissioner Houpt - Second

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING: Consider the Referral of a Special Use Permit Allowing “Processing of Natural Resources” within the Agricultural Industrial Zone District – Applicant: Blue Ox Logcrafters, LLC – Craig Richardson

Request

Blue Ox Logcrafters, LLC has submitted a Special Use Permit application for a “Plant for fabrication of goods processed from natural resources” within the Agricultural Industrial Zone District. The Applicant is requesting approval from the Board to allow “log sculpting” on the subject property. The logs processed on-site will be used to construct custom log homes.

The subject property is located east of the Town of Silt adjacent to Interstate 70.

Hours of operation: 6:00 am to 7:00 pm Monday through Saturday

Vehicles: Up to 20 employee vehicles and 10 client/customer vehicles per day

Equipment: Wheeled and tower cranes, forklifts, loaders, band saw mills, material and equipment trailers and trucks, portable fuel tanks, chainsaws, woodshop tools, carpentry tools, and hand tools.

Staff Recommendation

Staff recommends that the Board of County Commissioners not refer this application to the Planning Commission.

Discussion:

Craig – Presented to the board with operating hours from 6:00 a.m. to 7:00 p.m. Monday through Saturday.

Staff recommend that the Board of County Commissioners not refer this application to the Planning Commission.

Bill Archer – We agree with the staff recommendations and I thought I would come to answer any questions.

Commissioner McCown – Are you going to be constructing the homes on the site and then taking them back down to another location so these homes will be built on site as your fitting the logs to them?

Bill – They will be personally constructed.

Commissioner Houpt – Question to staff is there a particular reason you didn't refer this or wouldn't recommend referring?

Craig – I don't see what we would get.

Commissioner Martin – So the motion is to then go ahead and keep in front of this Board and not refer.

Commissioner McCown – Schedule it before the BOCC

Commissioner Martin - Okay that's the direction given then and we will see you in front of this Board when it is scheduled.

BUILDING AND PLANNING: CONSIDER A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT LOCATED SOUTH OF THE TOWN OF SILT ON COUNTY ROAD 214 – APPLICANTS: VALTON D. AND TONI L. WHITTINGTON – DAVID PESNICHAK

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner David Pesnichak submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff memorandum; Exhibit E – Application; Exhibit F –Memo from Jake Mall of the Garfield County Road and ridge Department, dated July 6, 2007; Exhibit G – Memo from Brit McLin of the Burning Mountain Fire Protection District, dated July 12, 2007 and Exhibit H – Well Permit Number 66057-F, issued July 26, 2007

Chairman Martin entered Exhibits A – H into the record.

David explained

The Applicant has provided well permit number 66057-F which was issued July 26, 2007. This permit allows for household use in 1 single family dwelling unit and 1 accessory dwelling unit.

In addition, the Applicant has provided a 4 hour pump test conducted on May 24, 2007 by Samuelson Pump Company. The pump test indicated a pumping rate of 11 gallons per minute, a standing water level of 39' 5.5" and drawdown to 48' 11".

The Applicant is proposing to install a new ISDS for the ADU. At the time of building permit for the Accessory Dwelling Unit, the Applicant shall obtain an ISDS permit from Garfield County with adequate capacity to provide sewage and wastewater treatment for the new Accessory Dwelling Unit.

Main access to the proposed ADU will be from a driveway which is to serve both the future ADU and existing primary dwelling unit. This driveway is accessed from County Road 214. Garfield County Road and Bridge has indicated that they have no objection to this application as long as all access requirements are met (See Exhibit F).

The proposed ADU is in character to the surrounding properties and should not adversely impact surrounding owners. If approved, the applicants shall use minimal lighting that is shielded to prevent light trespass on other properties and is inward and downward facing towards the structure.

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The property contains 5.293 acres, which exceeds the minimum required for an ADU (4 acres). The proposed ADU will be on a portion of the property that has no slopes exceeding 40% (See above hazards map).

The Applicant understands that the Accessory Dwelling Unit cannot exceed 1500 square feet. The Applicant is proposing a 1475 square foot unit.

There is no known Homeowners Association or restrictive covenants on this parcel. This requirement is not applicable.

The Applicant has provided well permit number 66057-F which was issued July 26, 2007. This permit allows for household use in 1 single family dwelling unit and 1 accessory dwelling unit.

In addition, the Applicant has provided a 4 hour pump test conducted on May 24, 2007 by Samuelson Pump Company. The pump test indicated a pumping rate of 11 gallons per minute, a standing water level of 39' 5.5" and drawdown to 48' 11".

At the time of building permit for the Accessory Dwelling Unit, the Applicant shall obtain an ISDS permit from Garfield County with adequate capacity to provide sewage and wastewater treatment for the new Accessory Dwelling Unit.

The Applicant understands that only leasehold interests are allowed in the unit.

The Applicant is required to obtain a valid building permit from the Garfield County Building Department for the new Accessory Dwelling Unit. In addition, this Accessory Dwelling Unit will be required to meet all applicable federal, state and local regulations.

RECOMMENDATION

Staff recommends **APPROVAL**, with the following conditions

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
2. All lighting associated with the ADU shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
3. The applicant shall obtain any applicable Garfield County building permits, grading permits and access permits.
4. The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended, and shall meet all building code requirements.
5. The gross floor area of the accessory dwelling unit shall not exceed 1,500 square feet.
6. The accessory dwelling unit shall not be conveyed as a separate interest but may be leased.
7. At the time of building permit for the Accessory Dwelling Unit, the Applicant shall obtain an ISDS permit from Garfield County with adequate capacity to provide sewage and wastewater treatment for the new Accessory Dwelling Unit.

Dell Whittington – It is going to be an addition to the community. It will look nice. It will keep my family together and my son can help take care of it.

Commissioner Martin – You understand all the conditions that have been put on.

Dell – I do

Commissioner Martin - Any questions of the Board? Anyone in the audience have any testimony?

Debbie Guccini– I live right across the road from Dell at 4789 214 Road in Silt. My questions is just where the dwelling is going to go?

Dell – Below my road just north of the Y.

Debbie – By the barn?

Dell – To the north

Debbie – Okay thank you and we are happy with him doing that his place looks great and will add to what he has there.

Commissioner Martin – In the staff report showed Debbie the actual location proposed not the actual legal description where it is going to be.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to Close Public Hearing

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve Special Use Permit for and ADU with the seven recommendations of staff. Commissioner Houpt – second

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING: CONSIDER A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT LOCATED SOUTH OF THE TOWN OF SILT ON COUNTY ROAD 331 – APPLICANT: JANICE LEIGH HUNT – DAVID PESNICHAK

Janice Hunt – I do not own the mineral rights and I notified Mr. Barrett because I know they own minerals on our adjacent property.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner David Pesnichak submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff memorandum; Exhibit E – Application; Exhibit F – Memo from Jake Mall of the Garfield County Road and Bridge Department, dated July 12, 2007; Exhibit G – Memo from Brit McLin of the Burning Mountain Fire Protection District, dated July 12, 2007 and Exhibit H; letter from Greg and Mary Ann Shelling dated August 15, 2007.

Chairman Martin entered Exhibits A – H into the record.

David explained

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The Applicant has provided Water Decree Case Number 04CW199 (Well Permit Number 205439) for the Doll Well which was signed on January 6, 2006. This ruling allows for household use in 3 residential dwelling units.

In addition, the Applicant has provided a Pump Installation and Test Report which was conducted on March 18, 1999 by Samuelson Pump Co. Inc. The report indicates that at the time of completion, the well was producing 15 gallons per minute.

The Applicant is proposing to install a new ISDS for the ADU. At the time of building permit for the Accessory Dwelling Unit, the Applicant shall obtain an ISDS permit from Garfield County with adequate capacity to provide sewage and wastewater treatment for the new Accessory Dwelling Unit.

Main access to the proposed ADU will be from an existing driveway which is to serve both the future ADU and existing primary dwelling unit. This driveway is accessed from County Road 331. Garfield County Road and Bridge has indicated that they have no objections to the application as long as all driveway permit requirements are met (See Exhibit F).

The proposed ADU is in character to the surrounding properties and should not adversely impact surrounding owners. If approved, the applicants shall use minimal lighting that is shielded to prevent light trespass on other properties and is inward and downward facing towards the structure.

The property contains 36.28 acres, which exceeds the minimum required for an ADU (4 acres). The proposed ADU will be on a portion of the property that has no slopes exceeding 40%.

The applicant understands that the Accessory Dwelling Unit cannot exceed 1500 square feet.

There is no Homeowners Association or restrictive covenants on this parcel. This requirement is not applicable.

The Applicant has provided Water Decree Case Number 04CW199 (Well Permit Number 205439) for the Doll Well which was signed on January 6, 2006. This ruling allows for household use in 3 residential dwelling units.

The Applicant is proposing to install a new ISDS for the proposed ADU. At the time of building permit for the Accessory Dwelling Unit, the Applicant shall obtain an ISDS permit from Garfield County with adequate capacity to provide sewage and wastewater treatment for the new Accessory Dwelling Unit.

The Applicant understands that only leasehold interests are allowed in the unit.

The Applicant is required to obtain a valid building permit from the Garfield County Building Department for the new Accessory Dwelling Unit. In addition, this Accessory Dwelling Unit will be required to meet all applicable federal, state and local regulations.

RECOMMENDATION

Staff recommends **APPROVAL**, with the following conditions:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
2. All lighting associated with the ADU shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
3. The applicant shall obtain any applicable Garfield County building permits, grading permits and access permits.
4. The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended, and shall meet all building code requirements.
5. The gross floor area of the accessory dwelling unit shall not exceed 1,500 square feet.
6. The accessory dwelling unit shall not be conveyed as a separate interest but may be leased.
7. At the time of building permit for the Accessory Dwelling Unit, the Applicant shall obtain an ISDS permit from Garfield County with adequate capacity to provide sewage and wastewater treatment for the new Accessory Dwelling Unit.

RECOMMENDED MOTION

“I move to approve the Special Use Permit request for an Accessory Dwelling Unit for a property described as 3531 County Road 331 (Dry Hollow) and located south of the Town of Silt with the conditions proposed by Staff.”

Discussion:

Janice Hunt – It is a little house. My father is sick in Bolder and as he gets worse I would like to have a place for him and his caretaker to stay. I’ve showed the neighbors the plans and it’s real cute it won’t be an eye sore. No negatives to any adjoining property.

Commissioner Martin – You saw the staff report and its recommendations?

Janice – Yes

Commissioner Martin – Are there any recommendations that are a hardships? Questions from the Board?

There were none. Any one in the audience?

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to Close Public Hearing In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve a Special Use Permit for an additional dwelling unit with the seven conditions recommended by staff.

Commissioner Houpt – second. In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING: CONSIDER A TEXT AMENDMENT TO SECTIONS 3.02.03 AND SECTION 2.00 OF THE ZONING RESOLUTION OF 1978, AS AMENDED TO INSERT A DEFINITION FOR AND ALLOW “CONTRACTOR’S YARDS” AS A SPECIAL USE IN THE AGRICULTURAL/RESIDENTIAL/RURAL DENSITY (ARRD) ZONE DISTRICT – APPLICANTS: BRUCE AND ANN DEE SNODE – DAVID PESNICHAK

Bruce Snodde and Julie Hanson of Beattie and Chadwick were present. Julie answered questions from Carolyn Dahlgren.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

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Planner David Pesnichak submitted the following exhibits: Exhibit A – Proof of Publication; Exhibit B - Garfield County Zoning Regulations of 1978 as amended; Exhibit C – Staff memorandum; Exhibit D – Application and Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F; County Zone Map
Chairman Martin entered Exhibits A – F into the record.

David explained:

REQUEST

The applicant, Bruce and Ann Dee Snode, requests amending Section 3.02.03 of the Zoning Resolution to add “Contractor’s Yard” as a Special Use.

In addition, the Applicant proposes to add the following definition to Section 2.00 of the Zoning Resolution:

“The use of land for the purpose of storing machinery, equipment and supplies for an individual business that provides services to clients through the use of the machinery, equipment or supplies. Such use may include office and repair facilities.”

STAFF COMMENTS

As a “Contractor’s Yard” is proposed to be a Special Use within the A/R/RD Zone District, it is Staff’s opinion that such a use is consistent with the proposed Draft Land Use Code which permits “Contractor’s Yards” in the Rural Zone District once it receives a Major Impact Review. Generally, the Special Use process in the current Zoning Resolution is equivalent to a Major Impact Review in the proposed Land Use Code.

The definition which the Applicant is proposing for “Contractor’s Yard” is identical to that in the proposed Draft Land Use Code.

In regards to the Comprehensive Plan of 2000, it is Staff’ opinion that since a “Contractor’s Yard” is proposed to be a Special Use in the A/R/RD Zone District, the goals and objectives identified can be addressed as part of a specific project review process.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners approve the addition of “Contractor’s Yard” as a Special Use to Section 3.02.03 of the Zoning Resolution and add the proposed definition for “Contractor’s Yard” to Section 2 of the Zoning Resolution.

Discussion:

Commissioner Houpt – Can you show me where the property is?

Craig – Showed on the map County Road 352

Commissioner McCown – But this isn’t current.

Craig – That is correct the RGIS layer has apparently not been updated since those zone districts have been approved. The applicant and I went over this with the applicant and Julie Hanson has gone over it thoroughly and the property doesn’t directly abut any approved re-zone for light industrial in the area which is the purpose for the request for a contractor’s yard as a text amendment as opposed to a rezone of the property.

Commissioner McCown – If I’m reading this right, all of the property south of the airport and north of the County Road is AARD?

Craig – Went over to Commissioner McCown and showed on map the specifics.

Commissioner Martin – Any question - No

Julie Hanson – Bruce came to me and said here is my goal and how do I get there. This is a strange little property and we can’t re-zone, so lets try the text amendment which to me seems like a bigger step than a re-zone. We understand if this does get approved we will have to come back for a special use permit so that you can analyze the actual use and the specifics. I stuck with the proposed land use code knowing that getting too far out of the box would be a bad idea. We used the contractors yard definition exactly from the proposed code.

Commissioner Houpt – It’s not the process I would have chosen for this particular piece.

Commissioner McCown – That was the only option I believe the applicant had before them. If this Board chooses to do something different we can.

Commissioner Martin – Anyone in the audience who would like to testify?

Charles Cady – The only issue I have with this that it covers the whole county and I already live in ARRD and we have seen a lot of abuses and because we are self policed these things kind of snowball and I know it’s special use permit but ARRD already has a ton of uses, conditional uses and special uses. I don’t see how it is compatible with residential or agricultural. To be honest with you if the county can’t enforce the rules now which they are having a hard time in my neighborhood, what’s to say that your going to be able to do any more in the future? I would ask that you try to get that in line before we start adding things to ARRD. I think the re-zone would be a better way to go especially since it is one area right now.

Commissioner McCown – One thing, I feel I need to answer that. There are certain things in the ARRD that are use by right that may or may not be abused. A special use permit gives the county more leverage to administer, govern and enforce than a use by right that is being abused. Clearly at any time we can call in a special use permit that we feel is operating outside of it and start a proceeding to revoke that permit. A use by right there is quite a lengthy process if it’s being abused that we have to go to prove that in fact that has occurred. The special use permits give us quite a bit of leverage. Number one in the permitting process with conditions of approval and number two at any given time we can call those in if they are violating and revoke that special use permit.

Charles – And who is going to make them comply? Right now we have an issue where you have voted to stop a person and he will not comply and basically has been a couple of years. And he’s doing what ever it was he wanted to do and we are not seeing anything happen.

Commissioner McCown – And those are issues we can’t discuss today because we are talking about this particular issue.

Commissioner Martin – That is an issue we have to discuss on a different plane and it is in process.

Commissioner McCown – Of the applicant, Bruce how does you property lay? Is it continuous with the road as it goes around the curve?

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Bruce – It is, right at the corner at the top of the airport to the north of the corner is my property. It is not contiguous with the commercial zoning due to one property. The character of the neighborhood and the property what we are asking for this is right in line.

Julie – I understand his (Charles) comments.

Commissioner Martin – It also give us a leverage to go ahead and enforce as Larry said.

Commissioner Hought – But it also opens up that area for another use.

Commissioner McCown – It does and I guess the new land use code is adopted that's the part of it unless that's all excluded from that. That is neither here nor there. This is the issue at hand. Should the county choose to move forward with the re-zoning. Are we bound by the same regulations that it must be contiguous to a similar zoning in order to re-zone a piece of property?

Carolyn – If you are operating on one individual piece of property but you can of course re-zone a whole area.

Commissioner McCown – So we would in fact have to incorporate that one parcel of sage bush ground at this time if we were to move forward with a re-zoning?

Carolyn – And of course that is a separate process it has to go to the planning commission, come back....

Commissioner McCown – I know I'm just asking a legal questions on how we would proceed.

Carolyn – It is certainly do able we are just in the wrong process and you would have to be the applicant on the other property owner along with this property owner.

Commissioner Hought – But doesn't this about to that PUD and they were in here this summer talking about light industrial so could you do a different process like a PUD process. What I am wondering is why with what he, or maybe I drew the square at the wrong place, seems to me there's the airport use and then the use next store that is going to be used for light industrial.

Carolyn – You're talking about Mr. Howard's property? It's not currently zoned light industrial.

Commissioner Martin – It can be in the future if it is annexed into the City and they change their zoning but we have to stay with what it is right now.

Carolyn – And its PUD under county and it's not been sub-divided but it was zoned PUD. Actually it may be PD, planned development because it was done so long ago. But the same idea, multiple uses

Commissioner Hought – So they are still in the process of annexing, because that's why they were in front of us.

Carolyn – Showing you their annexation phasing.

Commissioner Hought – I just have a very difficult time changing zoning or amending what's allowed in a certain zone district just for one small piece of property and that is really problematic for me. When we get into the discussion of the new code and we talked about more encompassing reasons for adding this use that is going to be a different discussion. But this is just for one use.

Carolyn – It is not just for one piece of property.

Commissioner Hought – That's what I said that is why I have a really difficult time with the notion of changing it for one use, something that will impact the entire county.

Carolyn – Both the applicant and your staff through the written report are saying this is an appropriate use to have all over the county under special use review. They're not saying that it is just for this one piece of property.

Commissioner McCown – And then it would be up to us to condition it to what ever level we feel Comfortable.

Commissioner Martin – Anyone else who wants to testify? No one. Any more questions?

Carolyn – I have a question and it's a definition of one because the report talks about an office being allowed. I'll look at the application and I know that you picked this up from our draft land use code but it seems to me at least from my understanding of a contractor's yard we need to be more specific about what can that office can do. I believe a function one of the functions of a contractor's yard is to allow you to have all your employees meet there in the morning or whenever they start work, perhaps car pool there, pick up the equipment, go off to a job site and I'm not sure that by just calling it an office we have encapsulated that use. I just bring that up for discussion because an office often means a place were somebody works you know where you do your paper work.

Commissioner McCown – I would see that being there too.

Carolyn – Yes, but my question is as a matter of definition do we need to flesh that out because I can see getting into a debate with somebody about whether or not a contractors yard includes the right to have all their employees meet, park their personal automobiles, get in their pieces of equipment and go off to a work site. Come back later on, reverse the process.

Commissioner McCown – What would be a use that would allow that?

Carolyn – I don't know.

Commissioner Martin – What other use identifies that, such as a hospital? Any other zone district?

Craig – Resource lands has a staging area and that is the way we interrupted a staging area also. It's were people come rendezvous pick up their gear and go.

Commissioner Martin – Put all your heavy equipment and prepare your ascendant. I see it as an assembly area as different and that is open to interpretation.

Carolyn – But that is exactly the use I'm trying to get to but I don't think the word office says that. I think there should be another noun. Whatever it is, assembly, staging, rendezvous.

Commissioner Martin – Just to meet doesn't qualify it either. You're getting into nit picking items that have to be flushed out in the special use permit process. To identify those uses in the special permit again identifies exactly what that office is going to be used for. Each office may be used differently. To define it that finally could cause a real hardship on any applicant or it could give more uses than you want to give.

Carolyn – Is there a contractors yard by definition without that staging assembly use?

Bruce – The fact of the contractor yard I think would give the assumption that somebody is going to have to come and do something with that equipment it does no good to just park it and abandon it.

Commissioner McCown – Along with that I would also see the possibility of them conducting their business in an office that would require maybe a receptionist a bookkeeper who knows what at that office but like John said that could be in the special use permit application the number of office personnel that is

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going to be present and the number of construction workers, truck drivers, heavy equipment operators whatever that’s going to show up at that location and go to work.

Commissioner Martin – And we have done that like on East Mamm in reference to the different facilities that are there the staging areas or the supply companies etc. have identified what their offices, how many people are there, we’ve also put conditions on how much water, the fire suppression, the ISDS System sizing, parking facilities, fencing etc. based upon what that office use is going to be for. To say you can only have 5 people on all zone districts may not be what you want.

Carolyn – Oh no not the number of people but the fact that there someone.....

Commissioner McCown – Your struggling with office I’m not having any heartbreak with that.

Carolyn – I can see getting into discussions with folks about whether or not a contractors yard includes a meeting place or not. If your comfortable with it that’s all that matters.

Commissioner McCown – The contractor’s yard without the ability for the workers to go there would serve no purpose.

Carolyn – But you think the term office, the noun office is good enough?

Commissioner Martin – And identified for its purposes on the individual basis that it is coming up on the application, yes. Because it can be an approval or disapproval if the office is to be used for multiple things that aren’t suitable.

A motion was made by Commissioner McCown and seconded by Commissioner Hought to close public hearing. In favor: Hought – aye McCown – aye Martin – aye

Commissioner McCown – I have to view this as a unique property as we have talked about earlier and I am going to make a motion that we amend the text of Section 3.02.03 zoning resolution regarding the use of contractors yards as a special use permit to allow.

Commissioner Martin – Second to discuss

Commissioner Hought – I simply can’t support this. This is a unique piece of property. It is a property that can support this use but if you look at ARRD around the county we’re having problems with this particular use in that zoning district and it’s not something we are having great success with and I think we need to be very careful about what uses we allow to be next door to each other. This is just a huge impact when you look at the request. It’s not if you look your piece of property but it is on the whole notion of ARRD in our County and I think as we continue to move forward and grow as a county we to be very aware of the historical uses of all of our zoning districts and we are going to have quite a discussion on this when the proposed code comes before us. But I simply don’t think this is an appropriate use for ARRD.

Commissioner Martin – ARRD and the special uses that have to come before the Board on approval are going to be airport utility, feed lots, crematorium, agricultural related businesses, resorts, kennels, riding stables, veterinary clinics, shooting ranges, two family dwelling, camper parks, ski lifts, trails, broadcasting studios, communications facilities, correctional facilities, storage of heavy equipment already, golf driving range, practice range for golf, accessory facilities and commercial recreational facilities and parks as well as mass transit facilities. I don’t see where this is going to interfere under a special use permit and review process. We have a lot of things read out there already. In our new land code we’ll address a lot of them. Not to mention there are more public gatherings oil and gas storage, drilling equipment, sites for excavation, processing, storage and handling materials, etc. utility lines and it goes on. I think a special review gives us a little more teeth and we can enforce our rules and regulations. But not allowing it causes pirates to be out there which is the issue that we can’t talk about.

Commissioner Hought – I think you could look at that in two different ways.

Carolyn – I just have a procedural question, did someone second that?

Commissioner Martin - Yes I did. In favor: Hought – Opposed McCown – aye Martin – aye

Commissioner Martin – We are going to allow it and again our back-up is going to be again a special review process that this Board approves and at that point all items have to be identified as well as the environmental impacts, the neighborhood issues all the criteria that go with the special use permit. If you can’t meet them, you don’t get it. If you violate them, it’s revocable.

ADJOURNMENT

ATTEST:	CHAIRMAN OF THE BOARD
_____	_____

SEPTEMBER 4, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, September 4, 2007 with Chairman John Martin and Commissioners Tresie Hought and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

COUNTY MANAGER UPDATE – ED GREEN

PUBLIC HEALTH: CDPHE WIC Contract

Ed – Presented the standard WIC Taskforce Contract amount not to exceed \$213,172.00

Don – Feels we need Carolyn’s input to see if she has had a chance to look at.

Ed – Approve subject to?

Commissioner McCown – I make a motion we approve the Taskforce WIC Contract with the CDPHE pending the County Attorney’s approval.

Commissioner Hought – Second

Commissioner Martin – Understanding that if it is okay that we will have permission to sign by the Chair.

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In favor: Houpt – aye McCown – aye Martin - aye

LANDFILL - MAINTENANCE BUILDING DESIGN/BUILD AWARD – RANDY WITHEE AND MARVIN STEPHENS

On August 13, 2007, the BOCC authorized staff to pursue scope and cost negotiations with CMC Group, Inc. A meeting and discussions were held over the last few weeks resulting in:

- Relocation of the building
- Reconfiguration of utilities

Randy submitted the Landfill Maintenance Building Budget Summary and Budget Amount:

Items for Consideration/Approval

- o Increase the project budget from \$500,000.00 to \$700,000.00 to fund construction of the project plus contingency.
- o Recommend the BOCC award the design/build of the landfill maintenance building to CMC Group, Inc. not-to-exceed amount of \$651,566.00

Randy Withee – We had meetings with CMC trying to reduce the cost of the project. Through negotiations we reduced the price by \$47,000.00. Randy went over funding as above.

Ed Green– Our projected end of year fund balance for the land fill is 4.7 million based upon the budget of \$500,000.00 so if we went to the \$701,000.00 it would be 4.5 million.

Randy – Increase the budget and then we recommend to forward a contract to CMC.

Commissioner Martin – You did take in all of our suggestions on the building and the design of the building and the re-arranging of it etc.? They replied yes

Don DeFord– Randy on the not to exceed amount that you’re asking for and in reference to the previous page, is that contingency a contract contingency?

Randy – That is not part of the contract

Commissioner Houpt – I make a motion we increase the project budget from \$500,000.00 to \$700,000.00 to fund construction of the project plus contingency

Commissioner McCown – Second. In favor: Houpt – aye McCown – Opposed Martin – aye

Commissioner Houpt – I make a recommendation that we award the design build of the Landfill maintenance building to the CMC group in an amount not to exceed

\$651,566.00. Commissioner McCown – Second

In favor: Houpt – aye McCown – Opposed Martin – aye

ROAD AND BRIDGE – CR 225 - REQUEST TO REDUCE SPEED LIMIT ON ANTLERS LANE – COUNTY ROAD 225 – FROM 35 MPH TO 25 MPH – KRAIG KUBERRY AND MARVIN STEPHENS

Kraig – I’ve had several phone calls in the last few months about the speed limit on Antlers Lane. I went over it a couple of times and it is very narrow it has two 90’s in it and it also has an “S” curve in it and I can see their point. I’m asking to drop it down to 25 MPH.

Marvin – We visited with Lou and I think he supports this.

Lou Vallario – Agreed with the area becoming more populated and speed limits need to be reduced for everyone’s safety.

Commissioner McCown – It’s not one of our more predominate carriers and it’s only about 16 foot wide in most places

Lou – Generally localized traffic.

Commissioner McCown – I make a motion we authorize the reduction in speed limit on Antlers Lane from 35 to 25. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

Commissioner Martin- Asked Lou to do an education process out there.

FAIR GROUNDS - 4H Activities

Ed – You have a letter for an extension regarding the prospect of creating an extension advisory committee. What is the pleasure of the Board?

Commissioner McCown – I’d like to get a list of names assembled. It serves as advisory committee to coordinate the 4H activities and CSU with the people involved in 4H. All I would need to see to move forward with this is a list of perspective names that would choose to be on it. I think that probably, Jesse you can correct me if I’m wrong the Fair Board with the Livestock Steering Committee would be a possible place to start. Get the word out that we are looking for members.

Commissioner Martin – I think we need to post this to make sure it goes out to everyone and then make our list and then submit it back to us.

Ed – Do you want us to advertise?

Commissioner Martin – I think we need to.

Executive Session Request

Ed – I have one item that requires Executive Session contract negotiations with DOLA, severance tax credits.

OIL AND GAS - SEVERANCE TAX - UPDATES – Jesse Smith

Jesse – I attended on Tuesday the legislative interim committee on severance tax. On Wednesday the working committee on severance and on Thursday the BLM on the RD & D Project. I found the sessions on severance tax to be very interesting, very informative. They completed a complete legal perspective by the office of legal services. As to severance tax there are some questions that were raised that were not answered and they are going back to the drawing board and attempting to answer. Number 1, whatever they do in severance tax it has to be balanced against TABOR and no one could really answer that question in the session and that is a big issue they are going to continue to look at.

Commissioner Martin – That was the biggest question we threw at them when they were here.

Jesse – No answer to that yet. The Treasurers Department came in and spoke briefly on bonding and revenue stabilization options but the primary speaker was from New Mexico, he is the financial advisor to the state of New Mexico on severance taxes and he went through a complete presentation as to how they address severance taxes in New Mexico. They bond everything and they now are going to one day bonds.

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That gets them out of a stipulation under their statutes because once it's made available for bonding then it can be used for whatever. It got them around a statute is what it sounded like to me.

Commissioner Houpt – So is he suggesting that would get us around TABOR?

Jesse – No he just was saying this is what we do. Its free advice but it was very interesting to listen to what they did. Wyoming also came in and talked about their severance tax. Wyoming has no state income tax so severance tax plays a big part of their funding. I found it very interesting they put roughly \$795 million into their school program from severance taxes plus \$212 Million into their capital. They have 80,000 students in the entire state.

Commissioner Martin – They don't have the obligations in reference to what we have under our TABOR amendments as well and that is one of the biggest issues that we continue to say yes there's a lot of money there, yes it's being funneled but its not usable by the state until they do another issue. And that's to take a ballot issue to the citizens.

Jesse – Where we're taking a beating from Wyoming though is the funding they're dumping into the University of Wyoming. They only have one four year institution and 2 or 3 two year institutions. They are dumping a lot of dollars into the University of Wyoming and that is coming back to really bite us because they are hiring away some extremely good faculty from the School of Mines. So we have a brain drain taking place that is moving from Colorado to Wyoming and that is a very big concern to Colorado. They talked about mineral extraction. A power point presentation was made there on how gas is moved and what the current situation is for movement of gas and what the future shows for the movement of gas and how it would impact prices. A number of the committee members commented they had no idea and didn't understand this at all. During severance tax, the interim committee there were a number of things being discussed, one was some type of change in the formula and they did present the formula color coded. Everyone agreed that was probably a reasonable approach in 1995 but everything was different in 1995 and it has no relevance to today and it needs to be changed. The question is changed to what? They are talking about trying to bench the four different metrics, number of permits, number of wells, production volume that goes out of an area and the number of rigs involved. I found that very interesting because during the working session Steve Colby came in from DOLA and made quite a presentation. He's probably the expert in DOLA on severance tax. He had run some performance as to what a new approach might do to current things and for instance Garfield County currently \$3,762,000.00 would drop to \$2,326,000.00. That drop is about a 45% drop. Mesa County would get cut about 60%.

Commissioner Martin – With the same impacts they have going based upon the performance taking place.

Jesse – There was a lot of discussion about the residence reports. They think its flawed but not sure how they can balance all this back in because they realize yes people live in a place, they do create impacts where they live but the vast bulk of them don't work there. They work in another County and that county doesn't benefit from it. There are impacts on both and only revenues going to one. There were a lot of questions raised, a lot of homework assignment given out and they are meeting again on the 13th and they hope to get answers to some of these questions.

Commissioner Houpt – I hope they can come up with less convoluted manner for dividing the severance taxes and identifying who should get them. If its not then counties like us will lose.

Jesse – There were several members of the Interim Committee and the Working Committee that have a belief that the state is not responsible for bailing out local governments for bad management.

Commissioner Houpt – I don't know what that has to do with this discussion and I would take great exception to that.

Jesse – It's that severance taxes when the legal department when through what is the legal basis for severance taxes. There are three primary purposes, one to compensate the state for resources being removed from the state. Second is to provide relief to impacted areas. Those are the two that were primary. The reason behind this concept of the state shouldn't bail out is that severance taxes are there to be used by the state because it is a reduction of a state resource and the state should have that money to use as they see fit and not bail out municipalities and counties. Several times the statement was made directly to the Mayor of Rifle, you need to develop a metropolitan district and you need to start charging impact fees and cover your own needs and not coming to us asking us to bail you out.

Commissioner Houpt – Well there is a balance there but I suppose that argument could be turned around as well and impacted counties could say why should we bail out the state when some really bad decisions have been made in a budgetary sense.

Jesse – When Colby came on and made his presentation he made good case for why severance taxes are there. He was very supportive of that. You can sense a tide and the tide was pull the money away from direct distribution, put it into the grant program, let the grant program address the impacts but change the way in which not applying the grant program.

Commissioner McCown – It would be real easy to do if they did away with that whole convoluted distribution system and start talking about gross revenues instead of net revenues. If Garfield County generated a little over 125 million dollars last year in federal mineral lease only and we are getting back \$600,000.00 now if anybody in this room or watching thinks that is a fair distribution I would challenge them.

Jesse – Senator Taylor had prepared a handout and when he saw me walk in he immediately pulled me aside to review the handout. I made some notes, gave it back and he had it retyped. What it showed was Garfield County in 2006 contributed \$155 million dollars in severance taxes and we got back \$8.75 million or roughly 5.8% of what we contributed.

Ed – All the entities

Commissioner Martin – All the entities and the grants

Jesse – The discussion carried over into the working session. The working session is going to meet again on the 12th the day before the Interim Committee they are going to have presentations the morning of the 12th and then they are going to try to hammer out what are the policy changes they want to recommend to the Interim Committee on the following day. It will be interesting because they have to resolve the TABOR issue on the morning of the 12th in order to get a policy issued.

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Commissioner McCown – The bigger picture that we have to remember is that Jan 8th when the legislative session opens all bets are off because right now we have a fair representation on both the legislative committee and the working group but once the legislature opens our representation becomes quite moot. Now there has been a tremendous amount of attention brought to the size of this fund..... And I think in all honesty we can probably kiss it good bye.

Jesse – There is no question in my mind that the distribution formula is going to get changed and probably they are going to revise the grant program and put some tighter parameters around what those grants are for and probably put more money into the grant program so they can address impacts that way rather than just giving money.

Commissioner Martin – Well there’s one other issue that we need to talk about Jesse in reference going back that it is not just the grants but it’s the loans the unsolicited loans that we had in the metro area 22 to 40 million dollars that was just offered to certain large metropolitan areas they weren’t even knowing that money was available but we had feelers that went and said you need this 22 million dollars for your water project and sure enough it went there. Loans need to be talked about as well. That is loaning money out of that account that is not supposed to be taking place, its’ a grant not a loan.

Jesse – They did talk about a couple of big loans that were made for instance to pay off the fine for the state of Kansas and they have not been re-paid

Commissioner Martin – They never will be.

Jesse – One thing on the RD&D, the whole thing has been slipped six months. The public draft is not due out until January consequently given the 90 day comment period and the re-write draft to the Governors is not going to happen until September and they have changed the whole purpose and scope of the PEIS. It is no longer to award commercial leases it is simply to identify what parcels of land might be available for commercial leasing and that will require another PEIS which will take 4 to 5 years before they would address a commercial lease.

COUNTY SHERIFF UPDATE – LOU VALLARIO

COURT SECURITY Lou said we discussed and put into the capital plan this year to build an extension or a covered area to the east entrance. Any backlog we would have a place to keep people dry and warm. We estimated around \$90,000.00 and one bid came in at \$200,000.00. Only one bid came in and in order for them to complete this in the time frame they wanted we would have to temporarily relocate the public entrance to the west end.

Commissioner Houpt – Remind us again of what this would entail.

Rich – Bump the door ways out 12 feet, reconfigure the interior of the building to give more room for the security equipment. It would ease the bottle neck where we have trouble getting people in and out now.

Commissioner Houpt – It really would provide service mostly in the winter when people would be standing outside? What kind of bottlenecks are we seeing?

Rich – On a heavy court day, two or three juries at a time its nothing to have 50 people show up at the door trying to get in at one time. Then you have people leaving the building at the same time and it’s confusing.

Commissioner Houpt – Will this solve that issue, this design?

Lou – We will still have people show up at one time but at least they will be enclosed. It is not going to solve the flow of the people with regard to the number of people who come in and out of the building. It will give more people storage.

Rich – Now they have to empty out pockets its holding people up outside the building and not very efficient.

Commissioner Houpt – There has been a lot of frustration from the public, will that help alleviate some of that frustration?

Lou – I think it will give the feeling of a little more comfort.

Commissioner Houpt – What did the bid look like where were the costs?

Rich – For the actual addition was \$132,000.00 and the interior demolition and remodel was \$67,000.00.

Commissioner McCown – Just a hypnotically question are we using the wrong entrance, what if we used the west entrance and used the long hall?

Lou – Talked about that and the problem was it was inconvenient to the handicapped parking, closer to the elevator etc.

Commissioner Martin – Security for the court hallway.

Lou- We wanted to play with this see if it was going to work and how it was going to work. We would actually open up some walls and have more operating space. It leads me into the next discussion. There have been some frustrations, most people are comfortable now. We are running into a situation now employee wise we are down 17 people in the whole jail staff. Not a crisis but getting into a crunch. One thing we are exploring which other counties do is the possibility of private security contractors to operate that equipment. I could put 3 people back in jail. We are building a new courthouse in Rifle and the anticipation is we will be securing that building as well. That will take 7 additional people and I have no idea where they’re going to come from. Maybe we need to look at this and say is it successful, do we want to continue it? What are the feelings of the people in the courthouse, where are the judges at with this, is it something we tried and we can’t do it right now? Do we go back to making sure the court rooms are secure? There are a lot of things we need to look at. We are providing a service and it is ultimately your decision if you want that security. Quite frankly I’m in a position where because of personnel shortages we may need to look at contracting out that service.

Commissioner Houpt – I think we need to look at a few things. We need to talk to the judges and find out if this is a process they still want to keep in place. If we keep it in place I think we need to make this more accessible for the public and that means we need to extend that area out or relocate it but it has to be more accessible to the public. We need to get bids from private contractors and compare that to hiring additional staff for you. I think we need to find out how important this is to judges at this point they really initiated that concern.

Lou – I agree with you and we looked at that with my staff. Haven’t had time to sit down with the judges. I believe it is important that we do secure the building. We can still secure the court rooms and the equipment we have we can put on the third floor to cover those court rooms and figure out something for

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the County Court room for the first floor That is the one which causes the most concern for us because it is the busiest court room. I'm offering up some of the dilemma, I'm offering up some potential solutions. Commissioner Houpt – If you do court rooms wouldn't you have to have more equipment?

Lou – It depends on how elaborate you want to get. It's some thing we have to do statutorily we have to secure the court rooms. I don't really want to contract that service out as far as the whole building and the whole process that is something we would look at contracting, moving; it's been running for a few years now. How's it going what do we need to do to improve or discontinue it?

Commissioner Martin – I was never in favor of shutting the front door.

Ed – That brings up the deliberations that occurred in strategic planning this week. One outcome was an improvement project to find alternative space for the Clerk, Assessor and the Treasurer. Acquire the land next year and to set out to build a new facility in the second year. I see entire that building occupied only by the courts in three years.

Commissioner Houpt – As a part of that if we shifted into the discussion of building a new building for other offices, I think we should look seriously at the land that is under this parking lot next door and look at underground parking to take the place of the parking lot. Compare that to the purchase of property in downtown Glenwood and it might just make sense. There are a lot of different discussions we need to have but I think the first one really needs to be with judges and make sure they are feeling confident about their security level in their building.

Lou – Right now what is on the table whether or not you want to approve this contract.

Commissioner Martin – I'm looking at other options.

Commissioner McCown – Nothing has changed since we put this in to make the judges change their stance on what they want. The entire building being secured gives them another level of comfort. But I guarantee you that is not the opinion of the public when they try to go in and buy their license plates and have to take all their money out of their pocket and walk through a security gate, they hate it. It is not a public service, it is a court service and we need to separate those two. If we could secure the courts and make the judges feel good I'm all for that. I am not in favor of locking down that building across the street.

Lou – I absolutely do not disagree with either of you on that topic. If we wanted to do it right we put all the courts on the third and fourth floors.

Commissioner Martin – Lets take it upon this Board that we meet with the judges. I'll set up that meeting with the head Judge.

Commissioner McCown – I'm not ready to spend \$200,000.00 on a canopy over the east door. I'm going to wait and see about other options.

Commissioner Martin – Within the next two weeks we should have an answer from the judges.

JAIL DAMAGE

Lou – Control board failed overnight and we can't unlock front doors. No manual over ride we are aware of. We did look at upgrading that control board for a mere ½ million dollars. We will be fixing this one.

BATTLEMENT MESA - BEARS

Lou - A lot of bear in Battlement Mesa spending extra time up there. No negative encounters. We are working with DOW and taking extra steps.

ICE - CONTRACT

Lou - We are not longer holding ICE detainees. Their reasoning was, according to their contract and they are correct, we are required to comply with their use of force policy with respect to what their field agents can do. They are currently not authorized to use tazers. They wanted me to sign a letter of assurance stating I would not use tazers on their detainees and I refused to do so they pulled the contract which is fine. Even though there is a revenue stream there with our medical costs increasing, detainee, average daily costs it really wasn't a revenue issue. It was more trying to help be a part of the solution, help the guys who work on the street. I would add I didn't appreciate the way they did it. Even though the local detention folks out of Grand Junction rated our facility out of 34 areas, we had 34 acceptable. When it bumped up to Washington, whoever is in charge over there gave us unacceptable rating for two reasons. One use of tazers and two because there is pending litigation with the ACLU regarding in part use of force. And that is okay but to this day I have never received anything official from ICE. Never received a letter any indication they were canceling the contract. I'm very disappointed in organization, I tried to help them. Commissioner McCown – What are their options on holding?

Lou – I think Moffat County and Park County still have contracts. I believe Mesa County has some short time holding but their in an over crowded situation and not accepting any. Commissioner Martin – 8 vans at Danville yesterday, all stopped, questioned and then let go.

Lou – Bigger problem than we can handle in Garfield County. I feel like we are trying to do our part. A Congressman blasted Lou in the Aspen paper and he will be responding to him appropriately.

Commissioner Houpt – It's been apparent for some time it's a federal issue and nothing has been resolved at the federal level and you stepped in to try to help.

Lou – I appreciate that and we are going to try to work on some education to let people know the difference between federal authority is and what authority we don't have at the state level and what we do have at the state level.

Ed - What does that do to your revenue stream?

Lou – Revenue last year was about \$300,000.00. When you look at the cost associated and I roughed it out and would be surprised if we netted \$40,000.00 out of the whole thing. Our medical insurance, coverage went up almost \$100,000.00 because of ICE. Average costs to house them, other costs.

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don - I would like to discuss CR 318 and 301 in Executive Session first with the board and I need to provide you with advice on those as well as receive direction on potential litigation. I will need Marvin and Jake here. Discuss a Notice of claim concerning Storey property. Update on EEOC litigation and also provide you with an update and receive direction on the Vezzoso litigation. I'll need Michael in there for that. Ed mentioned he had one for executive session previously.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

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A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried. In favor: Houpt – aye McCown – aye Martin – aye

COUNTY ATTORNEY UPDATE – DON DEFORD

CR 318 - DISCUSSION/DIRECTION TO STAFF

Don – County Road 318, we received a letter from Mr. William Colohan a property owner adjoining County Road 318 asking the County to address two issues he asked specifically, the County to state what was taken by EnCana concerning a letter that was sent by my office to Dennis Hansen at EnCana on September 29th. My letter of September 29th referred to inquiries from EnCana about the status of County Road 318 as that road crossed Colohan’s property and specifically asked EnCana to have input from Bureau of Land Management and the property owner concerning use of that road. We received a letter from EnCana Jan 20, 2006 and that is the next correspondence I show from EnCana. It did not directly address the questions of September 29th but rather asked the county to take a position on placing a well and pad on and very close to that road on Mr. Colohan’s property. From my perspective EnCana did not respond directly to the inquiries of September 29th but the Board will have to direct me on how you want to respond on that issue to Mr. Colohan.

Commissioner McCown – I would make a motion we direct a letter back to Mr. Colohan stating that we never authorized EnCana any activity i.e. placing a well pad in what is presumed to be a county road right-of-way I don’t think EnCana has been able to supply any documentation of such authorization or any kind of an agreement with the land owner that they indicated to us. I don’t think we have taken any action on either item he alluded to.

Don- Larry I think your position in that motion actually answers both questions.

Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

Commissioner Martin – We will have to revisit Executive Session later and finalize one or two items this afternoon.

COUNTY ATTORNEY REQUEST FOR ADDITIONAL FTE – LEGAL SECRETARY

County Attorney’s office is seeking approval to add a full-time legal secretary position with a budget amendment for 2007. It was presented as the current workload for this office as being overwhelming. With the continued growth and complex legal issues being handled by the attorneys, the subsequent attorney work product on these issues to be prepared by the legal secretarial staff is requiring more secretarial time, leaving less time to perform normal, daily secretarial duties. The Attorney’s office started scanning old files due to storage problems and the office manager and secretarial staff cannot devote the necessary time to stay current on scanning. There is an open secretarial workstation in the office and the only added expense would be to upgrade computer equipment, purchase transcription equipment and minimum incidentals.

Don - I would like to start with a public discussion which concern staffing in my office. We have a short description of the need which drives this request. We need to add a secretarial position for two reasons, need to move on with converting hard copy documents to digital format and as a result of some of the litigation items we have in the office now we simply need additional legal clerical assistance. Not requesting an attorney this year. I am asking that you go ahead based on Mary Lynn’s request and authorize the addition of a legal secretary this year that would carry forward into next year.

Commissioner Houpt – So moved. Commissioner McCown – Second

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING: CONSIDERATION/APPROVAL OF IGA WITH CITY OF GLENWOOD SPRINGS FOR JOINT FUNDING OF THE ENVIRONMENTAL ASSESSMENT, THE SOUTH BRIDGE CROSSING AND THE INTERSECTION AT STATE HIGHWAY 82

Don – On the IGA with the City of Glenwood for joint funding of the environmental assessment I would like to defer until next week. Talked with Karl Hanlon and he will have the appropriate document in my hands tomorrow and we will set on the agenda for next week.

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-fund Transfers
- d. Changes to Prior Warrant Lists
- e. Authorize the Chairman to Sign the Resolution of Approval for Special Use Permit and Special Use Permit for an Accessory Dwelling Unit Located South of the Town of Silt and Described as 3531 County Road 331
- f. Authorize the Chairman to Sign the Resolution of Approval for a Special Use Permit and Special Use Permit for an Accessory Dwelling unit Located East of the Town of Silt as Described ass 4791 County Road 214 – Applicant – Valton P. and Toni L. Whittington – David Pesnichak
- g. Authorize the Chairman to Sign the Resolution of Approval for a text Amendment to Section 3.02.03 and Section 2.02.1555 of the Garfield County zoning Resolution of 1978, as amended – Applicants – Bruce and Ann D. Snode – David Pesnichak
- h. Authorize the Chairman to Sign the Resolution of Approval and the Exemption from the Definition of Subdivision Plat for the Van Devender Exemption to Create One (1) 20.783 Acre Parcel and One (1) 16.196 Acre Parcel from an Existing 36.98 Acre Parcel Located on County Road 151 Sweetwater – Applicants – Joe Jacobs and Charles Van Devender – David Pesnichak
- i. Authorize the Garfield County Treasurer to Release Funding in the Amount of \$7,500.00 to RFTA for July Mitigation Fees.
- j. Authorize the Chairman to Sign the Final Plat for Gilead Gardens Subdivision and the Treasurer’s Deposit Agreements for Improvements and Re-vegetation – Applicant is BBD Trust – David and Renee Miller, Trustees – Fred Jarman

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a - j; carried.

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EXECUTIVE SESSION

Commissioner McCown – I make a move to go into Executive Session

Commissioner Houpt – Second

All in favor – Houpt – Aye McCown – Aye Martin – Aye

Commissioner McCown – I make a motion we come out of executive session

Commissioner Houpt – Second

All in Favor – Houpt – Aye McCown – Aye Martin - Aye

Don – I would like to continue the discussion of the contract with DOLA and get direction on those issues.

I’ve asked Fred to be here so we can discuss the correspondence with Mr. Butner.

McCown – I move we go into executive session and discuss those items.

Commissioner Houpt – Second

All in favor – Houpt – Aye McCown – Aye Martin – Aye

TRAILS AND TRANSPORTATION - RIO GRANDE TRAIL FUNDING – MIKE HERMES

Mike Hermes, Director of Properties, roaring Fork Transportation authority asked the board to consider reallocating \$300,000.00 of the funds allocated to LOVA trail in 2007 be turned over to the Rio Grande Trail. He also presented a letter from Larry Dragon, Executive Director, LOVA in support of this trail.

Mike Hermes – Wants to finish project in 2008 as outlined in letter. If we finish it next year we will be two years ahead of schedule. There was some money allocated for LOVA Trail system which appears they will not need. I have a letter from Larry Dragon addressing that and I am hoping you will want to allocate that to RFTA for the completion of the Rio Grand Trail.

Commissioner Houpt – The amount of money that has been invested in Garfield County through this RFTA Trail is huge and do you have a number?

Mike – What RFTA has invested?

Commissioner Houpt – What has been invested within the Garfield County area on this trail?

Mike – RFTA has put in about \$3-4 million. This year we had \$1.3 approximately from the Feds and CDOT and RFTA put in about \$600,000.00 of it I don’t have all the final numbers. The Town of Carbondale has contributed over the years and every year I seem to get about \$50,000.00 from Garfield County for it.

Commissioner Houpt – So there have been numerous partners who have contributed to this but we really benefit greatly by the completion of this trail it’s been proven over the years and many different parts of this country that this type of trail system really strengthens economies and with our tourism that would be true.

Mike – It has been really good in Carbondale, the bike shops have been doing spectacular business that are adjacent to the trail.

Commissioner Houpt – But the people it bring in from the outside of our region....

Mike – Ride the Rockies was great for us and we got excellent comments there. A lot of people are starting to come back, book hotel rooms just to ride this and it branches off to all the adjacent trail projects in the valley. It’s becoming a tourist attraction for the valley.

Commissioner Houpt – We did target this money for trails the purpose of building trails and LOVA has relinquished this money. They have asked us to support the completion of the Rio Grand Trail. I would make a motion we support that request and give the \$300,000.00 that had originally been granted to LOVA to RFTA to complete the Rio Grand Trail.

Commissioner McCown – Second. In favor: Houpt – aye McCown Opposed Martin – aye

Commissioner Martin – 2008 put through the budget.

RIFLE CENTENNIAL PARK – REQUEST FOR FUNDING – ALEKIS BRIEDIS AND JOHN HIER

The City of Rifle would like Garfield County to match funds with a GOCO grant for a match of \$200,000.00. They are undertaking a large project to improve their park which will encompass approximately 14 acres.

Alekis Briedis – Recreation Director for the City of Rifle. Centennial Park is a big project. Showed location on Rifle Creek and Rifle Creek Trail. Has many different components to it, historical components with time lines starting in 1895 going all the way up to 2005. Throughout the park there are wayside shows showing what is happening in the Rifle area and the whole region. Has recreational components with a spray park, picnic shelters, environmental components and educational components. Showed riparian area, outdoor learning center and will have a nice economic benefit with it being downtown. We hope to get people to come to the park and go to the downtown to visit local stores and local restaurants. We hope to connect up to middle school. There is no really easy access right now. Currently with this project we have received a DOLA grant contingent on a GOCO grant for ½ million dollars. We applied for a GOCO grant in the amount of 3/4 of a million dollars.

John Hier – It was a legacy grant we were invited to apply for.

Alekis – Requested us to fill out a full application and that is where we are right now and it is due this Friday. We should have a decision on December 6, 2007. We have been talking to other agencies we have a lot of agencies interested in this. The City’s Engineer SGM already said they would donate dollar for dollar on the engineering costs and Bookcliff Survey said the same for the survey they would go dollar for dollar. Great Outdoors Colorado looks for partnerships and matching funds therefore I was hoping to ask the County Commissioners to see if you would be willing to help out with some matching funds. Look at about \$200,000.00 to help us get to approximately this far in the park (showed on map). The first stage, we are actually doing this in two phases, first is flood control throughout whole area. Then start from south and build to the north. We plan on going for more grants and do some more fund raising and hopefully get this done in about 5 to 6 years.

John – This is a linear park with a trail system design into it that is intended to ultimately connect trails from the north end of the city to what we hope will be a LOVA trail coming along the corridor some day. That probably is a way out as far as LOVA trail is concerned. The funding sources they have been able to obtain are pretty exciting. We are invited to apply for a legacy grant and those applications only come around every few years and DOLA has agreed to award ½ million dollars, condition upon the legacy grant

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which is ¾ of a million and our park & rec. has committed \$700,000.00 per year for the next three years to help fund this project. Alex has been able to secure a number of private donations for it. Ultimately hope to connect across the old bridge across the Colorado River to the rest area and into a trail coming down the valley.

Commissioner Martin – Are you willing to take ownership of that bridge? Alex have you gone to the CDOT meeting or the Inter-transportation district in reference to their trails funds at the end of the year?

Alekis – Not yet.

Commissioner Martin – Actually Rifle gave money back in reference to a trail two years ago and it went to another community.

John – I’m not aware we gave any money back.

Commissioner Martin – Prior, you gave money back because you weren’t able to complete the trail. Back again to the intermountain TPR what we need to do is re-visit that to get that money back for you.

Hopefully there is a couple hundred thousand dollars there.

Commissioner Houpt – Could you please go through your thought process on how you decided to start from the south end instead of the north end.

Alekis – The main reason we started from the south end is because it had more components in it that Great Outdoors Colorado would like for their grant purposes. Such as the water spray park and the environmental education, those are the main ones and we wanted to get this great bowl because we figured it would be a great place for special events. This whole project started up with the downtown development authority and they actually started with city and did a master plan.

Commissioner Houpt – The reason I asked is because you had emphasized trail linkage for kids and people using the fair grounds and I was looking for that linkage with the county as well.

Alekis – With also the creek stabilization we do also plan on doing an infrastructure so most of it we will get all the concrete trails going through. Through the fairgrounds that might actually be the second phase just because there is some property we may have to acquire at that point.

Commissioner Martin – That puts a positive spin on the improvements that the crew has done at the fairgrounds for the park right next to the stream.

Ed Green– Would it do anything to alleviate kid traffic through the fairgrounds?

Alekis – Hopefully, it all depends we would have to talk with you more exactly where we want to connect the trail. (Showed on map where the kids could come through)

Jesse Smith– We are looking at that now as part of our capital improvements of the fairground because we see a big safety issue. Those kids are walking straight through the fairgrounds and at times there is a lot of traffic.

Commissioner Houpt – Are we looking at a trail that will bring them through?

Jesse – We are looking at possibly putting a gravel trail through the park behind the fairgrounds. We would like to get that through there and let the kids come down that way and connect to the concrete.

Commissioner Houpt – So how would that connect ultimately to this?

Jesse – There is a concrete trail coming through there now that would potentially link.

Alekis – And that is this segment that has already been built.

Commissioner Houpt – So there is a direct link with what the county is doing and what you’re proposal is.

John – There are two connections actually that you can work with us.

Commissioner Houpt – I agree that everybody is looking for partners and the reason I am asking all these questions is I think that when we become partners in these projects it is important that we understand the direct link between the county and the municipality that is bringing forth this type of project. I see there is a solid link with your plan that you have put together. I make a motion that we do grant the City of Rifle \$200,000 for a matching partnership for the GOCO grant for their Centennial Park project.

Commissioner McCown – Second

Commissioner Martin – Discussion? Again identifying those funds will have to be through the budging process of 2008 which we have in front of us now.

Commissioner Martin – General fund dollars, it still qualifies under the improvements and the granting process. We have to make sure that is done so that keeps us free of that other issue.

In favor: Houpt – aye McCown – Opposed Martin – aye

ROAD AND BRIDGE - LYON PIPELINE SPECIAL PROVISIONS – JAKE MALL AND MARVIN STEPHENS AND KELLY LYON

Kelly Lyon of Lyon Land and Cattle Company has requested permission to lay a buried irrigation line within the County ROW. The total length of the pipeline will be 4300 feet including the two road bores. The pipeline will eliminate an open water ditch along the county road system and eliminate the loss of water from an open ditch giving Mr. Lyon more water for his irrigation purposes.

With Mr. Lyon agreeing to the list of special provision for this pipeline Garfield County road and Bridge Department recommends approval of this request.

Jake – There is plenty of room, good traffic control plan will be in place. Kelly is a highly reputable contractor to do his own work. It will be a benefit not only to the county it will be a great benefit to Kelly it will probably save him half the water he loses to evaporation. At this time the Road and Bridge recommends we approve.

Commissioner Houpt – Will this impact anyone else irrigation water?

Kelly – No

Commissioner Houpt – How long is this project, 30 Days?

Jake – The total length of the pipe will be 4,300 feet.

Commissioner Houpt – And it will take 30 days weather permitting? In terms of the Traffic delays 10 minutes on a road that is used by many people seems like a long time.

Jake – There may be very few if any traffic delays. But we put that in there to protect Kelly and to let people know there is that possibility.

Commissioner Houpt – We talked in the past of having that be five minutes is there any reason why we wouldn’t?

Jake – We did it because of the length of that road, the long stretch of it. We can reduce it back to five.

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Marvin - I believe that is a good recommendation/

Commissioner McCown – Would it be able to stay in the right-of-way on 237 given that is a prescriptive use right-of-way?

Jake – Between the fence line and the pavement.

Commissioner McCown – And your going to bore under the Harvey gap ditch? It didn't show on the map.

Kelly – On the big map they show the bores.

Marvin – I think there is a couple of places down there that may be narrower than 9 feet.

Commissioner McCown – That would be my only concern. This would be as a part of the license that any damage or any encroachment on the fence would be the responsibility of this permit. With the correction I make a motion we authorize this irrigation pipeline in County Road 266, 237 and 233.

Commissioner Hout – Second

Commissioner McCown – And Road and Bridge be authorized to issue the second permit.

Commissioner Martin – Okay. A clarification question any of this pipe line goes on any other private property has to have its agreement with that land owner and you have those in place Kelly?

In favor: Hout – aye McCown – aye Martin – aye

ROAD AND BRIDGE - PIPELINE REQUEST FOR NOBEL ENERGY ON COUNTY ROAD 306 – JAKE MALL

The total length of the pipeline including road crossing will be approximately 2520 feet in length and will have two road crossings. Nobel energy will be working within the road surface of County Road 306 (Spring Creek) they will be required to place 4-inches of compacted ¾ inch road base on the length of County Road 306. The replacement of the road base surface will be completed by the contractor for Nobel Energy under the requirements of Garfield County Road and Bridge Department.

With the conditions set forth by Garfield County road and Bridge Department we recommend approval of the request.

Edward Mullhall representing Nobel Energy Production Inc. was present

Jake – There will be one road bore and one open road cap. Some of their equipment will be on part of our road while they are doing some of this. At the end they will completely resurface the road with a new 4" compacted gravel road base. It will all be done by their private contractors under our recommendations.

Commissioner Martin – Questions? The length of the project, not feet wise but time wise Ed do you have an idea on that?

Edward - I don't I think there is a recommendation that Jake made as to 45 day duration.

Commissioner Hout – I'd like to change the delay time from 10 to 5 minutes. Have all of the land owners been contacted?

Edward - Yes

Marvin – If it goes into frost we will be shutting the project down.

Commissioner Martin – I think on this permit it gives you fourteen days for construction but then again the resurfacing and the repacking gives you another 30 days.

Commissioner McCown – I think we are looking at a different road situation as far as the delay time of 5 minutes and 10 minutes on this road. I get to be the devil's advocate because the less time you delay the motoring public the more time you better give them on the contract. There only getting about 40% of their hourly production time because of traffic.

Marvin – This is a little different than the water line, there's welding etc.

Commissioner McCown – I don't know if they can make that happen in 5 minutes. Probably the bulk of the traffic on this road is energy related traffic. I think 10 minutes is adequate because of the difference in the terrain and the traffic as opposed to those chip seal roads and more of a residential environmental.

Jake - There actually isn't any home sites within this stretch.

Commissioner McCown – 10 minutes would be reasonable

Commissioner Hout – As long as the school bus route isn't on there and not homes then that would be fine.

Commissioner McCown – I make a motion we authorize placement of the 16 inch natural gas pipeline within County Road 306 with special provision by Road and Bridge. Commissioner Hout – Second.

In favor: Hout – aye McCown – aye Martin – aye

CR 162 AND 162A DISCUSSION/DIRECTION TO STAFF REGARDING COUNTY ROAD 162 AND COUNTY ROAD 162A – DON DEFORD CROUCH PROPERTY – MISSOURI HEIGHTS

Don – I think we agreed to further discussion on this today impossible. I contacted the planning department on this and informed them that they were to contact the developers at Sun Mesa. I know they made an effort to do that. I don't think they have had a response yet. Also I've been provided copies of a letter from Mr. Butner raising questions about County Road 213.

Commissioner Martin – Make a note Mr. McCown has received that letter also

Don – I don't know if you wish to discuss this letter in executive session or not or take any action at this time.

Commissioner Martin – I'd like to discuss in Executive Session and then go from there. If there is action to be taken we will do so in public session.

Don – I will also contact Mr. Jarman to see if he can attend. Do you want to do that today?

Commissioner Martin –If Possible

Commissioner Hout – Again for the same reasons I have stated in the past I will be recusing myself.

CLERK & RECORDER – LIQUOR LICENSE - SPECIAL EVENT PERMIT – WINDWALKERS – EQUINE ASSISTED LEARNING & THERAPY CENTER FUNDRAISING CONCERT – SEPTEMBER 28, 2007 – MOLLY ROBISON AND JEAN ALBERICO

Commissioner Martin – Was there a notification requirement?

Jean – Only notification is to post sign which was posted 10 days prior to today's hearing.

Commissioner Martin – Swore in speakers.

Jean – A request from the WindWalkers to have a benefit concert on property located on County Road 103. The request is to be allowed to have beer and wine sales on Friday September 28th. Bobby Mason is going

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to do a benefit concert and she has turned in all requirements, and the application. There is an explanation of their procedures, drawing outlining where they are going to be serving alcohol, permission from the landowners to have this on the property. Their current status is a non-profit organization and they have fulfilled all requirements. Jean introduced Molly.

Molly – I’m just here to answer any questions you may have. We actually have hosted events in the past we are on site with this location. This is the first one we wanted to have any liquor sales at. We are actually working closely with volunteer firemen and police officers and they will be volunteers at our event.

Commissioner McCown – How many people are you anticipating?

Molly – the maximum ticket sales are going to be 400.

Don – Have you been in contact with our planning department about public assembly?

Molly – I believe if you have less than 500 you do not need one.

Don – You contacted them?

Molly – The ranch manager Dean did yes.

Jean – When the ranch manager came in initially wanting to get information about this application, he was directed to the Building and Planning Department and he did get the packet of information.

Commissioner Martin – Anyone in the audience

Commissioner McCown – I move to close public hearings. Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the special events liquor license for WindWalkers Equine Assisted Learning & Therapy Center. Commissioner Houpt - Second

In favor: Houpt – aye McCown – aye Martin – aye

CLERK & RECORDER – LIQUOR LICENSE - SPECIAL EVENT PERMIT – SENIOR MATTERS – BECAUSE SENIORS MATTER “LAST DAYS OF SUMMER ROUNDUP” – SEPTEMBER 16, 2007 – DIANE JOHNSON AND JEAN ALBERICO

Jean – The notification needed was the sign that was posted at the rodeo grounds just outside of the Town of Carbondale on County Road 100. After I assembled the packet for the Board I received by fax a drawing where they are changing where they initially said they were going to serve alcohol. Instead of limiting the consumption of alcohol to a certain area they want people to be allowed to carry their beer with them around the entire rodeo grounds. This is on a tight time frame, the Town of Carbondale owns this property and they were going to go through the Town of Carbondale for their special events permit until it was pointed out to them that the property is actually located in the county. There is also a letter from the Town of Carbondale encouraging you to support this.

Diane – Passed out more information.

Commissioner Martin – Swore in, Virginia Sterrett and Diane Johnson

Diane – I would like to draw your attention to color outline the description of how we are going to do the service and sales of the beer. All the area of the rodeo grounds is fenced. We assume people will go over to that area and if it’s outside of that area we have security, we have volunteers from members of the town, fire dept, etc……. Commissioner Martin – My question is going to be on parking throughout the summer we have had our weekly Thursday night rodeo and it has caused some problems. The neighbors are a little sensitive in reference to the parking. How are you going to control that parking along those roads?

Diane – At this point we don’t see that as being an issue because during the rodeo, you will note in the diagram all that parking area on the lower part of the page that’s public parking. Control of the streets, since we will have volunteer parking staff, if it does become an issue then it will have to be addressed at that time but we don’t foresee parking being an issue it will be on highway.

Commissioner Martin – Have you made contact with neighbors? Might be a good idea. I’ve received numerous phone calls throughout the summer. I’d also notify the sheriff to do a little patrol to help you out.

Diane – We anticipated Garfield County would be out there in that area but a phone call would be good.

Commissioner Martin – We can’t direct the sheriff to do so but it would probably be a positive response from your phone call. Any questions? Anyone in the audience?

Jean – One question Diane, I know you made a trip to Grand Junction to get your sales tax number I need to get that from you.

Diane – Yes and we have to pay sales tax. She turned in copy to Jean.

Commissioner McCown – Move to close public hearing. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the special events license for Senior Matters for Sunday September 16th at the rodeo arena. Commissioner Houpt - Second

In favor: Houpt – aye McCown – aye Martin – aye

ASSESSOR - ABATEMENT FOR RIFLE AIR LLC – LISA WARDER

Schedule: R246991 – Taxes Abate/Refund \$1,189.63

Lisa Warder – We are actually changing the procedure and we are notifying everyone by letter whenever we have an abatement so that due process is always afforded.

Commissioner Martin – And how did you accomplish that?

Commissioner McCown – When you say everyone who do you mean?

Lisa – I mean every person who has an abatement over \$1,000.00 that will come before the Commissioners.

Commissioner Martin – Through certified mail or general mail?

Lisa – General mail

Commissioner Martin – Swore in speakers

Lisa - 2005 tax year. The petitioner provided evidence to the commercial appraiser that made him determined that the values for this property were too high. The 2006 value is below \$500.00 so we are just looking at the 2005 value today.

Commissioner Martin – any question?

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Abatement for Rifle Air LLC – Lisa Warder

Schedule: R247312 – Taxes Abate/Refund \$1622.84

Lisa – Tax year 2005 for the same reason they provided evidence to the commercial appraiser that allowed him to lower the value.

Commissioner McCown - Move to close public. Commissioner Hought – Second

In favor: Hought – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the abatement for schedule R246991 in the amount of \$1,189.63 and for schedule R247312 in the amount of \$1,622.84. Commissioner Hought – Second.

In favor: Hought – aye McCown – aye Martin – aye

ASSESSOR - ABATEMENT FOR REAL ESTATE PARTNERSHIP, LLC – VINCENT R. ROSE – GEORGIA CHAMBERLAIN

#R360404 – Vincent R. Rose – Certificate Holder, Real Estate Partnership, LLC. Property double assessed, property split into two schedules and original schedule not deleted. For 2004 Taxes, be declared uncollectible in the amount of \$841.76; Year 2005 taxes be abated in the amount of \$1,073.64; Year 2006 be abated in the amount of \$1,073.64 and \$451.86 be tendered to the Garfield County Treasurer from the County General Fund and those moneys be applied to the redemption moneys to be paid to the certificate holder, Real Estate Partnership, LLC.

Georgia – Gave copies of resolution asking to be passed and copies of letters by the assessor’s office explaining why these tax lien sales should be abated. Described where property was located. The reason I’m requesting this be abated is because there were no taxes due. It was double assessed. The property was split into two schedules and when that split occurred the original schedule was not deleted and it is the original schedule that we sold at tax lien sale and we are abating that.

Commissioner McCown – Does this include interest?

Georgia – Yes. She explained each amount.

Commissioner Hought – And this is all in your resolution?

Georgia – Yes

Georgia then explained each of the next abatements (below)

Commissioner Martin – Questions – Anyone have testimony? It is a public hearing do we have a motion?

Commissioner Hought – So moved

Commissioner McCown – Second. I make a motion we approve the resolutions as presented regarding tax lien sale 2005-109, 2006-027, 2006-093, 2006-98 and 2006-104 chair be authorized to sign.

Commissioner Hought – Second

In favor: Hought – aye McCown – aye Martin – aye

Commissioner McCown – How is open space reported to the assessors office?

Lisa – This came about as a directive from the Division of Property Tax a few years ago. They said if your open space doesn’t have a homeowner’s association name on it then you need to put it as taxable. It was at the end of the year put it all on as taxable and then at the beginning of the year after tax roll had been run they sent us another thing say oh but if it is designated on the plat as open space then your fine to leave it that way. There a few we have missed. It is usually reported on the plat.

Commissioner McCown – Does that create any problems when part of an open space is a golf course?

Lisa – Yes we are having some appraisal issues.

TREASURER - ABATEMENT FOR RDLJ LLC – DEMCO CONSTRUCTION – GEORGE S. DEMOS – GEORGIA CHAMBERLAIN

#R031626 – Demco Construction (George S. Demos) – Certificate Holder, RDLJ LLC

Open Space not taxable. For 2005 taxes be abated in the amount of \$17.44; Year 2006 be abated for \$17.40 and that \$47.65 be tendered to the Garfield County Treasurer from the County General Fund and those moneys be applied to the redemption moneys to be paid to the certificate holder **RDLJ LLC**.

TREASURER - ABATEMENT FOR ROY G. BRUBACHER, REYNOLDS, GLEN MEADOWS HOA – GEORGIA CHAMBERLAIN

#R040955 – Richard R. & Patricia A. Reynolds – Certificate Holder, Roy G. Brubacher

Exempt Property with zero value. For 2005 taxes be abated in the amount of \$140.44 and \$77.46 be tendered to the Garfield County Treasurer from the County General Fund and those moneys be applied to the redemption moneys to be paid to the certificate holder, Roy G. Brubacher.

TREASURER - ABATEMENT FOR RDLJ LLC, S.E.M., INC. – GEORGIA CHAMBERLAIN

#R330483 – S.E.M., Inc. – Certificate Holder, RDLJ LLC

Open space not taxable. For year 2005 taxes be abated in the amount of \$17.44; Year 2006 be abated in the amount of \$1740 and \$27.75 be tendered to the Garfield County Treasurer from the County General Fund and those moneys be applied to the redemption moneys to be paid to the certificate holder, RDLJ LLC.

TREASURER - ABATEMENT FOR TOM SKUTLEY, SILLIVAN BROTHERS – GEORGIA CHAMBERLAIN

#R040281 – Sillivan Brothers – Certificate Holder, Tom Skutley

Open Space not taxable. For Year 2005 taxes be abated in the total amount of \$18.38; Year 2006 be abated in the amount of \$18.36 and \$45.46 be tendered to the Garfield County Treasurer from the County General Fund and those moneys be applied to the redemption moneys to be paid to the certificate holder, Tom Skutley.

BUILDING & PLANNING - CONSIDER A WAIVER FOR AN IMPACT REPORT FOR AN ANNEXATION WITHIN THE TOWN OF RIFLE – APPLICANT – LEAVENWORTH & KARP, P.C. – CHRISTINA MONTALVO

Christina – Property is located on Airport road in the Rifle Business Park. Passed out maps. Parcel is slightly over 10 acres. The annexation would not have an impact on the County as it will not impact the County roads it is accessed only by airport road which is a city road.

Commissioner Martin – Questions? Anyone in the audience?

Commissioner McCown – I make motion we waive the annexation report. Commissioner Hought – Second.

In favor: Hought – aye McCown – aye Martin – aye

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BUILDING & PLANNING - CONSIDER AN AMENDED PLAT TO COMBINE LOTS 1S1 AND 1S2 OF THE ASPEN GLEN PUD – APPLICANTS – JOHN P WARNICK AND CONNIE S. WARNICK – DAVID PESNICHAK

STAFF RECOMMENDATION

The Applicant has provided all required documentation and has satisfied the applicable standards for this plat amendment. Therefore, Staff recommends the Board of County Commissioners **APPROVE** this amended plat request with the following conditions:

- 1) That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
- 2) All plat notes from the original Final Plat of Aspen Glen PUD shall be shown or referenced on this amended plat.
- 3) Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.

Commissioner Martin – Can you live with those conditions?

John Warnick – Yes I did see this.

David – (Read the conditions for Mr. Warnick)

Commissioner McCown – I make a motion we approve the amended plat with Lot line removal and the building envelope removal for Lots 1S1 and 1S2 in Aspen Glen. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING & PLANNING CONSIDER AN AMENDED PLAT TO ADJUST THE LOT LINE BETWEEN THE RANCH AT THE ROARING FORK RECREATION RESERVE AREA AND COFFMAN RANCH NORTH – APPLICANT – THE RANCH AT THE ROARING FORK HOMEOWNERS ASSOCIATION – DAVID PESNICHAK

This Application is submitted on behalf of The Ranch at Roaring Fork Homeowners Association to amend the Final Plat of what is known as the Common Recreational Reserve Area of The Ranch at Roaring Fork. The Common Recreational Reserve of The Ranch at Roaring Fork is the platted open space within The Ranch at Roaring Fork. The purpose of this Application is to allow The Ranch at Roaring Fork to exchange parcels of real property with Rex and Jo Ann Coffman, the owners of property to the south, so that the common property line between the owners will be the centerline of the Roaring Fork River. Under current conditions, The Ranch at Roaring Fork owns property which lies south of the River and is inaccessible to the Ranch and the Coffman's own property north of the River which is inaccessible to them.

Mr. Green – Representing applicant was present

STAFF RECOMMENDATION

The Applicant has provided all required documentation and has satisfied the applicable standards for this plat amendment. Therefore, Staff recommends the Board of County Commissioners **APPROVE** this amended plat request with the following conditions:

- 1) That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
- 2) All plat notes from the original Final Plat of Ranch at the Roaring Fork PUD shall be shown or referenced on this amended plat.
- 3) Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.

David – This creates the boundary line along the Roaring Fork River it is a logical break between the two properties. It is staffs understanding that there is some conservation easement or some sort of language that restricts some development on these parcels. The Ranch at the Roaring Fork is already a recreation area so it is my understanding there is no further development permitted on there. Staff is supportive of that although it is not a requirement of the adjustment. Staff recommending approval with three standard conditions.

Mr. Green – Next to me is George Doxie who is the General Manager of the Ranch at Roaring Fork Homeowners Association. The purpose of this exercise is to make the boundary line between the Ranch at Roaring Fork and the Coffman property be the center line of the river. Right now the ranch owns a couple parcels that are south of the river and they don't have access to them. Similarly Coffman's piece goes to the north of the river and he doesn't have access to it so we are just going to even up and make the center line of the river the property boundary. We would do this through a simple boundary line adjustment process except code requires that if a parcel is part of a final subdivision plat, the plat needs to be amended. And the ranch parcel is part of the final plat of the Ranch at Roaring Fork common recreational reserve. As David indicated, Mr. Coffman and the Ranch entered into an agreement to this one year ago and it has taken us this long to get in front of you. Under that agreement when the parties actually exchange the deeds each of the exchange deeds will include probation against future development so there won't be any development at any of these exchange parcels.

Commissioner Martin – Questions? Anyone in the audience?

Commissioner McCown – I make a motion we approve the amended plat, Ranch at the Roaring Fork Homeowners Association concerning parcel 1, 3.310 acres, parcel 2, 21.683 acres and parcel 3, 5.398 acres

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to be merged with the Ranch at Roaring Fork Reserve coming from the Coffman Ranch, also including the three conditions from staff. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING & PLANNING - CONSIDER A TEXT AMENDMENT TO THE WEST BANK RANCH PUD FILING FOUR (4) TO ALLOW “THE CONSTRUCTION AND OPERATION OF A MULTI-USER CELLULAR TRANSMISSION TOWER ON LOT 63” AS A USE BY RIGHT WITHIN THE RESIDENTIAL/MULTI-FAMILY, FOUR-PLEX DISTRICT (R/M, F,4) ZONE DISTRICT – APPLICANT – KN ENERGY, INC. (ROCKY MOUNTAIN NATURAL GAS COMPANY) – DAVID PESNICHAK

Chris Stryker was present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner David Pesnichak submitted the following exhibits: Exhibit A – Garfield County Zoning

Regulations of 1978 as amended; Exhibit B – Staff memorandum; Exhibit C – Application materials;

Exhibit D – E-mail from Alisa B. Gerum, City Planner with the City of Glenwood Springs dated 5/21/2007;

Exhibit E – Letter from Bill Gavette of the Carbondale and Rural Fire Protection District dated 6/01/2007;

Exhibit F – E-mail correspondence from Chris Stryker of Stryker Site Services LLC dated 7/05/2007;

Exhibit G – Written Ballot outlining charges to the West Bank Ranch covenants allowing for “Cellular Transmission Tower on Lot 63”; Exhibit H – Sprint/Nextel site and development outline dated 8/18/2006

Chairman Martin entered Exhibits A – H into the record.

Planner David Pesnichak explained:

The Applicant states: Sprint/Nextel is proposing to amend the text under Paragraph A & G of Section III R/M.F.4 – Residential/Multi Family, Four-plex District in order to allow for the installation of a multi-user Telecommunication Facility. The proposed language under Section A shall read as follows: The construction and operation of a multi-user cellular transmission tower on Lot 63. Currently G under Section III indicates a maximum Building Height of 25 feet, the requested height change to Lot 63 is 55 feet. The above referenced Resolution was recorded on October 13th, 1993 under reception #45360, Book 878 Page 456. The Applicant does not indicate whether “The construction and operation of a multi-user cellular transmission tower on Lot 63” is to be a use allowed by right, conditional or special use permit.

Following discussions with the Applicant, Staff understands that the Applicant intends the use to be as a use by right. In addition, in order to make the wording match that within the Garfield County Zoning Resolution of 1978 as Amended and as the R/M.F.4 zone district only applies to Lot 63, Staff suggests modifying the language to include a “Communication Facility” as a “Uses, by right” within the R/M.F.4 zone district of the West Bank Ranch Filing 4 PUD. Section 2.02.155 of the Garfield County Zoning Resolution of 1978, as Amended defines a “Communication Facility” as:

A non-inhabitable structure supporting antennas and microwave dishes that sends and/or receives radio frequency signals, including television and data impulses through space by means of electromagnetic waves. Communication facilities include structures or towers, and accessory building, not including individual/personal direct-to-home satellite services.

Staff recommends the Board of County Commissioners approve the proposed amendment to the text of the Residential/Multi-Family, Four-plex District (R/M,F,4) zone district within the West Bank Ranch Filing 4 PUD with the following alterations:

- That the text be changed to allow a “Communication Facility” as a Uses, by right within the R/M,F,4 zone district of the West Bank Ranch Filing 4 PUD.

Discussion:

David – Presented maps and pictures. A key fact in this application is that the applicant has in fact altered the conveyance within West Bank PUD so it has gone through the homeowners association. This request was heard by the planning commission on July 11, 2007 and they recommended approval by a vote of 5 to 0. Staff does recommend one change, the language instead of using “the construction operation of a multi-user cellular transmission tower on Lot 63”, staff recommends simply putting in a communication facility and that keeps the language consistent with what we currently have in the zoning resolution. It is staffs understanding that the applicant is requesting this be a use by right within the zone district. So no further review by the county would be necessary for the tower.

Commissioner Martin – Questions?

Commissioner Houpt – Glenwood Springs had some comments did you respond to those?

David – The comments that Glenwood Springs submitted are things the applicant will need to do before they put in the tower. Since this is a text amendment they are important points that were well taken but they are marginal.

Commissioner Martin – Not a site application.

Commissioner Houpt – I think it is important when anyone responds that there be some recognition of that, either between the municipality and the county to explain to them why it isn’t part of your report.

David – Right I have had a conversation with Alisa and they understand it is a text amendment.

Commissioner Houpt – There was no concern from West Bank and you didn’t receive any documentation of concern from Iron Bridge?

David – I haven’t received any objections to this application

Commissioner Martin – Any questions of David? To the applicant.

Chris – Consultant for Sprint Nextel. Sprint Nextel has been working for the last two years in researching an area that would meet the coverage objective of Highway 82 as well as the residential areas surrounding County Road 109 and the golf course area. After a lot of research in this area this became the most feasible location. It would meet not only the coverage objective but also authenticity blend with the surrounding environment. There are a lot of things that are evaluated. One being technically compatible with our established network. A general area that is identified based on the engineering restraints for the remissions and it is Sprint Nextel’s policy to always locate on existing infrastructure whenever possible. In this case there was little choice as far as existing towers, structures we could locate on and then also the specific

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locations that are identified are evaluated based on topography, access, utilities and then willing landlords. We have been working closely with West Bank HOA in order to come up with a location which will meet our needs and theirs as well.

Commissioner McCown – I move to close public hearing. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the text amendment to the West Bank Ranch PUD filing number four with the verbiage change as recommended by staff as far as the cellular transmission to be listed as a communication facility and this would also entail the five conditions recommendations from staff. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

CLERK & RECORDER – LIQUOR LICENSE - SPECIAL EVENT PERMITS – IT’S THE REALM OF CARING INC. BENEFIT CONCERT ON SEPTEMBER 29TH AND 30TH, 2007 – CHRIS DAVIS AND JEAN ALBERICO

Tim Warn and Chris Davis present

Commissioner Martin swore in the speakers

Discussion:

Commissioner Martin – This was a noticed hearing.

Jean – Post sign ten days before hearing.

Commissioner Martin – Asked if accomplished and it had and the return of notification was present.

Jean – This is for a benefit concert to be held as above, on County Road 241. As I understand from Mr. Warren this is the second year they have held such a benefit concert at the same location. They recently set up the non profit group the Realm of Caring to sponsor these and it is a way to give back to community. You have the application, drawings showing how they are going to secure the area where the alcohol is sold, there is a lease agreement and procedures and they hired private security to handle the event. They were brand new and to make a trip to Grand Junction to get sales tax number assigned and they have done that.

Commissioner Martin – Any questions? To the applicant?

Chris – I currently reside in Eagle County and this whole concept and idea started after they had some major budget cuts for the school districts there regarding music and arts. I started to have these events in Eagle County and Minturn to actually give private funding for after school programs. We started thinking here it would be a really good way to do this for New Castle, Colorado and then there is a specific park that was approved, Candle Park we want to try to donate some funds to turn this park into a music park. There is such a park in Telluride and Cretea Bute, we want to try to raise money for that.

Commissioner McCown – How many people are you anticipating? I see the ticket sales are capped at 1,000 and then you pay \$1.00 per ticket to the landlord for everything over 1,000? That would equate to \$500 a day?

Chris – Correct we are not going to sell any more than that.

Commissioner McCown – No tickets sold at the gate?

Chris – Yes if there is some left over

Tim – I’ll be happy if we get 350 to 400 people per day.

Commissioner McCown – How close is this to the nearest resident?

Tim – 500 yards. Now where the show is with the actual residence is 500 yards the stage is up on a meadow and a field which is another 4,000 yards away.

Commissioner McCown – You’re aware that’s almost 4 miles?

Tim – Okay 2,000

Chris – We had a professional sound engineer come in and actually build the amphitheater to direct out so it would not impact any of the residents around.

Commissioner Martin – Anyone in the audience with testimony?

Commissioner McCown – I move to close public hearing. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the special use events permit for It’s the Realm of Caring Inc. for a benefit concern on September 29th and 30th. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING & PLANNING -CONSIDER A SPECIAL USE PERMIT ALLOWING A MULTI-FAMILY DWELLING – APPLICANTS – PAUL AND LINDA OLSON – CRAIG RICHARDSON

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner Craig Richardson submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Application materials; Exhibit E – Staff memorandum Chairman Martin entered Exhibits A – E into the record.

Planner Craig explained:

I would like to make a few corrections on my staff report. Under location is it actually County Road 320 not 352 and section six (6) it should read staff recommendation not staff recommendation for zone district. The request is to allow a two-family dwelling on the subject property. Two-family dwelling units are contemplated in the Agricultural Residential Rural Density Zone District (ARRD) as a Special Use (§3.02.03).

BACKGROUND

The subject property was purchased by the Applicants improved with the existing dwelling unit and basement apartment. Once the Applicants were aware of the non-conforming use an application to permit the existing apartment was submitted to the Building and Planning Department.

Water is provided to the subject property via an existing permitted well (Permit No. 65198). The existing well permit allows use of ground water to ordinary household purposes inside one (1) single-family dwelling unit and one (1) apartment unit. The Applicants have obtained a West Divide Water Conservancy

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District Water Allotment Contract (Contract No. 060720PLOa). The WDWCD contract demonstrates a legal supply of water adequate to serve the proposed use. Staff finds that this condition has been met. Wastewater is managed on-site by an Individual Septic Disposal System (ISDS). The permitted ISDS (Permit No. 2119) has a capacity of 1,500 gallons. An ISDS with a tank capacity of 1,500 gallons is adequate to serve a total of five (5) bedrooms.

Traffic volume resulting from the proposed Special Use Permit allowing a two-family dwelling is not expected to require additional improvements. Current street improvements appear to be adequate to accommodate the proposed use.

The established neighborhood character consists of residential and agricultural uses. The requested Special Use Permit will allow the property owner to continue using the existing residential structure and apartment located on the subject property. The neighborhood character will not be compromised by the approval of the Applicant's request.

STAFF RECOMMENDATION FOR ZONE DISTRICT AMENDMENT REQUEST

Staff recommends approval of the proposed Special Use Permit allowing a two-family dwelling on a property owned by Paul and Linda Olson with the following conditions:

- j. That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
- k. The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended and all building code requirements;

The two-family dwelling unit shall not be conveyed as a separate interest but may be

Craig – Looking through our files I do see where the previous owner came in and obtained a building permit to do the two additional floors which differs from the original permit which is for one floor. But it was issued as a single family dwelling permit so if any work was done that wasn't represented in that permit the applicant maybe required to take out building permit.

Commissioner Martin – Any questions? Turn to applicant

Linda Olson – We have a very large home on ten acres, 3,700 square feet and it's just the two of us and we enjoy having people live in our basement apartment. We are gone quite a bit traveling as well as we both have medical issues that we have had them help us a time or two. We wanted to make it right with the county.

Commissioner McCown – I'm a little unclear on the building permit. There was one applied for when the initial home was built and then a second one applied for when the completion of the area where the apartment now is?

Linda – The people who built the house first, they lived in the basement that is now the apartment for five years so they got a building permit for that part of it as they built the log house. And then they got another building permit to encompass those floors.

Commissioner McCown – That is why I'm a little unclear as to why we need another permit seems like all three floors are covered.

Craig – We have to review the permit because there are two kitchens which there may be fire wall issues. It leads me to believe if a permit was issued it wasn't fully addressed that there would be two kitchens in the unit. Now it would not be issued that way.

Commissioner McCown – I move to close public hearing. Commissioner Hought – Second.

In favor: Hought – aye McCown – aye Martin – aye

Commissioner McCown - I make a motion we approve the special use permit to allow for a two family dwelling on the property owned by Paul and Linda Olson with the three conditions from staff

Commissioner Hought – Second. In Favor: Hought – aye McCown – aye Martin – aye

BUILDING & PLANNING - CONSIDER A SPECIAL USE PERMIT ALLOWING STORAGE OF OIL AND GAS DRILLING EQUIPMENT – APPLICANT – GEORGE STRONG – CRAIG RICHARDSON

Craig Richardson – The applicant's original application included a commercial well and office and restaurant facility at the time that was not contemplated in the ARRD zone district and now we do have a use as a contractor's yard. The applicant would like to re-notice under a contractor's yard.

Commissioner Martin – So he is withdrawing this application and coming up with a new one as a contractor's yard?

Craig – The application submitted is already consistent with a contractor's yard it is just that we were not going to allow the office facility.

Commissioner McCown – Do we keep all of this?

Craig – I can take it and give back to you.

Commissioner Martin – We will hear that on October 15th is that correct?

Craig – Yes sir.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

**SEPTEMBER 10, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, September 10, 2007 with Chairman John Martin and Commissioners Tresie Hought and Larry McCown present. Also

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present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

COUNTY MANAGER UPDATE – ED GREEN

PUBLIC HEALTH - APPROVAL OF TRAUMATIC BRAIN INJURY CONTRACT - LAUREL LITTLE

Contract not to exceed \$103,200.00

Carolyn – This is a task order under the Master Contract.

Laurel – Yes – The TBI program is part of our Health Care Program for children with special needs. It is for care coordination of children zero through twenty with traumatic brain injuries and we would be getting \$320.00 per month when a child is accepted into the program and then \$80.00 per month thereafter to provide care.

Commissioner Martin – This is in your 2008 Budget is that correct?

Ed – It’s the State Budget

Commissioner McCown – I make a motion we approve the TBI Contract with the CDPHE in the amount of \$103,200.00 and the Chair be authorized to sign.

Commissioner Houtp – Second

In favor: Houtp – aye McCown – aye Martin - aye

DISTRICT ATTORNEY - PRESENTATION OF 2008 BUDGET REQUEST – MARTIN BEESON

Tentative Operations budget for the year 2008 is \$2,409,220.00, less \$53,600.00 that will be contributed to the budget by the State of Colorado and less \$30,000.00 in other miscellaneous revenues. This represents a decrease in the total Operations budget of \$44,880.00, or 1.8% under the year 2007. We are requesting 10% salary increase in all staff positions and the attendant increase in benefit costs. This increase represents the second phase of the three-year plan we discussed at last year’s budget meeting. Note the 2008 cost for maintenance and technical support for the electronic file management system is included in the proposed budget. This is a new line item and will be approximately \$29,000.00. We will not go live on the new electronic system until the end of 2007 or the beginning of 2008. We anticipate that it will take between six months and one year to be comfortable and safely transition to, and rely solely upon, the new system.

The counties’ contribution to the Victim/Witness Program budget is \$80,652.00, an increase of 5% over the 2007 budget. The Victim/Witness Program is also funded through grants from the Victim and Law Enforcement Assistance Fund through the victims of Crime Act and through administrative revenues generated through court assessments.

Each county in a multi-county judicial district such as ours is responsible to bear the necessary expenses of maintaining the office for the transaction of official business.

Garfield County continues to carry the highest caseload in the district. Eighty-four percent of felony cases, seventy-six percent of juvenile cases, thirty-one percent of misdemeanor cases and sixty-five percent of traffic cases are filed in Garfield County. These cases account for approximately seventy percent of the total caseload of the Office of the District Attorney.

They have explained how there are many serious felony cases still open in the district which will be very expensive and anticipate them to be long.

Martin Beeson – Last year we talked about increasing salaries and compensation packages and making them competitive with the Front Range offices. I asked initially for a 7% increase it was this Board which asked me if I had a long term plan and I indicated that I had a 3 year plan to increase compensation 25 – 30% and I am asking for 10% increase. There are some substantial increases, our dues and we are just going to be honest and ask you to fund it. The Denver District Attorney’s office has elected to pull out of the Colorado District Attorney Association effective at the end of this year. There is concern that one other large district will pull out. At this point we are looking at eliminating a couple of positions in the Denver CDAC office so that dues won’t have to be increased. We need to take a look at the fundamental mission of CDAC and get out of the computer business. I mention that because there may come a day in the not so distant future where they may ask for increased dues. Our dues are going to increase to about \$16,500.00 next year. In July of next year this district, the 9th, is going to get another District Court Judge. That judge will probably sit here in Garfield County. Depending on how the local judiciary and the local judge here decides to use that third judge I may be coming back and asking you for another felony deputy in this court house.

Ed – If a judge is approved in July how long would it take before they would actually be on the scene?

Martin – It depends on whether or not they will engage in the betting process and the application process before July 1 or starting July 1. But once the process has begun there is a very short time limitation on it. I anticipate probably 4 to 6 weeks, if not sooner, that judge will be on board.

Commissioner McCown – Could you go a little further on the CDAC and what are the benefits that you get from that \$15,000.00 a year membership?

Martin – One of the great benefits will be our ability to participate in the annual fall conference. It runs the same time the public defenders have their conference and the judges. Any attorney in the state of Colorado, in order to remain active, licensed and in good standings has to have 45 hours of continuing legal education every three years. Every attorney in our office can get 20 to 22 of those hours at this fall conference. Statewide, together we are stronger at the state capitol during the legislative session. We employ two very well known and respected lobbyists at the capitol. One thing we were able to defeat at this past session was a measure to take away, when a person is in custody whether it is in community corrections or in DOC and that person escapes their charge, once they are found and convicted whatever sentence they get on the escape is run consecutively to the rest of the term they are originally serving. There was a measure set to get rid of that consecutive sentence requirement. That is a small example but the CDAC does accomplish a lot.

Ed – You’ll note our share increased about 69% to 71%.

Commissioner Houtp – Do we approve this separately or do we do this when we approve the budget?

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Commissioner Martin – Final approval will be done after December.

TRAILS AND TRANSPORTATION - SOUTH CANYON TRAIL – JEFF NELSON AND LARRY DRAGON

Jeff – Larry was supposed to be here did not make it. I’m here for approval for about 600 linear feet of trail for the County to approve to be built for the LoVa trail. The other is the financing involved with it. Obviously you were with us but it wasn’t affordable and the only portion that LoVa and the County can afford is about 600 linear feet. It would start in the Mitchell Creek area and end at the end of West Glenwood Sanitation District. I’m here today to go through the financing portion and the counties portion is about \$350,000.00. Recently Larry got approval from the City of Glenwood; they are still on board for their \$250,000.00. We talked to CDOT and they are still behind us. Along with CDOT’s portion we also need to amend the license agreement and the agreement with ITA. Casey Peter has spoken with me and it appears its okay but wants to talk to Don DeFord personally.

Don – Casey called me on Friday. Two things, he thought the state would be willing to amend the existing agreement we have with them, it’s called a design agreement which required construction of the project after design was completed. Secondly we talked about the license agreement. My view and I think it is consistent with what Casey is also going to do with the state and that is the current license should be revoked in its entirety. We do not want to have any property interest on a CDOT right-of-way until we actually can construct something. We both agreed that when funding is in place and the county is ready to move forward we will have to come back to state and renegotiate the license.

Commissioner Houpt – You don’t see that as an obstacle in the future?

Don – No more so than it was this time.

Ed – How much if any of the \$433,000.00 that is budgeted for your project is included in the \$300,000.00?

Jeff – How much of the original?

Ed – We paid for the design?

Jeff – We paid 20% and CDOT paid 80%

Commissioner Martin – So the amount requested is \$300 and some thousand dollars and has that been budgeted or is that above and beyond?

Jeff – Larry had the numbers of everything spent.

Commissioner Houpt – According to his letter we received last week this is within the budget. Can you explain the importance of this 600 foot stretch?

Jeff – I believe Mike Sawyer did a good job over at the City to get this sold. Basically this is to kick off the entire trail to get it over to South Canyon or Canyon Creek. This is huge in that we already have an easement to west corner Sanitation district that is already in place. If we don’t built this I believe it will stay in place but obviously when they begin construction it is going to raise cost. You get people to see there is a future of going all the way to Canyon Creek with this trail system and then on to Rifle etc.

Commissioner Martin – It gets it thru their construction.

Commissioner Houpt – It will be maintained so that it is not covered over by weeds and forgotten?

Jeff – It will be a fully built path. It is not just a gravel base.

Don – There is actually an easement to the City and to the County do I have that right?

Jeff – Yes. What happens 50% of the property for what is going on Sanitation district, it’s annexed into the City and 50% still in the County.

Commissioner McCown – So 300 of this 600 foot will remain in the city and 300 will be in the County or half of the trail half of the right-of-way?

Don – My understanding was 300/300 foot.

Jeff – That is correct Larry 300/300. Also the City is going ahead with a bridge over Mitchell Creek.

Commissioner McCown – Is the County still going to bear the responsibility for the maintenance of this entire 600 foot section as we were in South Canyon?

Jeff – The way I understand it yes, 600 feet.

Don – That is my understand. We will need an agreement with the city to maintain the portion that is on their easement. Going back to what Tresi had commented on about the weeds, it will be important that this be maintained because there are liability issues as long as it is County owned and/or controlled property.

Jeff one quick question on the contributions the \$250,000.00 from the City, is that including the bridge or is that in addition to the bridge?

Jeff – In addition – the bridge is completely separate, it not part of this project.

Ed – We moved \$300,000 from LoVa to RFTA; is it the same \$300,000.00?

Jeff – I asked Larry and he said no it was fine. Basically the way the funds of the County were laid out, I think it was \$733,000 total, so there is still \$400,000.00 and some odd thousand. Design costs were taken out of the \$733,000.

Commissioner Martin – Down to the penny.

Jeff – Yes and I also made sure there was a 5% contingency.

Commissioner Houpt – too bad Larry isn’t here because he did work on this budget.

Jeff – He and I were on the phone the past two week and I reiterated to him that he needed to make sure money is correct. When he sent the final I told him to add 5% contingency.

Commissioner Houpt – But he has been saying for a couple of months that money was in place and separate from the other funding.

Ed – Do we need to authorize more than \$433,000.00

Commissioner Martin - No

Jeff – We are not asking for that we are asking for appropriation of the \$350,000 to \$400,000 to stay in place.

Commissioner McCown – What is the 600 ft. going to cost is it running the same as the entire trail was?

Jeff – Yes actually the entire trail the median number came out lower than the 600 feet just because of the location. There are probably three other sections very similar to this 600 feet that are the very top in the constructability cost on this project. It’s up there.

Ed – About 800 foot?

Jeff – Yeah it’s up there

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Commissioner Houpt – We knew this first part of the trail would be an expensive part of the trail and that is what made this such a difficult process. I'll make a motion we approve moving forward with the 600 foot trail.

Commissioner McCown - Second

Chairman Martin – Not to exceed that.

Commissioner McCown – Again, I can't support this I think it is putting the County in a tremendous liability situation. We have no other provisions; we can't go into a town and work on their City streets, we are prohibited by law from doing that. We are now taking on the maintenance of the project inside of their venue for maintenance. We were doing the same thing on a federal interstate highway and I think this places the County in tremendous liability. We have no recourse other than to face up to the liability if something should occur on these trails and I think it is a tremendous position we are putting the County in. Not having number one funding, not having any provisions to maintain, care for, and fund again the maintenance of these projects. That is going to have to come out of a magic fund. We are asking a lot from our general fund.

Commissioner Houpt – Won't that be under road and bridge Ed?

Don – It is covered under the open space parks provisions as a separate statute that authorizes the County to engage in this activity. That is why sometimes we talk about the location of a trail if it is located within a County right of way. It can be treated as a road and bridge facility. If it is a stand alone facility and not part of our road system or a public road then we have to do it as a park or an open space, then we can do it.

Commissioner Houpt – So we contract with road and bridge?

Don – That is what we will do but I don't know if it would be a contract.

Commissioner McCown – Might be smarter to contract with an outside entity and require them to be insured.

Chairman Martin – Possibility into the contract with the City because they do have maintenance vehicles and personnel and they know how to do that.

In favor: Houpt – aye McCown – nay Martin – aye

Commissioner Houpt – While on the subject of bike riding and trails, I received a call from a community member who lives in New Castle who used the Buford Road for riding their bikes all the time and since it has been repaved, the rock is too large, the surface is too rough and they can't ride their bikes. They are happy we are supporting trails over here but not happy with the way we are paving roads.

FINANCE - BUDGET – RECLASSIFICATIONS - PROMOTIONS

Ed – Patsy has been doing some preliminary work on the budget, staffing requests and promotion requests in 2008. Patsy and Katherine are here to get some guidance.

Chairman Martin – Do you want an open session or did you want an Executive Session?

Don – This is a discussion on policy and budget and it affects other elected officials so I felt public, and also an agenda item so we can put on the record why we are discussing.

Commissioner Houpt – Because it impacts other peoples budget. I would think we wouldn't want to make decisions without them being able to be in the room to discuss it. That is the disadvantage of it not being on agenda

Patsy – I've given you two different spread sheets. The first, 2008 new position requests, these are the numbers for the new position broken down. There are a number of them on the last page 3. The total full or part time is 44, the number of bodies is 47. The total amount is over \$2.5 million and does not include any operational costs that might be tied to some of these in the way of supplies, computers, vehicles etc. My question, I know traditionally I put this into the budget and you have included these new hire requests as a part of the budget discussions. But before I move on it, it caught my attention and it seemed a little high. Do you want to meet with any or all of these people before I actually put this into the budget or just not put it in the budget and you will address it when you do the routine budget review?

Commissioner Houpt – Patsy, in the past what has the bottom line been for additional people requested?

Patsy – I don't have that dollar amount. Last year it was 25, the year before last about 17 and this year when I saw it jumped up to 44 that is why I wanted to ask.

Chairman Martin – I want to hear some explanation why do we need so many people and the impact and look at the over all impact of each one of the departments. Not only personnel but also all the items that go with it. We are looking at 4-5 million dollar increase just in personnel costs this year. I think we should have a good discussion before we put in budget.

Patsy – I'm certainly happy to do all this work and put it in the budget, if I do all the work and then determined X amount is going to come out for the most part I have to do it all over again.

Commissioner Martin – What we have had is justification, a discussion with all the other elected officials and department heads, Mr. Green etc. and then authorize it to be put into the budget. I think we need to authorize before you put it in.

Commissioner Houpt – So we need to agenda a workshop? I certainly want it to come before for me. There are two ways of doing that, it either comes through the budget or we agenda it.

Patsy – I guess that is what I'm asking, given the information I have shared with you, would you like to schedule an agenda before this goes into the contingency of the budget or do we just put it in budget and then the discussion.

Commissioner Houpt – By extracting it, that helps you?

Ed – I think it will help us go through the budget process. The quicker you resolve these issues the smoother it's going to be.

Patsy – One of the things we do, as the numbers are in, then I work with Ed. One of the directions I'm given has to do with 12/31/08 projected end of year fund balances. If I am working toward a projected fund balance and some of that has to do with the mill on the property tax and we are going to split that mill up, if those numbers are going to change because of discussions directly related to the requests then the numbers I give you in the budget they could change by as much as several million dollars. It is not I just don't want to do the work, I'm saying it could change the end of year fund balances substantially in some funds.

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Commissioner Houpt – Okay that is fine with me and I think it gives the other elected officials the opportunity to have an extensive discussion. I doubt anyone comes forward with requests like this without a good logical reason. Then you'll be presenting the departments or will you have the supervisors?

Ed – Supervisors/department heads.

Commissioner Houpt – I suggest we do that at next our meeting.

Ed – Do you want to do at the next meeting or do we schedule?

Commissioner Martin – I think we need to schedule it.

Commissioner McCown – If we approve these positions what are the support numbers that go with them?

Don – One of the problems I ran into I couldn't come up with a number for housing, for lack of a better term. For the numbers your looking at there may be capital cost for facilities and I don't know how you account for that.

Patsy – And I have a way of estimating that, the paper work that generates these few pieces of paper is about this high. What I wanted to do was get these numbers knowing that another piece of information you need is an estimation of related to these requests for new hires. I will have that for you.

Commissioner Martin – It's about twice what you pay for wages and benefits.

Ed – As you know we won't be able to build a new facility by the time these people requirements hit. So we will be leasing space.

Patsy – I think that is part of the discussion too, is there space to lease and house all of these?

Commissioner Houpt – What is the schedule on the annex by the airport?

Ed – March 1st it is scheduled to be completed. We probably will not be moving in until the 15th We have 22 offices there.

Patsy – Separate from the new position requests I have given you a portrait layout. I have not put dollar amounts on this because I still have information that wasn't clear in the paper work. I've asked Katherine to joint me this morning and you can see from this we do have a number of requests to promote and reclassify positions next year. I was wondering whether or not the work that is being done right now with our new HR Director and Phyllis Lundy should the work that Katherine and Phyllis do need to happen before there are re-classes and promotions? It is just something I wanted to revisit before I start calculating all of these because these are also additions to the budget. I don't have the dollar amounts.

Katherine – I have been looking, with Phyllis Lundy, identifying a solid salary structure and some policies and processes for promotion and reclassification and looking at what is currently in place now. At the same time because of our budget process these recommendations or requests come in. My feelings on it, from my knowledge at this point is it could go either way. We could do these and then when the structure is finalized match them against that. My confidence on that side is related to Phyllis's expertise and her knowledge of Garfield County. We do have the option of waiting until Phyllis and I are complete with the work. I am anticipating, because that will also involve job descriptions, she has identified a matrix and we have proofed it and it is finalized. Phyllis has been talking to department heads and elected officials during this process to keep them in the loop and to get feedback from them. I am anticipating by the end, of this calendar year we will have something solid in place.

Commissioner Houpt – Katherine you also said you have confidence in either decision, is that because of the close work Phyllis has been doing with the department heads and the elected officials and she feels as if these requests fit into the type of matrix you are deigning?

Katherine – It is based on my knowledge of Phyllis's expertise and the process that she is using. I have not reviewed these specifically with her but I know she was heavily involved.

Commissioner McCown – These are going to have a significant impact because we have three that are unknown re-classes and we only have two reclassifications that are classing down and all the rest involve promotions.

Patsy – Where it says re-class it wasn't clear to me looking at the paperwork what they were seeking to do.

Commissioner McCown – 3 are unknown, 2 are classing down and the rest are promotions. There will be some significant financial impacts along with this. I think that number probably equates close to the 47 on this page.

Commissioner Houpt – I want to know, actually have you and Phyllis looked at these with Patsy and see where they are going to fit in.

Patsy – I'm hearing you so to go ahead and continue to tie dollar amounts to these, work with Phyllis and Katherine to see whether or not there is a problem with making these changes if you approve them knowing there is still work being done in the world of job descriptions and salary survey results. It might be okay to approve these and then the changes are what will be considered in the work that Phyllis and Katherine are doing.

Commissioner McCown – That is not my preference to move forward and go with this and then the first of January or February we get a new classification and we have people due another 15% or 20% increase. I would like to find out where they land first.

Commissioner Martin – Do it twice or do it once and you're asking to do it twice.

Commissioner Houpt – I think it is important for Phyllis and Katherine to look at these to make sure they thoroughly understand what the elected officials and the directors believe are the needs in this County as well.

Commissioner McCown – I'm not arguing that but I'm not going to give more than one increase next year. If they come up in February and they should be in a class eight and they are in a class five, they will stay in that position until 2009.

Katherine – As a process then, Phyllis, Patsy and I can schedule time, go through each one of these individually.

COUNTY SHERIFF UPDATE – Lou Vallario

SAVAGE FIRE - REQUEST FOR PAYMENT FOR OUR HALF OF THE SAVAGE FIRE BILL

Invoice from Colorado State University in the amount of \$30,883.01

Lou – We are requesting the payment on half of the Savage fire bill, \$12,554.07. We had a workshop and talked about fire issues regarding the budget and we have traditionally not budgeted specific fire costs. It is very difficult to predict what the fire season is going to be like. What we have done in the past is we

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memorialize any of these charges through a budget supplement. The word coming down from the feds and the state is that there will be cost containment. Specifically we are asking to pay half this bill and we have already received the check for half from the Rifle Fire District again based on a conversation we had in the workshop. Number two I don't know where we are at with our discussion in that workshop. I thought John came up with a great idea on how to resolve these issues, setting aside some sort of an enterprise fund for future transactions that we know will occur.

Commissioner Martin – Try to put this under your budget as well so you will have it.

Lou – Maybe a reminder since we are in the budget season we want to do that for 2008 and build the fund.

Commissioner McCown – In reality looking at this bill isn't this the state billing us as opposed to the feds?

Man – The feds bill the state and then they bill us.

Commissioner McCown – We are assuming the state pays the federal government back? I get the feeling there is probably an administrative cost built in there somewhere.

Lou – There was a 23% administrative fee in this that we refused to pay and I understand other counties refused as well.

Commissioner McCown – I make a motion we authorize the payment of \$12,554.07 for reimbursement on the Savage Fire. Commissioner Hought – Second.

In favor: Hought – aye McCown – aye Martin – aye

SHERIFF - EMERGENCY OPERATIONS PLAN – JIM SEARS AND LOU VALLARIO

Submitted to the Board a plan which provides general guidelines and principals for managing and coordinating the overall response and recovery activities before, during and after major emergencies and disaster events that affect unincorporated areas of Garfield County.

Jim Sears – We are presenting this plan for your adoption as the County Wide Emergency Operation Plan.

This follows the state emergency operation plan and it follows the national response plan for the feds. It is in the same format. I've been working on this for a little over a year. This has gone through the public safety council. I've also presented this three different times to the department heads and elected officials so they had an opportunity to comment. This plan is ready for however you adopt these. This is not a tactical plan this is strictly who is responsible for and if you look on page 10 it outlines the major responsibilities of everyone from the BOCC down to the other department heads. This is not inclusive of everything. It gives the people something to look at when an incident happens. We have not had a new emergency operation plan since 1999 and that was more of a tactical plan. This is more who is responsible for certain areas.

Commissioner McCown – How does that interface with the operational plan. At what point in the operational plan do you hit a trigger that would create the involvement or what level of activity creates the need to involve the Clerk and Recorder in the process. Are there thresholds there?

Jim – I wouldn't say they are thresholds, what they are is what the incident involves. If there are mass casualties that triggers certain actions by the people. If the Clerk and Recorder say there is mass casualties with a lot of deaths it would trigger them because they have to provide the death certificates.

Commissioner McCown – It is more the type of event than a threshold in each event.

Lou – The plan is based not on tactics but on consequences we know regardless of what type of emergency there is always consequences.

Commissioner Hought – I have a question on page 19 under public health and medical, I noticed state, local and federal agencies are not a support and I was wondering what the blacked out boxes were?

Jim – On the actual plan they are red. That is the primary and unified.

Commissioner Hought – So public health is in there but what about CDPHE which would be at the state level and there is no supporting role for state agencies.

Jim – I can add that in, it should be. That would be an S which means that is a support agency.

Lou – Obviously out of those fifteen emergency support functions there is at least one organization that has primary responsibility for each of those.

Commissioner Hought – This is very well done

Commissioner McCown – I guess I don't understand the rating or the primary or the support but since our responsibility in Garfield County is the unincorporated area, I guess I would wonder how we would not be the primary agency on public works and engineering as opposed to support. We are the ones who have to authorize the use of road and bridge equipment.

Jim – But the road and bridge are the actual ones who go out and do the process. You're supporting them by authorizing them the funds.

Commissioner McCown – So they are primary but can't do anything until they ask us?

Lou – Right

Commissioner Hought – So Don, is there a process for adopting this?

Don – Not really in the sense that you have to adopt it. Normally I would say given the language of the statutes that you would go forward and adopt by motion. Turn to page 2 under legal authority under local;

Jim has noted a County resolution that established the position of emergency management coordinator. Jim raised this issue with me some time ago. That resolution established that position in conjunction with a joint funding agreement among the municipalities that to my knowledge is not still in existence, is that correct?

Lou – I don't know how to answer that, I don't think it was defined in the resolution as far as a particular year or an expiration date.

Don – It didn't have that but the position was dependent on achieving a joint agreement which we did have. We achieved contributions but my understanding is it is not functioning the way it was designed originally.

The reason I raise this issue is it would seem to me appropriate at this point to do a resolution that adopts this plan and also firmly and unequivocally establishes the position of the emergency management coordinator in the office.

Lou – I would have viewed that and it is certainly your pleasure but I think when we originally talked about those shared funds from other entities almost the first year and actually the second year where we did receive funding, it's up to you do we want to pursue that from each of those entities and then we are back to what if they don't pay. I agree if we are going to move forward you are probably right we need to change the resolution if we want to continue to try and extract funds from those other entities.

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Commissioner Houpt – Then I am hearing two different things. You're not saying as a part of that resolution it creates a tool for collecting monies from other entities?

Don – No, the problematic nature of what was contemplated by that resolution I would suggest you repeal it and then start from scratch. I think you still want the position and my understanding is you still want it as part of the Sheriff's office. Jim suggested we address this issue more than a year ago. This is a good time to address that question.

Commissioner Houpt – So you can just bring a resolution back to us?

Don – I would like to do that and when I talked very briefly with Jim about this it would give you an opportunity to really go through this and make some notes and come back with any other suggestions, changes and get it in final form and then adopt it. We can either agenda this for your next meeting or your first meeting in October.

Commissioner Houpt – I will not be here the first meeting in October.

Commissioner McCown – Why don't we put this on the consent agenda for the second meeting in October and if we need to pull items off and discuss... If we are in agreement it will go through.

Jim – The plan is it will go on the website. Also the cities have expressed interest on it once it has been adopted, getting a copy and adopting for their municipalities.

Commissioner Martin – We can address the funding issue too.

Don – Part of the consent agenda I will give you a resolution that will track my comments today.

Ed – I would suggest we also have a table conference which involves department heads.

Lou – So we are going to hold off approving this until the consent agenda?

Commissioner McCown – Yes, until the resolution and it will all be tied together.

SHERIFF - SECURITY AT COURT HOUSE

Lou – At the last meeting we discussed putting together a meeting with the people at the courthouse regarding court security and John I understand you did that.

Commissioner Martin – I did a preliminary, I did talk to the judges and the administrator to see if there was a need or desire to talk about it. Judge Boyd said yes let's talk about it if it doesn't compromise their security and comfort level that they would entertain any kind of suggestions. The state administrator saying no we need to fortify it we need to bunker down and we need a whole bunch of other things in the courthouse to secure it. I talked to the other elected officials, three of the elected officials at the courthouse said the number one concern and complaint is to access the second floor having to go through security. They would like it to be friendlier and I've found one or two suggestions we could probably talk about.

Again it was preliminary, there is no plan and there are no changes.

Bobby – (in the audience) On security I was very embarrassed and this is a letter for you guys to read. He presented a letter to Commissioner Martin.

Lou – The only reason I mentioned that is I have received phone calls from people concerned as to why I wasn't there and there was some confusion going on with that.

Commissioner Martin – There was no decision making it was just an extension of the hands and saying would you like to talk about it.

Lou – So we are going to move forward in a larger meeting with the tenants of the building?

Commissioner Martin – You and I will sit down and see what approach we wish to have and then we will bring it back to the Board.

Lou – I need to make clear to everyone that my statutory responsibility is court room security and those judges of course. What you choose to do with the building and how we do that is certainly your prerogative. I guess what I am saying is I'm tired of getting beat up and taking the heat for providing the service as well. If we contract that out to Acme Security, I don't think it would be appropriate for Acme Security to take the heat over that either. The ultimate decision is it will not change my responsibility or my authority to provide court room security for the judges.

Commissioner Martin – That was not a popular discussion item in reference to the judges. They have the utmost confidence in you and highly complimentary of your staff but they were not complimentary of your idea of contracting it out.

Commissioner Houpt – I think the request last time was just to get Lou and the Judges and the other elected officials and John together to talk about what the needs were in that building. Originally it was Lou could you talk to the judges and see how extensive they want this to be. I don't think we need a million different meetings. I think what we really need to do is to define what is necessary in that building and you have to be there Lou, the judges need to be there. It is important to have the other elected officials there but the bottom line is that we are meeting the needs of the judges right now.

Commissioner McCown – I agree and I disagree. I think it is how we are meeting the needs of the judges that the point of discussion needs to lead to. I think some significant architectural modifications on the inside of the courthouse can occur and still meet the needs of the judges and still allow the public to flow to the second floor and get your license plates. I think the stair wells at the front entrance could be blocked off and secured. The south door could be allowed open for people going to the second floor. The elevators could be blocked out so you can not access up and down from those floors and still allow our fire escape plan to function because you use the stairs anyway on the fire escape plan. I think Dale Hancock needs to be at these meetings because we are talking capitol work as well as security. One cannot happen without the other. Once we see if we can make some modifications to the structural portion of the building that may change Lou's scope as far as providing security to the court room. It may go to an individual magnetometer at each entrance to the court room as opposed to a huge facility that everyone in the county has to go through. I think Dale or someone from operations has to be involved in this discussion. The courts historically have come to us with our obligation to provide them space with significant wishes and no money. We need to plug that into our views as well and still allow Lou to function in statutory obligation to provide that court room security. The way we are doing it now, if we all remember, was a test. Let's see how this is going to work by securing the entire building. We've looked at it, it's been a year maybe it's not the best way. Maybe we can cordon off some halls and let the public free flow in there other than the court rooms.

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Lou – I certainly want to be inclusive of that I just want to make it clear if there are going to be expenditures and we do have to modify capital or the building itself, those are your decisions based on your philosophies of what you want done with that building. I’m providing the service. I’m not making those decisions for you. The only thing I am required to do is protect the court room and the judges which I will continue to do.

Commissioner McCown – But one could enhance the other by putting in some walls and making some changes it could alleviate some of your personnel needs which in turn would benefit all of us.

Lou – I agree with you Larry, we didn’t do anything permanent, we didn’t make any physical structure changes, we obviously shut down the idea of doing the entrance way and now it’s time to look at it.

Commissioner Houpt – So that’s what we need is a meeting with you (Lou) Dale, the Judges and I don’t know if other elected officials want to be there. Just one meeting so everyone is not talking a different discussion at different meetings.

Lou – The only other thing which concerns me is we did talk about a contract to try to recover some of those deputies; I wouldn’t contract out anything to the court rooms themselves, it would only be the three positions at the front door.

Commissioner Martin – I assured the judges of that. Again there was no plan, it was just a question to probation, court administrator as well as the judges, will you sit down? They said yes and Judge Boyd has opened the door and we can put together those meetings if we need some.

Ed – This issue came up and the improvement projects that came from that was one to find land in 2008 so we can find a new home for the other elected in that building. Also develop an approach for refurbishing the court house to make it all court house.

Commissioner Houpt – That may or may not be feasible for 2008 but in the meantime.

Ed – In 2009 we would commission a construction project to build such a facility. If you make these improvements just remember it could be at some cost.

Commissioner McCown – I can remember being literally forced out of that building to come over here, driving the need to buy this building and they use that court room maybe two days per month. I think there is some prioritization that needs to be done and space management as well.

Lou – I would like nothing more than to have that building just court services then there is no argument about security.

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don – Need to provide you with an update the Vezzoso litigation. Provide initial information concerning possible administrative litigation on the Rulison test site and to provide information on the severance tax distribution contracts we discussed at the last meeting.

Commissioner Martin – Any update from Fred in reference to the Stirling Ranch notification. We will need to discuss that too.

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

CROUCH PROPERTY – MISSOURI HEIGHTS - Adrienne Crouch – You brought up Stirling Ranch and I was surprised I was not on the agenda. I wanted to make a few comments and then give Mr. Martin and Mr. McCown some additional information. I understand Commissioner Houpt recused herself on the Stirling/Crouch issue. I went back to review some public meetings and planning department information as well as I have requested in March to get an update on all of the letters I’ve brought to the Board starting in November of 2003 with comments on roads, legal access. This past week I went back to the initial information from 2003 because Lou and I keep reiterating that this has been going on close to four years and I found the Garfield County Planning Commission Agenda, I only have this copy which I will give to you at the end of this comment. At that meeting of 10/8/2003 the public hearing was on an amendment for the Stirling Ranch PUD to split lot 28 into three additional lots. I protested that, not at this meeting because I wasn’t aware of it but later on, that said you’re supposed to fix the road, get it off my property before you approve any more lot splits up there. I don’t have the date I think it’s November 10th I protested that, it could have been later. In the Planning and Zoning Commission meeting the Staff, and it’s underlined, shall recommend against the splits based on the fact that while the PUD contemplated ADU’s, they were specifically required to adhere to the four acre lot size minimum. They would also be consistent with Garfield County ADU regulations and the zones. They would be consistent with the character of the rest of the PUD in general. At that time the state engineer’s opinion on the water was different than the County’s and the state engineer’s opinion said the state engineer from the division of water resources provided a different opinion of the water rights and the related consumptive use. Ultimately they indicated that the proposed water supply will cause material injury to decreed water rights and is inadequate. In addition, this is important and it’s a big quote over dwellings and cases because the state water board reviewed it. In addition the state engineer’s office has not received well completion reports for several of the wells. This was in 2003 you guys approved stuff in 2002 where were the well permits then? Well completion reports for several of the wells, pump installation reports, statements have been official use for any of the wells. Since these documents were not received prior to the expiration dates and the legal status of the permits and therefore the ability to use these wells as a water supply is in question. Quote – “therefore it is the state engineer’s opinion that the proposed development will cause material injury to decreed water rights and is inadequate. That is important to me because I have two subdivisions next to me, the Henderson Stirling subdivision and the Stirling PUD neither of which through all of these years has ever notified me once. The water wells are being dispersed in between those and if you go back to resolutions originally in the 1980’s and the 90’s it basically shows where present miss statements may have been made to the Commissioners over acceptance of where the water is, how much water there is and it is a major issue for me at this point. Additionally, the Planning Department said entrance to the Stirling Ranch PUD issue, staff has been made aware, that’s the Planning Department I assume, concerned with the main road into the Stirling Ranch PUD County Road 162A which was constructed as part of the original PUD, the issue raised by adjoining property owner (that’s me Adrienne Crouch) appears to indicate that the road at the entrance to PUD actually cuts across the very southeast corner of the property. Staff has attached a prepared

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Garfield County Survey in July, 2003. I think Lou gave that to you a couple of weeks ago. Which clearly shows County Road 162A right-of-way crosses the corner of the Crouch property. As seen on the ground the road appears to follow a split rail fence. Quote “based on the fact that this issue is directly related to the proposed access to Lot 28 the subject of this application because it provides the main access to a County Public Road and it is also a key element of the approved PUD staff shall require as a condition of approval that the applicant resolve this apparent conflict prior to the submittal of the final Plat”. I understand you guys approved more splits when clearly your own resolutions or information said don’t do it. So there is some miss communication there and it’s damaged me. Just for the record there have been no notices to me on these subdivisions. I don’t know who they are notifying but it is not me. I would like you to review that. That seems to be something that is important as far as presentation of a clear and honest notification. Suggested findings to the Planning Commissioner posting and public notice was provided, I don’t know to whom. The public hearings held were extensive and complete that all pertinent facts, matters and issues were submitted. Staff recommendations: Staff cannot recommend the Planning Commission recommend approval of the proposed preliminary plan and PUD to the Board of County Commissioners based on the determination made by the Division of Water Resources in that this proposed development will cause material injury to decreed water rights and is inadequate. It also says they are not complying with the ‘78 zoning resolution, the ‘84 resolution or the 2000 resolution. In addition the Planning Department did request, as presented by Stirling PUD Attorneys on October 28, 2003, this was addressed to Don DeFord as Exhibit Q and I also put that in my 2003 documentation. But it says the County planning staff is asking that associated with our request, which I just discussed over Lot 28 which they changed back and forth between Lot 23 and Lot 28 which is confusing. The County planning staff is asking that associated with our request to split and rezone Lot 28 we obtain title to the land that the road is on. We have attempted to negotiate with Adrienne Crouch, not true, and we are requesting that the County condemn the small piece of land. Additionally I want to submit, I received this from a surveyor working with Stirling PUD on July 28, 1992, a letter was addressed from the law firm to Don DeFord and Mark Bean, and I want to put this in that basically says they are requesting the Sun Mesa PUD quote “I am requesting approval of the final plat for the subdivision as soon as possible”. In order to get this accomplished I am requesting that the final plat, now you can say Henderson Stirling Plat and/or the Sun Mesa Plat because they were done the same day I believe, that the final plat be issued even though the acquisition of property for the building of the County Roads 162 and 162A has not yet been finalized. That tells me over and over again what I have presented to you guys there is no legal access into Sun Mesa/Stirling Subdivision. That’s all I have. Commissioner Martin – That is why we are still continuing to look into that and thank you for the information.

Commissioner Martin – Back to executive session, do we have a motion?

Don – One other comment on Executive Session, Commissioner Houpt has indicated to me that she will not participate in the information I need to share on the Rulison test site.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

COMMISSIONER REPORT

Commissioner Houpt – Craig this evening to talk to their Energy Board and the Commissioners about the newly configured oil and gas commission. I have a discussion with CDOT tomorrow on the I-70 Corridor, Denver on Wednesday for a meeting with Congress woman DeGette on her Wilderness Bill, I’ll be at the Oil and Gas Forum on Thursday and then I have an I-70 Collation meeting in the afternoon in Georgetown and then on Friday CCI Steering Committee meetings in Denver.

Commissioner McCown – Oil and Gas forum this week, Thursday at the fairgrounds, Wednesday I go to Grand Junction.

Chairman Martin – Judge at Pie Days, Rifle at the North Hall on Saturday the 15th.

CONSENT AGENDA

- a. Approve Bills
- b. Changes to Prior Warrant List
- c. Authorize the Chairman to Sign the Acknowledgement of Partial Satisfaction of Subdivision Improvements Agreement for Callicotte Ranch Subdivision – Applicant – Callicotte Ranch, LLC – Fred Jarman
- d. Authorize the Chairman to Sign the Acknowledgement of Partial Satisfaction of Satisfaction of Subdivision Improvements Agreement for Ironbridge Planned Unit Development, Phase 2 – Applicant – L.B. Rose Ranch, LLC – Fred Jarman
- e. Authorize the Chairman to Sign a Special Use Permit Allowing a “Resort” – Applicant – Orchard Lake Lodge LLC – Craig Richardson
- f. Authorize the Chairman to Sign a Special Use Permit Allowing a “Shooting Range Facility” – Applicant is CNR Shooting Sports, LP – Craig Richardson
- g. Authorize the Chairman to Sign a Resolution of Approval and Special Use Permit for Temporary Employee Housing for Skinner ridge 598-35-AV for Chevron USA Inc. – Mark Bean
- h. Authorize the Chairman to Sign a Resolution of Approval and Special Use Permit for Temporary Employee Housing for a Central Man Camp for Chevron USA, Inc. – Mark Bean
- i. Authorize the chairman to Sign a Resolution of Approval and Special Use Permit for Temporary Employee Housing for a Central Man Camp for Chevron USA, Inc. – Mark Bean

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- j. Authorize the Chairman to Sign a Resolution of Approval and Special Use Permit for Processing and Material Handling of Natural Resources for a Fresh Water Pond for Chevron USA, Inc. – Mark Bean
- k. Authorize the Chairman to Sign a Resolution of Approval and Special Use Permit for Support Facilities of Natural Resources for a Temporary Office for Chevron USA Inc. – Mark Bean

Commissioner McCown – I make a motion we approve the consent agenda as presented.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a - f; carried.

TRAILS AND TRANSPORTATION - UPDATE ON BUS RAPID TRANSIT PROJECT – RFTA

Kristin Kenyon and Jason White were present

Kristin – introduced Jason who presented a power point presentation

Jason – Why do we need bus rapid transit in the Roaring Fork Valley and I-70 Corridor? We want to provide more operational capacity so we can accommodate all the growing pains that all the municipalities and counties are having. The rider ship keeps growing every year and we need more buses and staff. We want to make it speedier and more attractive. Even for residents that don't choose to use the bus, bus rapid transit can alleviate overall traffic congestion. With the money we received from Garfield County back in March and from some of the other municipalities we were able to hire a project development team. Here are some of the other financial partners that have helped us out. Garfield County, Pitkin County, Aspen, Snowmass, Eagle County and CDOT have contributed. The team we actually hired, David Evans and Associates out of Denver, it is a very multi-disciplinary team and they have a lot of North American and United States reputation with doing bus rapid transit service. As we move through the process we will be coming up with a detailed phasing plan. Very important part is how are we going to pay for it and that is going to be worked out as we go along in this. We are trying to have a parallel, local and federal approach. Showed a graph of where they were in the process. What is important to know is the service plans will be the foundation or the root of the entire process. That is why we are spending so much time getting input from all the different municipalities about our service structure. In about spring of 08 we will have to decide way before that, but we don't know exactly about a local ballot measure yet but it will be determined and we will keep everyone up to speed on that. Talked about the legend on how to interpret slides. Looks like a rail map to make user friendly for the bus rider. As you can see on the local line they stop at every station and then the express and the BRT stop more periodically up and down the route. The BRT might stop only at park and rides which allows the bus to stay out on the main trunk which would be Highway 82 or I-70 to allow for speedier service.

Kristin – Currently RFTA has locals all day and then some expresses throughout the day. We are starting something called direct services in the morning, peak hours. Showed picture. The BRT would be additional.

Jason – Showed Existing Services – This is what RFTA is doing now and as you can see we have local, Aspen Snowmass locals, Aspen Glenwood. Explained green line. This alternative came from the CIS back in 03 and I think the main thing to focus on is they looked into using the gray line, the local feeders or the circulators, so the theory behind that is a smaller type shuttle bus that runs more locally in town and then connects to the main trunk line on 82 or I-70. Proposed it starting in West Glenwood and going all the way up to Basalt park n' ride making different stops then running through Carbondale. Continues to go through slides. We don't have every single visual here for all the service that is proposed but these are the main ones. Keep in mind there is the peak and the off peak so we want to try and get people up and down the valley in all these different times. Explained the Carbondale Rifle local and explained that it would terminate in Carbondale and then someone commuting further up valley could catch an express bus or a BRT bus.

Commissioner Houpt – If or when Rifle and Silt become members of RFTA or Garfield County, will the BRT then expand out to that area as well?

Jason – Yes. We've met with a couple different staff members in New Castle and Rifle recently talking about this very same thing.

Kristin – What the consultants are finding is that we are actually trying to tailor to two different markets. There are folks who want to drive to a park and ride and then get on a speedy bus and get to where they are going. But there are also folks like in downtown Glenwood who like to walk and still want a speedy ride. This modified combined, this again is in the off peak times, we would have an additional layer of service in the peak times. But in the off peak times this is showing the locals, it's a reconfiguration of the local service and it is also this orange line, express BRT which stops at limited stops. It is a little hard to see here, showed stops for the both the green line and orange line. Actually folks would take the local from the I-70 corridor and could even transfer to the BRT here (showing on map) at West Glenwood Park N Ride or some place in town. They would be assured to have a speedier trip up valley. This BRT is projected only to go to the new Carbondale Park N Ride and not loop all the way through town. It's nice for Carbondale because they will still have local circulation and they can get to the BRT line. This is kind of the what's called the Honda approach because it is combining both those markets into the one orange line compared to this next version we'll show you. We are thinking this will be a little less costly alternative. This is the dual core and there is actually two layers of BRT service. One is the orange layer for just the walk up market and the red is a super express for the people that will drive, it's more of an inconvenience to get to the stops but then it is quite quicker, there is one stop or two stops in Glenwood. It totally by passes downtown Carbondale, doesn't take that loop into Carbondale. So they are saying, Carbondale residents if you want to get on it you can either walk to the orange line or you can take a bus and transfer at another Park N Ride for the red. It's more like the urban system where there is different color lines. I guess the bottom line is even though the BRT, the orange or the red, isn't extended to Rifle at this time we still believe this is a better service for the I-70 corridor because it is more streamlined. They will be assured of a faster commute up valley to these locations and they also might just have a one bus trip to Carbondale.

Jason – another thing to mention is these different layers being proposed is they are trying to use the local buses as the feeders. So instead of putting the financial burden on the local municipalities right now, to say

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Carbondale, Basalt you need to come up with a circulator or feeder it's a way of using the buses that are already running anyway to still service that. But by adding the two different layers it is a choice for everybody.

Kristin – Going back to CIS, it would require the Rifle folks for example to take the green line, actually they could still take the local but and then they would have to transfer into Carbondale. This was in the Corridor Investment Study, it relied on circulation in Carbondale on these local circulators but the BRT core was this orange. I think the BRT was just supposed to stay on the line with the circulators serving downtown. We will check on that.

Jason – Our next steps we know it's hard to see on screen, we are hoping that people will come out to the different open houses and different focus meetings we are having right now to really look at these service plans. So we can move to the next stage and plan based off of those decisions. Here are a couple different operational questions that we are going to be asking. These are just good things for us to think about and these are issues that have come up when we have met with New Castle, Rifle and they are also just some good things for riders to hear about. We are also in the process of doing a mini rider ship survey within the Town of Carbondale to figure out what the riders want and need. We are doing quite a bit of public outreach. Pointed out the * and stated they would be the foundation for everything else.

Kristin –Two other points; we touched on one and two but in Rifle and Carbondale we have been working with the staff of those communities and they have expressed interest in tweaking the routes. For example in Carbondale we've been approached by a couple folks and trustees and instead of having the bus turn and go down Main Street, there is a new interest in having the bus stay on 133 and go closer to the new high school. Apparently there is a lot of affordable housing complexes down there and they feel that would serve most of the residents better. We are going to be looking at that, collecting feedback, which is number five. Number four is the Rifle route still getting some interest from folks about going over to Super Wal-Mart and how can we incorporate that. Those are two additional topics we will be asking for feedback. Commissioner McCown – With the hospital and the Rifle Super Wal-Mart route would that elevate the need to go into Rifle any further than the Park N Ride?

Kristin – It could Larry by all means there are a significant amount of riders that actually get on even up at Metro Park if you can believe it. And along the Main Street, we are trying to balance how could we serve that south side.

Commissioner McCown – It is in very close walking distance to two mobile home parks.

Kristin – So the question is can we serve Metro Park and Super Wal-Mart.

Commissioner McCown – You certainly can by running one way toward Mamm Creek, getting back on the interstate, getting off running back the other way etc.

Kristin – I think the thought is down in the longer term, the Rifle planner was saying there is going to be some development at the airport and ideally it would be nice to be close to the CMC Campus eventually.

Jason – This is real time we are figuring this out right now and another thought from the Rifle planners was maybe we would as a pilot run try to service the Wal-Mart area and do a loop off of I-70 right there right now. As time moves on and there is more discussion about the development at the airport and joint funding and who is going to do what; then we would maybe move in. We actually took a tour bus out there with some of our operational people and we actually ran the route. We got off I-70 at Airport Road whet all the way past the airport, pass CMC and I think operationally we would be willing to do that but right now we are thinking about trying to talk to Matt Sturgeon who is the City planner for Rifle and find a way for us to do a loop at Wal-Mart get back on and maybe hit Metro Park. Maybe keep it one sided for right now but knowing we might grow into that airport area. But if there is a lot of interest in discussion about it we would do it sooner. We are just soliciting input right now.

Commissioner McCown – Rifle has already had concerns with the activity at the interchange there at the proposed round-a-bout locations at the I-70 interchange. If you create another Park N Ride at Wal-Mart you're going to compound that intersection, people going to that area to catch the bus. If you made the loop I think it would give them several possibilities they could still work it in town they would be in that area not going through the intersection. It may be a double edged sword and given the location of Wal-Mart, probably adding another mile for the route if you went on out rather than doubling back.

Jason – That's a great point. Another thing we have heard is that there is not a safe crossing of I-70. We talked to a couple of gentlemen that live on the Wal-Mart side and try to get over to the Park N Ride and its dangerous walking across there.

Commissioner McCown – I disagree with that because they can go under I-70 at the Rifle interchange and it is a lighted intersection.

Kristin – It sounds like Larry there is a need to serve both sides and not just give up the Wal-Mart side.

Another thing we are doing is we are making some progress with New Castle to perhaps look at purchasing a vacant parcel for a future Park N Ride. As Jason mentioned we are meeting with the Rifle staff and we are basically trying to get out with all our jurisdictions, meet with staff get their feedback on routes, planning and facilities. Also meeting with chambers of commerce we'd like to meet with Rifle. If you have any thoughts we will welcome them any groups we can meet with. We have some open houses lined up next Monday we will be here in Glenwood at the Community Center, Carbondale Town Hall next Wednesday and then there will be a small break and then we will be at Rifle the first of October. New Castle on October 3rd.

Ed – Do you envision linkage between Grand Junction systems?

Kristin – We hear that pretty loud and clear and we need to look at more. I think it is not in this initial run but it is a thought that comes up again and again.

Commissioner Martin – That was part of our agreement. We would look at that particular linkage between Eagle County, through the Canyon and also Mesa County.

Ed – I think you might have some funding partners relating to Grand Junction. There are a lot of oil and gas employees that come up from Grand Junction.

Jason – It was mentioned at our New Castle staff meeting that someone gave us a contact at Shell and they might be specifically interested in transporting some of their workers from Grand Junction. Any questions?

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Commissioner Houpt – I’d like to say it’s very helpful to see what options are being looked at. As you know the Rocky Mountain Rail Authority and the I-70 Coalition both have planning grants for transit purposes and this is exactly what they want to look for. Do you have a meeting set up with the coalition?
Kristin – We don’t currently but it would be a great idea.
Commissioner Houpt – It would be really good for you to do this power point with them. Show them how far along RFTA is in planning.
Commissioner Martin – This puts in line what CDOT was requesting from local agencies. Making it regional and hooking them all together. There is money and they would look very favorable on this kind of a system.
Commissioner Houpt – CDOT is funding both of these grants.
Commissioner McCown – I’d like to make a suggestion and I know they are not an area of service at this time but you have Rifle/Parachute/Battlement Mesa, I think if your true intent is to get the information to the Parachute/Battlement Mesa to the people you need to hold a meeting down there. They have a tendency not to come to Rifle to meetings. The Activity Center at Battlement Mesa would be a good location.
Kristin – Does anyone have any experience with either the rotary or the chamber in Rifle? Which do you think is the better venue for us?
Commissioner McCown suggested the chamber and gave her a contact.
Kristin - We will back in a couple of months with another update.

TRAILS AND TRANSPORTATION - DISCUSS INTENT AND SCOPE OF COUNTY TRAFFIC ISSUES PROJECT – FRED JARMAN

Fred is requesting additional direction from the Board for the following two primary reasons:
A project that examines all the areas of traffic concern/road impacts throughout the entire County will be a significant challenge due to the large scale of the County. The Board provided no parameters as to the scope or goal of this project. Perhaps the Board might narrow the focus to specific study areas, major drainages or key intersections that we know will experience significant pressure in the foreseeable future. Consider the following areas that are connected to considerable growth in the County such as a.) HWY 82 and CR 114 (Spring Valley Ranch Development), b.) I-70 and CR 215 (Parachute/Battlement Mesa), and c.) Four Mile road corridor (Sunlight development). Staff suggests a more narrow focus for this project. As the Board is also aware, Staff has been unable to focus on the final stage/task of the Gravel Extraction forum as directed by the BOCC to draft regulations specific to the extraction of gravel in the County due to Staffing issues. Staff requests that this project be completed prior to embarking on the areas of traffic concern/road impacts throughout the entire county.
Fred Jarman passed out some info. In late July Tresi had initiated a discussion on taking a look at issues of traffic or congestion around the County. Her focus was more narrow, the discussion blossomed into perhaps we should look at this county wide. Out of that and this is just a background piece of the memo you have, there was the thought that our staff would take a look at these challenges. I’m calling them areas of traffic concern or road impacts throughout the County. In order to do, perhaps this discussion could track similar as the gravel discussion had. Understanding what went into that and the kinds of meetings I think we had five or six meetings. I’m coming back to you actually for direction. As I began to ponder what a project would look like to study traffic areas. This could be without an end goal or without perimeters an enormous project. I discussed with a number of our municipalities, talked to Carbondale, Glenwood Springs, Rifle. I don’t have a set of perimeters or an end goal or what we are really trying to achieve here. Two points I have put as direction from the BOCC. First is the nature of what this project might look like. I didn’t walk out of this room about a month ago having perimeters or a goal. I have suggested a couple of areas that you could focus on. We know where the growth is happening. Major projects, Roaring Fork Valley, Spring Valley Ranch, Sunlight, these are main pockets of growth on the east side of the County. You don’t have a whole lot within the County’s jurisdiction. Main growth in Rifle. Further west you have the challenge of Parachute. Board has contributed money regarding the intersection in Battlement Mesa. You have entered into an IGA with Glenwood Springs to take a serious look at what may or may not come of the South Bridge. Talked about Four Mile Study and the amount of people who will be residing there in 2025. I’m asking for more focus on that particular item. Number two, you are aware that the Board initiated our office to work on the gravel analysis between New Castle and Rifle and to hold meeting, which we have done. Extremely positive project. Learned what gravel extraction really means. I handed out this resolution number 40. Would like you to review. They are basically asking you to keep on with the project. We would like to do that. I would suggest that we finish the analysis in October and circulate for comments and have it finished in November in some form. Would like to finish before we take on traffic.

Commissioner Martin – The perception is different and I guess we need to continue.
Fred – Example of that was when the Silt gravel pit came through. Had long standing policy discussion going on and educating all the people who were involved. At the same time you had a major gravel extraction operation came in and it came to you and you approved I believe unanimously. I’m looking for a little direction from you.
Commissioner Houpt – On the gravel piece I think we already asked you to complete that. I agree with you I think great progress was made. I think we approached permitting that gravel pit very differently than we would have had we not had those meetings. I would support the completion of that project. In terms of the transportation discussion I agree we are already moving along with Parachute/Battlement Mesa issue.
Commissioner McCown – As well as the South Bridge
Commissioner Houpt – My real concern right now because of the previous Bershenyi application and because we know Sunlight is going to come forward is the Four Mile Road corridor. I think it is really important for this county to have an independent analysis done on the traffic impacts. Not strictly rely on what is brought to us by folks who want to develop up that corridor. So we can come up with some solutions. I think timing is critical. I know when I made the motion to deny the Bershenyi project, one of the issues was the transportation concerns that I have along the Four Mile corridor and Midland. I know we have money going into a study on the South Bridge but there’s a greater extension to that as you go up

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the Four Mile corridor. I would like to see an analysis done so that we know what types of solutions we can come forward with to make that corridor safe and productive for the people who are living there and for the people who are looking at developing more residential units and a larger ski area. I don't want to keep voting against applications because we as a County haven't looked seriously at this corridor and that is why I brought this up this summer. I think it is incumbent on us to take the lead on this. If you just can't even look at this until you complete the gravel project I'm wondering if we shouldn't look at a short term, six month moratorium on applications so that we have a better sense of what the needs are before we have anything come in front of us. I think it is really important we take a look at the Four Mile corridor immediately. Whether we do that with applications in front of us or with a moratorium is something I need to get a better sense from others on. I think we need to work with Glenwood Springs and I think we need to work with the developers who are interested in expanding service up that area so that everybody can come together and find some solutions.

Ed – Could this be a contract?

Commissioner Houpt – The analysis should be a contracted effort.

Commissioner McCown – In the 11 yrs I've been here, I know of two studies that one included, have dealt with the Four Mile. We have them on the shelf. We are saying they are not creditable because of the population estimates or whatever. Is there a matrix that we can plug in the correct population estimates and then plug that back in? The part that is going to be missing until the study is done on the South Bridge you can do all you want to with the traffic on Four Mile but you don't know where your going to send it when you get to the bottom of the hill. The bridge may never be a fact of reality for the lack of political will. So then it has to go Midland, twenty-third street bridge.

Commissioner Martin – Midland is limited by its physical size.

Commissioner McCown – It's a chicken and egg scenario, until you get further down the road and have some realistic feeling on a South Bridge, if you will, that needs to be plugged in the planning for the 4 Mile corridor. It all is going to be directly impacted by where that traffic goes at the bottom of the hill.

Commissioner Houpt – Regardless South Bridge has to be plugged.

Commissioner McCown – If you plug it in and it doesn't come to fruition what does that do to your study?

Those cars are going to have to go the other way and they weren't planned for. You have to get a commitment it is going to happen before you can plug into the study. So far, I'm not personally I can't speak for the rest of the Board felt comfortable it's going to happen. If we have to close the airport it's going to happen, if we have to buy Holy Cross out, it's going to happen, if we have to condemn Doc Jackson conservation easement it's going to happen. I have not heard that political will. And until we get a definitive answer from the City of Glenwood Springs that yes we are going to create whatever mechanism necessary to ensure that South Bridge happens then we can't plug it into our study.

Commissioner Houpt – Well that is why it is so important that we have the City of Glenwood Springs involved in this. I don't think we can do this without them.

Fred – In my mind to some degree and part of the thing I'm struggling with is timing is everything in this case. This gets back to your last comment. The reality is your going to have Sunlight walking in the door by Thursday or Friday of this week. That is an active application. You don't have a study started. You don't have a moratorium in place. You could choose to put a moratorium in place. No development on 4 Mile until we figure this thing out. The problem we are going to have I think, we need to talk about I believe your going to have this policy debate this study moving along with no end in site, no summary at the end.

Commissioner Houpt – I'm not following your comment on a study, not having an end.

Fred – A study will take time. Let's say it takes four months and I think that is conservative. In the meantime you're going to have a real live application that comes in and if you're hoping to use, which we would too, to lend you for that application you're not going to have that yet.

Commissioner McCown – Bershenyi had a traffic study. Anything that happens at Sunlight is going to be required to have a traffic study and if we choose not to acknowledge those studies as being accurate and believe something else then we are completely discrediting a professional firm, sure they are working for who ever the applicant is but are we completely discounting their studies and saying we want our own?

Commissioner Houpt – I think we should have our own.

Commissioner McCown – Do we want it to say what we want it to say or do we just want a study?

Commissioner Houpt – We want an independent study not connected with one development or another.

Commissioner McCown – I can remember this conversation about water studies and air studies that were initiated by the oil and gas industry and everybody discredited them because they were paid for by an entity that was affecting part of the problem. Completely discredited, went out and got independent studies, said the same thing. But they were better now.

Fred – There may be a hybrid, we could take the studies outside of hiring a consultant to do like LSC did to do an independent transportation 4 Mile study instead of doing that you can hire as your code allows you to do an independent traffic engineering firm to review those studies as they come in. Because what you are going to get, particularly Sunlight you are going to get an extremely robust study. Because they know that is a very large issue for them. We could have at the same time our hired gun take a look at that instead of doing some kind of independent study of the whole corridor.

Commissioner Martin – Well there is also another study we are not looking at and that is the possibility of an annexation or a development on the east side of Highway 82 that is greater in size than the City of Glenwood Springs. You're going to double the size of Glenwood Springs and have Red Canyon as the main road, now what are you going to do on that study?

Don – I think as you have pointed out we routinely require engineering reviews of projects and that can include our own analysis of project specific traffic impacts. It is a little curious to me you have subdivision regulations in place right now that is a general proposition without reference to a specific project have an impact fee system in place and your subdivision regulations specify that it will be presumed that the impact fees address road impacts. And specifically on the Four Mile corridor those road impact fees were based on a full corridor engineering study. Which was in part adopted and in part rejected by the Board of Commissioners many years ago. If we are looking at a full study of that corridor in some way that

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engineering study also has to be considered. My recollection that study ran throughout the County area of Four Mile corridor.

Commissioner Houpt – What was the date on that study?

Commissioner McCown – 1996 – The amount was about \$52 million construction dollars?

Don – The engineering recommendation was something between \$40 and \$50 million dollars. The Commissioners sitting at the time elected to make some modifications to the desired specifications that reduce that amount substantially. I think approximately cut it in half and that's why you have a staged impact fee system on Four Mile Road. That graduated impact fee was based upon that study. The fees that are in place now do not address the full cost that were determined by the engineering company but they do address the costs that were determined by the County Commissioners.

Commissioner Martin – Still puts the overall majority burden on the tax payers and the whole County to finish the project.

Commissioner McCown – I think those impact fees equated to 17%.

Fred – If you are at the very top per house it's about \$7,000.00

Commissioner McCown – We have roads around Rulison that don't have 10 houses on them that have an \$8,000.00 per unit impact fee.

Commissioner Houpt – I think it is important for us to get an updated perspective on where we are on Four Mile and what the updated costs are going to be and what the updated expectations are going to be for safety and usage, it's a different day. I'm not saying that we should not look at the old studies, I think we should. And I'm not saying that we shouldn't look at the studies that developers have generated or that the City has. But we have to either hire somebody to do that or we have to have our own analysis conducted and I would defer to your judgment on that but I do think that we have to have an updated perspective on how to move forward with transportation along that corridor. Until that is done I don't know how fair it is to pretend that we can move applications through until we have an adequate picture of what is in front of us so that we can come up with solutions with all of the stake holders involved.

Commissioner McCown – I don't share that concern. I think if worse case scenario if you have to hire an engineering firm to review the traffic study that has been presented by the developer to either endorse the validity of it or to add additional needs that may have been omitted I would certainly support that as part of the application process. But along the same lines that Don mentioned earlier we do have our subdivision regulations as a part of those regulations are impact fees. We do have traffic studies that those were based on. I think we have a process in place to move forward with any application that might come in the meantime while all the political balls are in the air on where the road is going to land at the bottom of the canyon. I'm not supporting a moratorium nor will I ever.

Commissioner Martin – We need to go ahead and rely on our rules and regulations. We also have new ones coming up. We need to give Fred the tools he needs and that is the ability to hire a second opinion under engineering. I think you need to utilize that even more than you have and to come back with those recommendations and your staff report based upon those again the application and traffic study analysis versus a cross reference to what our contract engineer has to say. And then put that burden on this Board to make that determination, if it's going to be right or wrong it needs to lay right here not on you.

Commissioner Houpt – I'm hearing two people supporting the notion to allowing applications to come forward while we are studying this issue. But I'm also hearing support for hiring an independent engineer to look at this traffic study and analysis that have been done along that corridor and to come up with an independent position on what we are really looking at.

Commissioner Martin – I think he's got that opportunity already. As far as moratorium I don't think that is even part of the question simply because we don't have the legal basis or the findings to put a moratorium in place. You have to have a reason why you're putting it on and if our road issues or impact fees or rules and regulations address those particular issues, it's not there legally in my opinion.

Don – You need to move forward, if you want to go through a moratorium first of all it would need to go through a public hearing process as a district amendment. Require a hearing process in front of you and a consideration by the Planning Commission. It would have to be time limited and it would have to be based upon you proceeding forthwith upon a study or analysis of some impact issue in this case traffic. You have to make all those decisions in the context of adopting a moratorium.

Commissioner McCown – When your saying a zoned text, can you be specific of 4 Mile Road corridor moratorium?

Don – I assume that is what the discussion is about and what Fred is talking about is in the nature of an overlay, example; you have the drinking water constraint down by Rifle it defines a geographic area to which it would apply and then defines in that area certain specific restrictions related to water us that apply in addition to other zoning regulations. You would have to do mechanically a similar thing except instead of being related to water issues I assume that this specific overlay zone in the 4 Mile corridor would relate to any type of residential or commercial development issues triggered by certain facts. Commencement of a study, completion of a study, adoption of the study or its recommendations by the Board. That comes in I think as a text and district amendment because it is an overlay district.

Commissioner McCown – And that wouldn't affect anything already on the books?

Fred – That was going to be my comment. You couldn't say to subdivision that you have already approved.

Commissioner McCown – And if the one that you are accepting is deemed to be technically complete Thursday and we are in the process of going through this public hearing which the earliest would have to occur probably 30 days notification, I'm not sure on that but this would already be in the bucket. How would that shake out?

Don- Larry I would have to look at case law. It's a close question. I would rather not make a comment until I could look at the case law.

Commissioner Houpt – I think that's fine as long as we take these other steps to make sure that we are working along side whatever applications are going to be coming forward to look at that long term impact. I don't think the impact fee system we have in place is going to cover that.

Commissioner McCown – It was never intended to cover all of it. It can't.

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Commissioner Martin – Only proportionate shares and we have to set up some kind of fund to make it hold and we have to do that in our time limit. If we don't then we pay that money back with interest and that has always been the down fall of the so called miracle impact fees.

Commissioner McCown – Along the same lines you consistently hire somebody like Michael, whoever or Chris Hale to review certain technical aspects of your application. I see this as no different. You hire someone who has the expertise on traffic to review the traffic study that is submitted by the applicant on our behalf. We do it all the time.

Commissioner Houpt – But I would take it further that, I think you need to have them review whatever other studies we have in place along with the City's study. Because this is a corridor that is already affected.

Commissioner McCown – Bearing in mind this one has not been adopted.

Fred – I'm hearing two things from various members here. A way to go about this is to have your staff hire an independent engineer to take a look at the specific project traffic impacts studies that get submitted so we have an educated independent view. I'm also hearing, then track another independent transportation study of 4 Mile generally.

Commissioner Houpt – Yes that is what you hear from me. What I would like you to do and I don't think this is unreasonable, is have them look at the studies we have done in the past on the 4 Mile corridor and update them with current usage of roads, materials and expectations of people who live in Garfield County now with the real numbers we are looking at and with the impact of how South Glenwood has grown as well. I think we need to have a more far reaching picture of what we are looking at in this corridor. I agree with Larry, South Bridge is a huge part of that. That's why I think it's important for us to sit down with Glenwood Springs and get those political commitments from them. Anything that we build or allow to be built on 4 Mile is going to impact the very narrow Midland that goes through town, granted that is Glenwood Springs but we impact what happens in the City and in turn they will have that cross traffic because there will be more people going up to Sunlight. I think it is something I saw as a really important issue when the Bershenyi application came in front of us and I think we have a responsibility to truly understand what impacts we are allowing to happen when we approve these applications and that's why I think we have to look at our independent study as well.

Commissioner McCown – Yes, this is the perfect opportunity to do that because Sunlight is going to have to deal with every square foot of that road from the top of it to where it intersects with Midland. That has to be part of their plan. They are going to have to do a complete traffic study on Four Mile Road. We hire our own engineer to review it. It is being done. The only missing part and until someone has the political will to come forward, as I said earlier the South Bridge is going to be in the air. They are going to have to plan it on the Midland corridor, the twenty-third street that is all that is available. They cannot in good faith say what if there is a bridge because there isn't a bridge. They have to plan what is on the ground and that is what we are going to see. It's either going to be adequate or inadequate. They have to consider every mile of 4 Mile Road because it is at the extreme top it's not like Bershenyi in the middle.

Commissioner Houpt – So are you saying, I mean its okay for them to look at old study we may as well not shelf those studies.

Commissioner McCown – That's a tool I'm sure the folks that are doing the traffic study for the applicant are going to be looking at.

Commissioner Martin – They have to look, in fact it gives them a good foundation and then to improve it as they go through as well as looking at this newest study here. Use it as part of their research and come up with a solution that they will present to us, then Fred will have independent review to see if it is acceptable or not and then we can determine if it's acceptable and that puts the burden on this Board to say we have now plotted your future.

Fred – It is great that RFTA is here too, this is one of your stake holders. They will be looking at this study also as is the City of Glenwood Springs, Carbondale will look at it. Those stake holders will all get a change to look at this top to bottom study of the whole corridor.

Commissioner McCown – Who's to say that part of their traffic plan may not be their own independent transportation system that runs busses to the bottom of the hill.

Commissioner Martin – Which also give us a good foundation for the possibility of the development that is on the east side of Highway 82 that we will see in the very near future as I understand. That gives us a foundation of what we expect on the other side. Because again we are talking the size of the City of Glenwood Springs as a development. We have to have a working relationship with the City of Glenwood Springs engineering department partners, transportation partners, CDOT etc. it affects us all. This is a very important study to review on a private engineer you're going to hire.

Commissioner Houpt – That and the South Bridge discussion needs to be brought up again. We need another meeting with Glenwood Springs and we need to know where Glenwood Springs stands on it. I thought they were committed otherwise I don't know if I would have agreed to the study.

Jessie – The paper last week indicated they were going to be discussing options on the airport.

Ed – Can we get back to gravel pit for a minute?

Commissioner McCown - We are going to finish that first.

Ed – The focus of that is rules and regulations a supply side.

Commissioner McCown – The lack of supplies as far as economic impact has to be considered as well. But that is our decision. If Fred develops a set of quasi regulations for everybody to look at and see if they fit it's still up to this Board to adopt it.

Commissioner Houpt – Right but that's the product you will bring for the next meeting. With the way we just discussed the transportation issue it sounds as if you will be doing it all at the same time if you have applications coming forward.

Commissioner McCown – You will just hire the engineer to review the traffic study that Sunlight brings in.

COMMENTS FROM CITIZENS NOT ON THE AGENDA

CR 130 - DONEGAN ROAD – PARKING AND ZONING ISSUES– TODD HURST

Todd Hurst – 547 Donegan Road also County Road 130. I am coming today for the issue of single family homes. I have been forwarded along from Carbondale the amended City codes on single family homes. I

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would ask the Commissioners to take a look at that at some point and consider adding that to our codes for the County. The problem I am having is parking on Donegan Road. I have pictures (gave to Commissioners). Basically it is regarding safety issues as you can see there is a multiple amount of vehicles there. There are also pictures showing signs stating no parking on County Road or shoulders and John I believe you are aware of the problem we have. I talked to the Sheriff and the Sheriff says their hands are tied and there is nothing we can really do about it. Basically I don't know if you guys could talk to the Sheriff and say that we have some sort of enforcement on that issue? I can't see backing out of my driveway. Took a picture from down the street about a block and a half and it is on the County shoulder and it is about less than 16 inches off the County asphalt.

Commissioner Martin – It has been an on going issue there for at least 3 to 4 years that I am aware. We got the signs placed we also got them away from the City easement. I thought we had an agreement in reference to that particular house because there are multiple people living in that one house.

Todd – 20 people in that house, nine children and twelve adults and that brings issue of safety also with the Fire Marshal. I have spoken to Ron (fire marshal) about that and if there was an emergency in that house there is no egress windows for an evacuation of any sort.

Commissioner Martin – What we are looking at is either adopting either part of the model traffic code and trying to come up with some type of enforcement. It is still up to the Sheriff to enforce it even though the ordinance may or may not be there. He did move them off because of safety issue. I thought it was resolved but obviously not.

Todd – We do have signs in place but they are not going all the way down Donegan Road. I talked to Bobby at Road and Bridge about it and I don't know if we could get a couple more signs out there?

Commissioner Martin – It's the enforcement of the issue that is really tough on us.

Todd – And that is where I heard everybody's hands are tied.

Commissioner Martin – Not necessarily tied but just moving forward, what kind of solutions do we have and again it's up to the sheriff to enforce that if he chooses to do so, the District Attorney's Office or the County Attorney's Office to prosecute it. It's on that jurisdictional border.

Commissioner Houpt – Is this a parking issue or is this an issue of a single family home being used for multiple families?

Todd – I think it is an issue for both. One for parking safety but also for the zoning of single family homes. What I have read in their amended City code is your allowed so many square foot for the first residence, 200 square feet for the first habitable square feet for the first residence and 150 habitable square feet for each additional residence. Now 20 people living in single family home brings up the issue is this really a single family home or multiple family?

Commissioner Houpt – Have you talked to our code enforcer officer?

Todd – I talked to Ron and he kind of said the same thing his hands were tied as long as they don't have two kitchens in the residence they really can't do anything on the zoning issue. I guess the reason I came to you today is to bring it to your attention. Maybe down the line if there is something we can do. Sidewalks would be a great thing. It is a very well used recreational path for people walking animals and children.

Commissioner Houpt – Do you have that wording from Carbondale?

Todd – I didn't bring it I could e-mail it to you.

Commissioner Martin – We need to do something. It is an issue that has been going on.

Todd – The problem being it is Western Hill Subdivision which was brought in 1958 or 54 and most of the gentlemen who are on the covenants list passed or not longer in the area. We don't have a working HOA in that area and since it is on County property I guess that's why I've come to you for get some enforcement. Commissioner Martin – We need to continue research on that. If you would give me a number to contact you we will try to set up a neighborhood meeting and go from there and bring it back as a suggestion to this Board.

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR A TWO-FAMILY DWELLING UNIT LOCATED ON A 10.619 ACRE PARCEL EAST OF THE CITY OF RIFLE AND DESCRIBED AS 3799 COUNTY ROAD 233 – APPLICANTS – FREDRICK J. KOCH AND ANNETTE KOCH – DAVID PESNICHAK

David Pesnichak, Fredrick (John) Koch, and Carolyn Dahlgren was present.

Carolyn reviewed the noticing requirements for the public hearing and determined there was a defect in notice. He did not publish in the newspaper 30 days prior.

Commissioner Martin – Asked Board which action they would like to take.

Commissioner McCown – There is clearly a defect in notice. If the publics notice is the only defect the posted notice is in place and the mail out notice is current then it would be up to the applicant is he is willing to take the chance that this in fact could be reversed at a later date for the lack of proper notice, we can go forward. And I would be in favor of giving him that option.

Commissioner Martin – Do you wish to take the risk?

Fredrick (John) – I believe so, none of the neighbors had a problem.

Carolyn – Continued with questions.

Commissioner Martin – Noting the applicant is willing to take the chance just in case someone should come forward on defect of notification we will proceed.

Chairman Martin swore in the speakers.

Planner David Pesnichak submitted the following exhibits: Exhibit A –Proof of Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff memorandum; Exhibit E – Application materials; Exhibit F – Memo from Jake Mall of the Garfield County Road and Bridge Department dated 8-16-2007; Exhibit G – Garfield County Individual Sewage Disposal Permit No. 3085

Chairman Martin entered Exhibit's A – G into the record.

Planner David explained:

The proposed units will be attached and physically held within the same building. The existing driveway is off County Road 233 and will be used as access to the proposed units.

Staff recommends **APPROVAL**, with the following conditions:

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5. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
6. All lighting associated with the dwelling units shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
7. The applicant shall obtain any applicable Garfield County access, building and grading permits.
8. The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended, and shall meet all building code requirements.

David – Current well serves both lots three and four. There is one dwelling unit on lot four and one dwelling unit currently on lot three. The request is to add another dwelling unit to the existing structure on Lot 3. The well is able to serve up to three units so this would maximize that well. The ISBS permit #3085 is permitted up to five bedrooms and 1,500 gallons. The main house is understood to have three bedrooms. The proposed is said to have one and it is staff's understanding that the permit is adequate to handle capacity of the second unit. It is in the form of a finished basement. It is staffs opinion it would not have a significant impact on neighboring property owners and would maintain the existing character of the neighborhood. Staff is recommending approval with the four recommended conditions.

Commissioner Martin – Asked applicant if he would like to add additional information.

Frederick (John) – It served as a mother-in-law apartment and I am now going to sell the property. I felt like this was what needed to be done.

Commissioner Martin – You have to sell as one unit you know you can't sell as two?

Frederick (John) – Understood

Commissioner Martin – Any questions of applicant or testimony from the audience? There was none

Commissioner McCown – I move to close public hearing. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the special use permit request for a two family dwelling with the recommendations of Staff. Commissioner Houpt – Second.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR AN INDUSTRIAL SUPPORT FACILITY – APPLICANT – CHEVRON USA, INC. – CRAIG RICHARDSON

Brandon Danforth and Joe Kelloff were present.

Carolyn reviewed the noticing requirements for the public hearing and determined we have an immediate problem under State Noticing Laws both mineral interest and surface owners. Mineral interest owners were not notified.

Commissioner McCown – There is an imperfection. I think what the applicant is asserting is that it is in existing use someone had to prove that the ownership was in place or the first one would not have been granted. That is an assumption.

Commissioner Houpt – I think it is important that we have proper notice on this.

Carolyn – I've been in touch with Chevrons property lawyer. Carolyn recommended they get on the phone together to talk to Chevron.

Commissioner Martin – We will require a re-notification of this property.

BUILDING AND PLANNING - CONSIDER A REQUEST FOR AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION – APPLICANT – DONALD ZIEGLER – CRAIG RICHARDSON

Tim Thulson and Donald Ziegler were present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner submitted the following exhibits: Exhibit A – Proof of Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – 2000Garfield County Subdivision Regulations of 1984 as amended; Exhibit E – Garfield County Comprehensive Plan of; Exhibit F -Application materials; Exhibit G – Staff memorandum; Exhibit H – E-mail from the County Road and Bridge Department dated 8-14-2007; Exhibit I – Memo from Division of Water Resources dated 8-28-2007

Chairman Martin entered Exhibits A – I into the record.

Planner Craig explained

The subject property existed in its current configuration prior to January 1st, 1973. A copy of the deed conveying the property to Charles Howard Robinson and Clarice Jane Robinson was provided by the Applicant (Reception No. 220673). The subject property was conveyed to Donald Ziegler by Charles and Clarice Robinson on March 2nd, 2007 (Reception No. 718230). The property conveyed to Donald Ziegler is in the same configuration as purchased in 1963.

STAFF RECOMMENDATION

Staff finds, the proposed Exemption complies with §8:00 of Garfield County Subdivision Regulations of 1984, as amended and recommends the Board of County Commissioners approve the request for an Exemption from the Definition of Subdivision for parcel number 217905400056, with the following conditions of approval.

1. That all representations made by the Applicant in a public hearing before the Board of County Commissioners shall be considered conditions of approval unless otherwise amended or changed by the Board.
2. The Applicant shall include the following text as plat notes on the final exemption plat:
 - *Control of noxious weeds is the responsibility of the property owner.*
 - *One (1) dog will be allowed for each residential unit within a subdivision exemption and the dog\shall be required to be confined within the owner's property boundaries.*

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- *No open hearth solid-fuel fireplaces will be allowed anywhere within an exemption. One (1) new solid-fuel burning stove as defined by C.R.S. 25-7-401, et. seq., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.*
 - *All exterior lighting shall be the minimum amount necessary and that all exterior lighting be directed inward and downward, towards the interior of the subdivision exemption, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.*
 - *Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. Those with an urban sensitivity may perceive such activities, sights, sounds and smells only as inconvenience, eyesore, noise and odor. However, State law and County policy provide that ranching, farming or other agricultural activities and operations within Garfield County shall not be considered to be nuisances so long as operated in conformance with the law and in a non-negligent manner. Therefore, all must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.*
 - *All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.*
 - *All new septic systems and residential foundations shall be designed by a professional engineer licensed to practice in Colorado.*
 - *Addresses are to be posted where the driveway intersects the County road. If a shared driveway is used, the address for each home should be posted to clearly identify each address. Letters are to be a minimum of 4 inches in height, ½ inch in width and contrast with background color.*
 - *Driveways should be constructed to accommodate the weights and turning radius of emergency apparatus in adverse weather condition.*
 - *Combustible materials should be thinned from around structures so as to provide a defensible space in the event of a wild land fire; and*
 - *"The mineral rights associated with this property will not be transferred with the surface estate therefore allowing the potential for natural resource extraction on the property by the mineral estate owner(s) or lessee(s)."*
3. Prior to the signing of the plat the Applicant shall provide the following:
- (1) A four (4) hour pump test be performed on Ziegler East and West wells;
 - (2) A well completion report demonstrating the depth of the well, the characteristics of the aquifer and the static water level for both wells;
 - (3) The results of the four (4) hour pump test indicating the pumping rate in gallons per minute and information showing drawdown and recharge for both wells;
 - (4) A written opinion of the person conducting the well test that the well should be adequate to supply water to the number of proposed lots;
 - (5) A legal, well sharing declaration which discusses all easements and cost associated with the operation and maintenance of the system and who will be responsible for paying these cost and how assessments will be made for these costs;
 - (6) The water quality shall be tested by an independent testing laboratory and meet State guidelines concerning bacteria and nitrates for both wells;
4. A copy of well permits issued pursuant to CRS 37-90-137(2) for the Ziegler East and West wells;
5. The property is located in the RE-2 School District. As such, the Applicant shall be required to pay \$200 each for Parcels 1, 2 and 3. This fee shall be paid at the time of final plat.
- Tim – Straight forward exemption and we are willing to abide by all the recommended conditions.
- Commissioner Martin – Any audience participation?
- Commissioner McCown – Move to close public hearing
- Commissioner Hout – second

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A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin – aye
Commissioner McCown – I make a motion we approve the exemption from Subdivision with the six conditions recommended by staff. The sixth one being alluded to by Mr. Richardson regarding the access permit. Commissioner Houpt - second
A motion was made by Commissioner McCown and seconded by Commissioner Houpt
In favor: Houpt – aye McCown – aye Martin – aye
Commissioner Martin – One item, which was a request from the Western Slope Natural Living Magazine that is to participate in the Green Car show and the Green Eco Village in Eagle coming up in September. Because we have 22 vehicles classified as hybrid or green vehicles more than Pitkin, Eagle and Summit County combined, they forgot that Garfield County is way ahead of the curve. They would like to know if we would send up a couple of cars that say alternative energy system as well as a green vehicle. Would we be willing to do so? They will put in their magazine.
Commissioner McCown – Just set them up?
Martin – Yes up to Eagle and they will sit in a confined area run as a show. If you would like me to follow-up on that I will.
Commissioner Houpt – Fine with me.
Commissioner McCown – How long would they have to be there?
Commissioner Martin – 1 1/2 days
Commissioner McCown – If not spoken for we could do it.
Commissioner Martin – I will follow up with motor pool.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

SEPTEMBER 17, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, September 17, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

COUNTY MANAGER UPDATE – ED GREEN

WEED MANAGEMENT - RUSSIAN OLIVE/TAMARISK TREATMENT PROGRAM – STEVE ANTHONY

Steve Anthony stated he would like to discuss parameters for the program. He submitted a memorandum to the Board covering the items:

1. Consider making the program available to public lands. This could take place in areas where the adjacent private landowner has expressed an interest in participating. At this time a local landowner who has over 25 acres of Russian olive would like to participate in the program. An adjacent neighbor is a local high school. The School Resource Officer is trying to initiate a program that would clear Russian olives and Tamarisk from the school property. Another area on public land that would benefit private landowners would be a pump canal located on federal land that has Russian olive and Tamarisk close to the canal banks. This water is then pumped to hundreds of water users.

2. Other suggested parameters for the program

Large-scale projects (>1/2 acre_ using SWIFT crews only (Smaller projects would still have the Weed Cost share Program as an option.)

Time lines: Not to exceed 8 working days in a calendar year/per landowner.

Steve would like to develop an application form similar to Weed Cost Share Program with legal release form. Steve stated he was ready to kick off this week on thru fall and winter. He wants to fine tune a couple of items and would be going on private land only for the Russian Olive/Tamarisk Treatment Program.

However, if the situation arises it may make sense to work on public lands. Steve added that the high school wants to do a project of weed eradication and we could possibly tie a couple of projects together.

Commissioner Houpt has a concern as to where the money would come from, but Steve said it would come out of budgeted money. He further explained that private land owner would be a partner.

Chairman Martin said the whole idea is to work with every industry; eliminate the weeds from top waters and didn't think boundary lines are of concern – he's all for it.

Commissioner McCown agreed but I have to support the private landowners; clearly all of the stakeholders need to deal with this and bear some responsibility. We can be fairly flexible on the participation, we just can't do it all for them. He suggested having them pay for the herbicide.

Commissioner Houpt said she thinks it needs to be defined because if we start working on BLM land or other large parcels, suddenly the county is responsible for eradicating the weeds.

Chairman Martin noted there was federally funded money available too.

Steve said the best way to do this is to decide a time limit as far as how much we are going to spend in one place for instance a maximum of two weeks on one property. We talked about this in February. If we can do the chipping with the team we have then let the land owner deal with slash piles.

Commissioner McCown would like to prioritize properties; we can clean up some of the areas.

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Steve agreed it would be isolated and suggested those areas adjacent to water sheds and adjacent to highways and roadsides.

Carolyn asked if we are we going to use the same kind of agreement – but tailored to this.

Steve – Yes and the benefits to the people of Garfield County is when you work on any one owner’s property if they are near a water shed, ditch, highway then we are reducing that infestation.

Commissioner McCown said there is a tremendous amount of ditch water loss annually from weeds.

Steve said he was going to meet with the Swift crew today and would have a better idea of what amount of funds it will take to complete the program this year. He agreed with Ed that we might need to carry over roughly \$100,000. Steve said he put the same amount in his proposed budget for 2008.

Carolyn – Have you developed some sort of a public information program so we don’t end up with first person walking in the door saying I want all \$100,000?

Commissioner McCown added it was limited to 8 working days per calendar year per land owner period.

And it would not preclude the land owner from kicking in \$10,000 if they wanted the crew to stay another 8 days but only 8 days charged to this program.

Steve agreed with Larry and said if you want to keep them another 8 days you get to pay for them.

COMMISSIONERS - STRATEGIC PLANNING

Ed submitted a Power Point in the Board’s packet. We have done 7 meetings and the work sheets should be turned in today or tomorrow then we can distribute those to the leadership team; he added that he would like all 3 Commissioner to attend meetings.

FINANCE BUDGET

Patsy said she will be presenting the budget to the Board on Oct 12th, so develop questions if you have any.

Commissioner McCown asked why we don’t have the strategic plan update along with estimated cost.

Ed gave the meeting dates - the week of Oct 14th or the 21st.

Patsy wanted to have note books to them by Oct 5th

Don – is this going to be a meeting to ask Board to make policy?

Patsy said the action will be in December but at the Oct 18th meeting, yes put it in budget.

There will be other numbers in that final budget.

OIL AND GAS - UPDATES FROM JESSE – SEVERANCE TAX

Jesse said he attended a working committee on severance tax with the legal affairs staff who provided a presentation and addressed impact fees and TABOR. The bottom line regarding impact fees is they are legal and can be done. Kathleen Curry is supporting a Bill where counties could impose a fee on each well but you would have to form special district or some other entity.

Commissioner Houpt asked what about the other impact fees?

Jesse said we do as building and planning and had some materials they passed out at the meeting.

Don said the Senate Bill is all related directly to services and the extent we are involved in, such as a local improvement district.

Jesse – They did feel severance tax is subject to TABOR and there was a lot of discussion followed with DOLA. DOLA wants to change the grant program. Some were talking about 30/70 split with the 70 going into a grant program. A Boulder Commissioner wanted to get to a flat tax but legal services were opposed to the flat tax because it is too hard to administer. This would be instead of a sliding scale severance tax with no offsets. The committee didn’t buy it.

Commissioner McCown didn’t think they would have to lower the severance tax as that would not be popular.

Jesse said they say education is never an issue. They added two additional citizen representatives. Steve

Colby is retiring and he is the expert on severance tax; they suggested adding a production component.

BTU’s vs tons of coal and outline what grants were given and submit annual report on a standardized form; they had an audit of the grant program and slammed it pretty hard and said they were not following the statute.

Ed stated he needed an executive session item - negotiations with Bob Jasper.

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE –

Don requested an executive session to obtain direction on the Contract with Glenwood Springs; and also

Lynn Renick – Juvenile code; and Ed’s item negotiations with Bob Jasper.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken - none

COMMISSIONER REPORT

Commissioner Houpt – I-70 Coalition Meeting; a meeting w/some folks who process organic waste saying it is cleaner to burn than coal; and an Oil & Gas meeting on Thursday in Craig.

Chairman Martin – CCI on Friday; I owe the folks in Rifle an apology because I missed Pie Days.

Commissioner McCown – attended the Oil & Gas Forum and it was one of the better meetings I’ve attended in a while; and I’m leaving town on 9/18.

CONSENT AGENDA

- a. Approve Bills
- b. Changes to Prior Warrant Lists
- c. Authorize the Chairman to Sign the resolution of Approval of Special Use Permit and the Special Use Permit for a Two-Family Dwelling Unit Located East of the City of Rifle and Described as 3799 County Road 233 – Applicants: Fredric J. Koch and Tannette Koch – David Pesnichak
- d. Authorize the Chairman to Sign the Resolution of Approval for a Text Amendment to the West Bank PUD (Resolution 453630) and Associated Zoning Regulations to Allow “Communication Facilities” as a Use, by Right and Increase the Building Height to 55 Feet in the Residential/Multi-

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- Family, Four-Plex (R/M.F.4) Zone District – Applicant: Rocky Mountain Natural Gas Co. – David Pesnichak
- e. Liquor License Renewal for Buffalo Valley Inn – Jean Alberico
 - f. Authorize the Chairman to Sign a Resolution of Approval for a conditional Use Permit Allowing a Boarding House – Applicants: Linda, Richard, Rebecca and Jason Segal – Craig Richardson
 - g. Authorize the Chairman to Sign a Resolution of Approval for a Special Use Permit Allowing a Two Family Dwelling – Applicants: Greg and Linda Olson – Craig Richardson
 - h. Authorize the Chairman to Sign a Resolution of Approval for a Special Use Permit Allowing Storage Including a Single Family Residence – Applicant: EDE Investments, LLC – Craig Richardson
 - i. Authorize the Chairman to sign first Amendment to Land Lease and Operating Agreement Zulu golf Aviation LLC – Brian Condie
 - j. Authorize the Chairman to sign Assignment of Land Lease and Operating Agreement as Amended (Zulu Golf Aviation) – Brian Condie

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a - j; carried.

HUMAN SERVICES COMMISSION:

SENIOR ISSUES AND DEMOGRAPHICS IN GARFIELD COUNTY – GWEN STEPHENSON

Cindy Web – Social Worker Columbine Home Health a non profit agency serving Parachute, Marble into Aspen focusing on wellness. No increase in staff and our biggest challenge is finding staff. We accept Medicare as needed. It's a constant battle but we try to keep people in their homes because it is less expensive than the nursing homes. There's a shortage of doctors and on top of that they are not taking new Medicare patients, so 30 % are going to the emergency room for prescriptions because they can't get a primary care doctor. This is not just local, it is a national problem. Today I just want to raise awareness and hopefully it will spread. If we don't take care in another 2 years there will be a waiting list for housing. Commissioner Houpt asked what other types of funding do your agencies receive?

Cindy said they receive grants, access wellness clinics and receive donations.

Gwen Stephenson – Director of the Garfield County Traveler and RSVP programs stated they are providing pro-active services in line with the national trends and the state tends to agree to keep seniors in their home because it is truly best for them and it saves a great deal of the financial burden as well as they are healthier. Garfield is fortunate and is a leader having provided services for 30-plus years; however with the increase in population we are having trouble keeping up. My fear is that the Traveler program will not be able to keep up.

Diana Martinez from Grand Junction stated that she serves 11 counties on the Western Slope and approximately 80% are elderly. We find in rural areas that transportation is a big issue. I meet with people in nursing homes and try to get them back into their community.

Cheryl Cain – RSVP (Regional Senior Volunteer Program) submitted a letter with statistics. We have volunteers that talk about health, volunteering for seniors in many aspects. There are two areas of need – transportation and volunteers who are willing to help neighbors who are less fortunate. We should start tracking the numbers again just for statistical purposes because the volunteers allow people to stay healthy. I've talked with Tim Burns at Glenwood Medical Associates (GMA) & Medicare. GMA is able to provide Medicare and they have seven practitioners who accept it. However, every 7 seconds someone is retiring.

Mary Jane Hayes – Circle of Life at Forty, Circle of Life at Seventy; Circle of Life at Eighty; and Circle of Life at ninety. She provided a Power Point Presentation that highlighted these specific times in our lives. At seventy you are ready to or retired and still able to drive yourself and most have good health; at eighty there are dark places in life most often a spouse dies and they begin using their saving. They may also be able to go to church because of a friend. But the life at ninety finds most incapable of caring for themselves. They are very dependent on family, friends or volunteers.

Jim Westcott, State Demographer passed out information and explained the situation of the population over age 60; the baby boomers who were born in 1946 – 1965 and are ranging in ages 40 – 59 in 2005. The total fertility rate or number of children born to a woman in child rearing year was 2 children then that rose to 3.5 yielding almost twice as many people. This is more than anything a western movement because a lot moved west during that period of time. In Colorado we have 3 times more baby boomers than we would have had. The infrastructure is not in place in Colorado and especially in Garfield County where the population is estimated to grow above national and state averages. Jim passed out information.

Commissioner McCown noted on the numbers in the United States is 84 million, but is that just seniors?

Jim – Yes sir, the situation is going to provide different challenges as they age increases their needs will shift and require various housing requirements.

Commissioner Houpt – I know this is a discussion in the forefront because it is quite apparent the need is there.

BOARD OF HUMAN SERVICES:

APPROVAL OF EBT/EFT DISBURSEMENTS FOR AUGUST, 2007 – LYNN RENICK

Lynn provided the client and provider disbursement for allocated programs totaled \$221,331.24. Client benefits for Food Assistance totaled \$127,795.46. Total EFT/EBT disbursements for August equaled \$349,126.70.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the expenditures for the month of August in the amount of \$349,126.70.

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES - CONSIDERATION AND APPROVAL OF CHILD CARE LICENSING

MOU'S WITH EAGLE AND PITKIN COUNTIES – LYNN RENICK

Lynn explained that the Department will continue to provide licensing of day care homes during the current state fiscal year in the amount of \$16,183 per purchase order from the Colorado Department of Human Services. This year, Eagle County is directly providing licensing services; however, a time-limited

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Memorandum of Understanding for a four month period (July 1 through October 31) has been completed because Garfield County is assisting Eagle County with licensing and training activities for their new staff member. The MOU with Eagle County is in the not-to-exceed amount of \$5,197.00.

Commissioner McCown made a motion the Chair be authorized to sign the MOU in the not-to-exceed amount of \$5,197.00. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES - CONSIDERATION AND APPROVAL OF COLORADO PREVENTION PARTNERS SUBCONTRACT WITH COMMUNITY HEALTH INITIATIVES, INC. – LYNN RENICK

Lynn explained the subcontract with Community Health Initiative, Inc. is for the their yearly continuation of the State's Colorado Prevention Partners grant to reduce substance abuse related problems within the community, build prevention capacity and impact the progress of underage drinking of alcohol. Shelley Evans will continue as the designated Project Coordinator; Dr. Jerome Evans will provide the evaluation component for the grant; and part-time Campus Prevention Coordination for Colorado Mountain College has been included in the subcontract. The total not-to-exceed amount of the subcontract is \$110,000, which includes operating expenses and \$6,338 for travel costs. The term of the subcontract is September 30, 2007 through September 29, 2008.

Commissioner Houpt made a motion we approve the signing of Colorado Prevention Partners Subcontract with Community Health Initiatives, Inc. in a not-to-exceed amount of \$110,000, which includes operating expenses and \$6,338 for travel costs and the term of the subcontract is September 30, 2007 through September 29, 2008. Commissioner McCown seconded.

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES - CONSIDERATION AND APPROVAL OF OUT-OF-HOME PLACEMENT AND CORE SERVICE CONTRACTS – LYNN RENICK

Lynn stated she was requesting the Board's consideration and approval for the following out-of-home placement contracts:

1. Child Specific Addendum with Children's Ark, for State I.D. G196987, in the not-to-exceed amount of \$52,159.29
2. Child Specific Addendum with Hilltop Youth Services, for State I.D. T016754 in the not-to-exceed amount of \$52,909.86
3. Agreement to Purchase Agreement with Devereux Cleo Wallace, including a separate Child specific Addendum for State I.D. P469025 in the not-to-exceed amount of \$55,917.12
4. Agreement to Purchase Agreement with southern Peaks, Including a separate Child Specific Addendum for State I.D. U874805 in the not-to-exceed amount of \$58,232.16

Commissioner McCown made a motion we approve each of the four contracts as presented by Lynn Renick. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – aye

BOARD OF HEALTH

PUBLIC HEALTH - ENVIRONMENTAL PROGRAM UPDATE – JIM RADA

Jim reported on the *Air Quality Study* saying the sampling period ended in May and the data is in the hands of public health and we are working on that data and will have a draft report by the end of this month.

Commissioner McCown asked Jim if the ozone is included in that data.

Jim said no, however, the Forrest Service hopes to have another update which will include the ozone.

Jim added that he will be developing the 2008 monitoring plan and said his initial thought on public releases was to come here and then offer a report to any organization. He questioned if the was Board okay with that?

Chairman Martin requested to have this brought before the Board first. Jim – Human *Health Risk Assessment* – this is on schedule and we have a report almost ready but we had to make some adjustments to the approach. Dr. Walker at Mesa State is running the environmental models and he will also be folding the air quality study into it. We were in the running for EPA grants and we have been awarded both grants. The kick off meeting will be held on September 8th and that's \$107,000 which a part will go to air monitoring. There is another meeting with Brian Mackey and there is the possibility of obtaining matching funding from COGCC.

Chairman Martin questioned the odors coming off the well sites and evaporation ponds; is this posing a health risk; is that anywhere close?

Jim said he couldn't tell you if there's a health hazard.

Commissioner McCown added this is a source point that is aimed at the gas industry.

Jim – RGI grant of \$99,000 is focused specifically on outreach for environmental health issues and they are working to prioritize various strategies.

House bill 1341 by State Health Department represents local government focused on evaluating environmental health that will interface with COGCC and CDPHE. It will improve and enhance issues. We are invited to participate in the local advisory committee at the State Health Department. They provided funding to hire a full time engineer at state level who will revise the guidelines, the 1973 regulations. Once this person is on board, Garfield will be obligated to adopt those guidelines. Paul is taking a look at our website and we have asked him to include a feature to empower citizens in environmental health issues.

BUILDING AND PLANNING - UPDATE ON STATUS OF SUN MEADOWS SUBDIVISION IMPROVEMENTS AGREEMENT AND REQUEST FOR REDUCTION IN LETTER OF CREDIT – APPLICANT: SUN MEADOWS ESTATES, LLC – FRED JARMAN

Fred stated he had received a letter from Fred Cooke, Manager, Sun Meadow Estates, LLC. (SME) explaining as of September 12, 2007 all internal subdivision improvements within the Sun Meadow Estates are complete except the road shoulders servicing the 12 lots in the portion of the subdivision that is south of Antonelli Lane (CR 216). The shoulders have been prepared and compacted and await installation of the required road base, which is scheduled to be installed the week of September 17, 2007.

Fred said the Board visited this earlier this year and granted approval to extend the existing SIA however, two things needed to happen with internal improvements within the subdivision and they were to finish by

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May 11, 2007. The external improvements to the Intersection of 6 & 24 and Miller Lane were to be completed by August 1, 2007. The SIA you approved with these extended time lines was to be delivered to Jean's office within a certain time frame, while you did approve this but the documents haven't been delivered. We have those but they have not been recorded, they've been approved but not recorded so the SIA is now in breach of its terms. The report is that they are not totally done (98%) and have not begun on the Intersection with the State Highway. We asked the developer to come back to you and let you know where they are; there is a potential partnership with a subdivision should it get approved for those road improvements. The security you have is still in place; it is a letter of credit and you also have two lots as part of the surety. These lots are south of Antonelli lane. Fred said he had talked to Don a little about this and they have met with CDOT to figure what improvements still need to be done. You have in your packet a draft amendment to an SIA but this does not have engineering cost estimates.

Don DeFord – we have a proposed amendment that is not signed at this point; there was a letter of credit after the date you specified for \$283,000.00 and that does include some security for the Intersection. You have two lots pledged and because they're in breach of the SIA, at this point normally you would withhold building permits until they can come into compliance or until you approve an amendment.

Fred Jarman – there is a formal request of \$56,000.00 for release.

Don – that is a different proposition to release money.

Tim Thulson asked the status of where we are with Fred, the developer.

Fred Cooke stated they are 98% complete and waiting on the final inspection. They determined it was not adequate on the shoulders so we have removed it and it is being replaced with 4 foot shoulders. Everything else is complete. On the Intersection at Hwy. 6 & 24, we acquired the land last August and we have our access permit with CDOT. We have submitted the final plans. The main fiber optics trunk line for Qwest was located in the right of way where the proposed road improvements were to be constructed – this is a concern. CDOT required that the Qwest line be relocated as part of the scope of work of the project. This was a new condition for which SME was not previously made aware and did not appear on surveys done on the roadway or was not part of the construction plans. CDOT instructed SME to coordinate with Qwest the relocation of this line prior to issuance of the Notice to Proceed and to have High Country Engineering include the relocation of the Qwest line as part of the construction documents. Quest has the line relocation and cost for such work in the design and bid process. Additionally, the cost of moving and relocating the line could be excessive and SME is exploring other design options that would be acceptable to CDOT. SME is currently working with another developer who made application representing Miller Lane and this has placed an additional traffic burden on the intersection at Hwy 6 & 24. This will require additional improvements beyond ours and they are willing to cooperate with us and share the costs. There is one slight negative; they are just beginning going before planning commission process so we are not sure of timing. What requirement will be placed on that subdivision? Most of the improvements are on the north side of Hwy 6 & 24. We may not have to move the Qwest line. CDOT also only wants one project, one engineer, one surety and one contractor. They are very clear in their expression.

Chairman Martin asked if they could use the jersey barriers, they are giving them away in Erie, Colorado. Commissioner McCown suggested given the terrain, why guardrail? Why not design and widen the road and work out a deal. You have a big hole in the northeast corner at the Intersection.

Fred Cooke –we are unaware of costs right now – we don't have a final plan acceptable to CDOT.

Commissioner Houpt said she has to agree with Staff because it doesn't seem practical.

Fred Cooke – based on the current plan they are 98% complete – within a couple of weeks we could have estimate.

Commissioner Houpt suggests that after they have the estimate that would be a good time to come back with request.

Commissioner McCown said we have seen similar situation in the past when new people come on board. What I would like to see is the plan that would include that new subdivision such as the number of vehicles added into the mix and incorporated the new subdivision so that CDOT is looking at complete plan. I don't feel comfortable at this point, but if we could see the overall plan and whatever it is going to take as an improvement to that intersection incorporating the new one, assuming it may happen, in the study so that CDOT is looking at one plan. It would not be fair to this applicant but someone needs to come up with a plan including both of those subdivisions so we're not saying well we need approximately \$180,000 but if you have to move the Qwest line it's going to go to \$480,000 and you don't have that much in the bank. I would like to see what is going to be required as far as turning movements and what kind of accel/decel lane extension it's going to take for the entire project and then we would know what to hold from this applicant and what the other applicant will be required to meet as far as their obligation.

Fred Jarman – we agree with you and we had a meeting last Thursday with Lexi Meadows project and this is the big if they get approved, but Lexi Meadows, CDOT and this development were at the table and we went through that exercise understanding that there is a willingness to do a cost share. Fred's group is willing to turn over those drawings that they have on the intersection to the design engineer for Lexi Meadows so they can work together.

Fred Cooke again reiterated that it was really difficult to come to the Board with a number at this time without CDOT specific approval of the specific plan as to what those improvements are going to be. We should have an estimate within the next couple of weeks but only for our improvements.

Commissioner McCown said what we are adding today is the SIA for this particular subdivision. It would be a waste of money to build something to today's conditions knowing it's going to change with Lexi Meadows in the picture.

Tim said if they go forward with their notice to proceed with just our improvements that they're going to be as expeditious knowing that Lexi Meadows is coming down that addresses the same interchange.

Fred Cooke stated the other issue is one of seasonality; we're not going to be able to do any work until next spring so it would be prudent to see if Lexi Meadows is approved.

Tim – if Lexi Meadows is approved we will be sharing costs and it looks like they will have to add another acceleration lane which will push the pavement further north of ours and if I'm reading CDOT correctly they will okay with allowing the Qwest line to stay under the pavement as long as it's not a guardrail issue.

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Don DeFord said we have pending right now the signature on the February amendment to the SIA and acceptance of the June 11, 2007 letter of credit – those go together. If you accomplish those then you have a pending request to release funds from that \$283,000 plus amount in the July 11th letter and then you also have to consider as to whether or not that amended agreement should be extended again in order to put them in compliance with their subdivision improvements. That is the question because we don't have an engineer's estimate to support the request to extend the SIA.

Commissioner McCown –but the conditions of the agreements would still leave the 2 lots and the no building on the south side of Antonelli Land if we were to extend this.

Don agreed this to be a correct statement.

Commissioner Houpt – the release wouldn't bring the number down below what they currently projected amount, this \$190,000.

Don – that is really unknown even with the value of lots plus the remaining \$53,000.

Tim – I think your right, under the letter we have assumed we had dual bonding for these improvements.

We had \$188,000 under the letter of credit and this draw down would not take it below that. The \$188,000 is still there plus the 2 lots. What we don't know is the present cost of the 6&24 Improvements. Historically the value you've given it under the letter of credit, it would not go below.

Commissioner McCown said the draw down they are asking for to me is a moot point because if the moving of the line could cost as much as \$200,000 and up to \$1 million. That small amount is not an adequate amount to handle what could be coming down the road.

Don – that is exactly the point I was making, they need to come in with an engineer's estimate; in a normal scenario you would not sign an SIA without this estimate and the full cost of the project. Here there are some unknowns that make it impossible for them to do that today, so you need to consider whether you will extend SIA without estimate.

Commissioner McCown made the first motion that needs to occur is to accept the amendment to the subdivision agreement of February and to authorize the Chair to sign that agreement and accepting the June 11, 2007 letter of credit. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I would make a motion to extend the SIA agreement until April 1, 2008 or the approval of the Lexi Subdivision whichever should occur first to ensure the completion of the 6 & 24 and Miller Lane Intersection.

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I would move we keep the security in place until we get a final price or engineer's drawing on the final Intersection. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

Tim – with regard to the extension April for the Lexi Meadow approval, I can draft that for staff's approve and your authorization of the Chair to sign it.

Commissioner McCown added that this was the intent of the motion.

Don – we will need an extension on that letter of credit, the June 11th.

Fred Cooke – to the April 1, 2008?

Don stated if you get the estimate it is left open to come in and reduce that.

Fred Jarman –that will be a 6 month extension.

AIRPORT - JOEL SAX LEASE AND OPERATING AGREEMENT – BRIAN CONDIE

1. Execution of Lease and Agreement with Sax (Approved 5/7/07)
2. Consideration and Action, DHL's "Consent to Sublease and Non-Disturbance Agreement" and Sublease
3. Consideration and Action, Rifle Air and Sax Ramp License Agreement
4. Consideration and action, Sax Request for Assignment, Sax to Rifle Facility, LLC

Brian Condie and Carolyn Dahlgren submitted the items before the Board today.

Carolyn said all the public noticing for Joel's operating rights approval and the improvement of his lease agreement were done in his personal name but since then he has decided to put all his different projects into an LLC. and that's the last document that needs to be signed but a major reason for us to be here. The lease and agreement you approved in May because of negotiations with Rifle Air LLC. to get a ramp access agreement, some changes to that language and a new page three that recognizes the ramp access agreement has been signed and recorded but it's not required it's essentially an amenity for DHL.

Execution of Lease and Agreement with Sax (Approved 5/7/07)

Carolyn explained the first document the Execution of Lease and Agreement with Sax was approved but not authorized for the Chair to sign, so this is the request today – to sign the lease and operating agreement after Joel signs in his individual name.

Commissioner Houpt so moved. Commissioner McCown seconded.

In favor: Houpt – aye Martin – aye McCown – aye

Consideration and Action, DHL's "Consent to Sublease and Non-Disturbance Agreement" and Sublease

Carolyn, the second document is DHL's consent to sublease and non-disturbance agreement and this is a common practice in commercial landlord tenant relationships as in shopping malls, etc. Essentially what DHL is asking is that should Joel mess up and should you be either in litigation with Joel or having already terminated Joel's lease because of his having done something wrong, that you would then recognize DHL, the international company, as your direct tenant. Their lawyer and I went through the sublease document, which you need to consent to and our form of commercial lease document out at the Airport. Therefore we are asking John be authorized to sign with the new language along with Exhibit A in your packets.

Commissioner Houpt made a motion that we approve the consent to sublease and non disturbance agreement and authorize the Chair to sign. Commissioner McCown – Second

In favor: Houpt – aye Martin – aye McCown – aye

#3 – Rifle Air and Sax Ramp License Agreement

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Carolyn –stated that his is not required when the Board approved the operating rights but there are other public accesses to the ramp and this works best for DHL and Rifle Air was willing to do this. Because it's your land the Rifle Air and Joel Sax agreement requires you to consent to it.

Commissioner McCown made a motion to sign the Rifle Air and Sax Ramp License Agreement and authorize the Chair to sign.

Commissioner Houpt – Second

In favor: Houpt – aye Martin – aye McCown – aye

#4 - Consideration and action, Sax Request for Assignment, Sax to Rifle Facility, LLC

Joel explained his request for the assignment saying he has put everything in LLC's.

Commissioner McCown made a motion to approve the Sax assignment of commercial lease and agreement and the Chair be authorized to sign.

Commissioner Houpt – Second

In favor: Houpt – aye Martin – aye McCown – aye

Joel complimented Carolyn on the job she has done in this complex and confusing matter. Joel's attorney, DHL's two attorneys and the gentlemen that handles that national leasing independently notified Joel how nice it was to work with someone who is as efficient and knowledgeable as Carolyn and it was terrific. She did a great job.

**AIRPORT - RIFLE AIR, LLC/ALPINE BANK: CONSIDERATION AND EXECUTION
SUBSTITUTION OF COLLATERAL AGREEMENT” – BRIAN CONDIE**

Carolyn explained this was a catch up document with Rifle Air, they took on both Corporate Air Services and Rifle Jet Center and this was a very set of complex documents. We put this into one document and it made the bank nervous about their security agreement so essentially this is a clean up that makes the bank's collateral assignment match documents that are recorded in the Clerk's office. So this is to update the bank's agreement with their lender which you are also a part of because you have agreed to the collateral assignment for purchases of financing.

Commissioner McCown made a motion we approve the substitution of collateral agreement and the Chair be authorized to sign.

Commissioner Houpt – Second

In favor: Houpt – aye Martin – aye McCown – aye

**FINANCE - DISCUSSION OF THE 5TH SUPPLEMENT TO THE 2007 APPROVED BUDGET
AND THE 5TH AMENDED APPROPRIATION OF FUNDS – CATHLEEN VAN ROEKEL**

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Cathleen Van Roekel submitted the following: Exhibit A – 2007 Budget Amendment and Contingency Transfer Request

Chairman Martin entered Exhibit A into the record.

Kathleen explained the contents of the supplemental and requested approval of the Board.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt seconded to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the 5th Supplement to the 2007 approved budget and the 5th amended appropriation of funds and authorize the Chair to sign the Resolution.

In favor: Houpt – aye McCown – aye Martin - aye

**CLERK & RECORDER – LIQUOR LICENSE - SPECIAL EVENT PERMIT –APPLICANT: MT.
CALLAHAN COMMUNITY FUNDING AS PART OF THE WESTERN COLORADO
COMMUNITY FOUNDATION – WINE TASTING AT THE BATTLEMENT MESA OLD
SCHOOLHOUSE – OCTOBER 28, 2007 – FRANCES ROSE AND JEAN ALBERICO**

Jean and Frances Rose were present and Jean submitted the special events liquor permit.

John reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Jean submitted the following exhibits: Exhibit A – Application; Exhibit B – Sign posted; Exhibit C – diagram of the area where the liquor will be sold.

Chairman Martin entered exhibits A – C into the record.

Jean explained the Special Event as being a wine tasting to be held from 3-6 PM on October 28, 2007. She said they have met all the requirements of the license.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Events Liquor License for Mt. Callahan Community funding, part of the Western Colorado Community Foundation for the Wine Tasting at the Battlement Mesa Old Schoolhouse on October 28, 2007 and authorized the Chair to sign the application.

In favor: Houpt – aye McCown – aye Martin – aye

COMMENTS FROM CITIZENS NOT ON THE AGENDA

**CROUCH PROPERTY – MISSOURI HEIGHTS - ADRIENNE CROUCH – MISSOURI HEIGHTS
– BOUNDARY LINE CONCERN**

Adrienne Crouch asked for an update on the information she has given the Board and requested a timely schedule for the Board to respond to her. Additionally, she had other information that was provided to County Attorney Don DeFord at the end of 2004. The Board asked if she had any information but her attorney informed her that was not her responsibility to provide information to the Board. She would like to get the road 162A off her property. Reference was made to an original document that was recorded on the original sale of the Barnes to Crouch sale between the time the Crouches signed the contract with the Barnes dated June 14, 1982 which I had never seen but Mr. Cohen, the original lawyer for the Barnes's gave Adrienne the original document which she recorded as stated previously. It essential from the Barnes'

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lawyer to John Sterling, “you quit claim the deeded a strip of land in exchange for a similar strip of land from the Barnes’ to cure a title problem due to encroaching fences”. A copy of the quit claim deed enclosed, however through a recent title commitment, which the Barnes’ obtained because they were selling to my family; on their property we discovered your conveyance in the public records disclosed that you only held 2/3 interest in your property and it goes on to essentially do the abstract. It says, “consequently in your conveyance of your strip of land referred to above the 1/3 interest held by Jean Stirling and Rebecca Stirling was not conveyed, if you concur with our analysis with how title to the above parcel of land is held we will need you to have the enclosed deed executed by Jean and Rebecca Stirling quit claiming their undivided 1/3 interest”. The reason this is significant is basically the law firm, “as you will recall on June 8, 1979 several years before my family actually bought the property, you quit claimed a strip of land”. Well that’s not what was recorded in 1981 so again I did another search that now with the lots being sold the title companies have two and three pages worth of exceptions and the things they are excepting are things like the entire plat that the Board signed and any additional exemption plats that have been signed, they’re not guaranteeing utilities, roads, water or anything else and they are also not guaranteeing the deeds that came in before they ever made a plat, so I would like to put this into the record. Chairman Martin said the Board is trying to resolve this issue.

Commissioner McCown we did the area down by the entrance that is encroaching 6 or 12 foot whatever the number is going to be at the end of the day, get that corrected and then the 1913 Road that the County Surveyor or your surveyor, all agree is a registered filed road; if we could create that on the ground where it currently is and vacate the older road that hasn’t been surveyed, would that fulfill your desire, where do you want to be at the end of this century with this? We’re talking 1979, so would that address your concerns if we could clean that up?

Adrienne stated this was her request last December.

Commissioner McCown - You wanted us to vacate and not create new we’ll do an exchange now with what’s on the ground now and remove what may be surveyed on the ground where it varies from the existing roadway, it’s a road but it may not be on the same survey line or whatever, but we would vacate that were not on the existing line now

Adrienne Crouch – one issue just recently again because Lou has been very aggressive in trying to understand what happened to my property and my parents, is the fact that there have been numerous plats or surveys in the area that have not been recorded and they are directly next to my property, well that’s a statute I believe from the surveyor and so starting last summer before he brought to your attention my issues, he sent out letters to his co-worker’s surveyors to basically say look I’m finding all these monuments around my client’s property.

Commissioner McCown – discounting monuments and everything else....

Adrienne Crouch said and this is where I’m going, one I would like you to address everything from March 2007 that says “where are the legal quit claim deeds giving from Stirling/anybody around me giving legal quit claim deeds to that road 162A and 162. What I’m finding with the old surveyor documents that I have at center, is there is no legal access into the subdivision for Stirling period. I’ve had the burden of having it surveyed to death so what I addressed in 2003 to you guys and very clearly gave a lot of exhibits that said your County Surveyor, your Road and Bridge and everyone else has said it is on my property and now I have a drainage problem that I want to know at this point when I’ve done the research it would be like me quit claiming the Empire State Building. It doesn’t fly anymore because I was just over at the Clerk and Recorder and there are so many boundary lot adjustments next to me that it’s more than Carter has pills and I feel like I’m the only one trying to do the right thing, but when you have people next to me and I didn’t know it in 2001 before the Stirling’s subdivision was approved in 2002 without one notice to me ever that all of my neighbors have done boundary line adjustments sometimes 40 acres – that just doesn’t fit with where is the land, where is my family’s land and I want it addressed to say there are documents presented to the County Commissioners in my opinion that are mis-statements over and over again. And you have burdened my family with trying to supply over and over again years and years which we’ve done which we were completely clueless to the fact that all this activity was going on and not one notice. How we address something when my family went with the same attorneys over and over and we get the exemptions, we went through the process, we certified the mail, we had 14 people originally that we did certifications to, everything’s approved and then those exemptions go by the way side. So, yes I would like to work with you, that’s what Lou Beutner said last November, but at the same time why aren’t you asking these other neighbors for their title policies? Why weren’t they done in 1982? My family has title policies guaranteeing water, land, roads, 1913 and you have 7 pages that I presented several weeks ago with you guys address CR 162 and 162A without ever including me if there wasn’t a huge issue and I would like to work with you but please address the fact that in my opinion there is no legal access whatsoever into Sterling PUD; and I don’t care what you call it.

Chairman Martin – thanks you for this new document.

Adrienne – are you working? I know I’ve talked about a lot of things, roads, ditches, a lot of things that I wanted to be cleared up so I know you have to take it a piece at a time.

Chairman Martin - we are doing that and we’ve got Fred on the hot seat, we’ve got the surveyor on the hot seat, the attorney is working with us, we are trying to get those answers you put to us.

Commissioner McCown – and we did our own title search of your property and it is not necessarily what you represent here. It doesn’t show all those exceptions.

Adrienne – that’s not my title search, that the Stirling’s.

Commissioner McCown – but the one of your property does not show all of the exceptions that you alluded to today – the road, the water.

Adrienne Crouch – I’m talking about my parents’ title policy, not mine. I got 35 acres out of my parents and

Commissioner McCown – I’m talking about the land we’re talking about today where the road intersects the property that you say is not a legal access. Your title does not necessarily correspond with what you’re saying.

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Adrienne Crouch – that’s because my legal description does not, it says here’s Adrienne’s 35.6 acres and what I told you in 2003, which you guys just uh continued on, is I came to you in 2003 and in October and said my survey is incorrect, my surveyor is incorrect and multiple times starting in ‘89, 91, 92, etc. I want Lot 1 and Lot 2 off of my property assuming that the road that’s gone right through my property is copasetic, it’s not – and then when I finally had to go thru a title search after the lawyers that I went back in at the end of 2004 and said do you have anything on the Crouch/Barnes sale because my family has surveyed this stuff to death. And that is when we got together and essentially, the plat we got that was guaranteed doesn’t match what the title policy says so you got the left hand not doing the right and so that’s what I’ve been at issue with the title companies but your own County Survey over and over again and that’s what I showed in 2003, and who knows how many more times it’s been done, clearly shows the road is on my property. On my 35 acres.

Chairman Martin – we are not disputing that; that’s not the dispute, what we’re trying to solve all the issues that you’ve raised – it does take time to sort everything out but we are working on it.

Adrienne Crouch – I guess my request then is there a possibility that you can you say, stop this giant wheel from going on to Stirling split more lots in that subdivision because I protested once and you guys just said, no, it isn’t a matter about the road and they have 6 more lots next to me that clearly have been subdivided.

Chairman Martin – that has been placed on Fred to notify them of the issue, to resolve the issue that we have put to them, we’re working on that. The notification, I think Fred has attempted numerous times.

Adrienne Crouch – have you mailed anything

Chairman Martin – yes, and we will notify you on any kind of a meeting or any kind of a get-together in reference to Stirling.

Adrienne Crouch – so has the County Planning/Law/Commissioners sent out a letter yet to the Sterling Subdivision people?

Chairman Martin – yes, but a response has not been returned.

Adrienne Crouch - How long ago was that?

Chairman Martin – if we have to send another one we will do so. We understand your frustration.

Adrienne Crouch – I appreciate it and I’m not trying to be evasive but I’m not a lawyer either.

Chairman Martin – well you have them in your family.

Adrienne Crouch – my dad was an attorney, my brother is an attorney, I have uncles and all of that and we’re from a small town – Alban, Texas.

BUILDING AND PLANNING - CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT ALLOWING FOR A SOLAR POWER GENERATING SYSTEM AT THE COLORADO ROCKY MOUNTAIN SCHOOL (CRMS) IN THE CITY OF CARBONDALE – APPLICANT: CRMS – CHRISTINA MONTALVO

Christina Montalvo and Michael Howard were present.

Christina submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Comprehensive Plan of 2000; Exhibit E – Garfield County Subdivision Regulations of 1984 as amended; Exhibit F -Application materials; Exhibit G – Staff memorandum, (then letters or memo’s received from outside sources.)

Chairman Martin entered Exhibits A – G into the record.

BACKGROUND

The County received a Special Use Permit (SUP) application for “Electric Power Generating System,” which would be located on the property of the Colorado Rocky Mountain School (CRMS) within the Agricultural/Residential/Rural Density zone district and would be located in close proximity to County Road 106 and Delores Way. The entire system would be approximately ½ acre in size and would range from 2 to 12 feet in height.

STAFF RECOMMENDATION

Due to the relatively small size (21,000 sq. ft.) of the Electric Power Generating Facility, Staff recommends the Board direct Staff to schedule a public hearing directly before the Board of County Commissioners.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to schedule this before the Board of County Commissioners. In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING CONSIDER AN EXTENSION FOR THE CONDITIONALLY APPROVED UPPER DIVIDE SUBDIVISION EXEMPTION – APPLICANT: UPPER DIVIDE LLC – CRAIG RICHARDSON

Craig Richardson and Michael Howard were present.

Craig explained on May 21st, 2007 the Board of County Commissioners (the Board) conditionally approved an Exemption from the Definition of Subdivision for a property owned by Upper Divide, LLC. The Applicant has submitted a request for extension of approval in order to complete the conditions of approval. The Applicant’s request is for an additional sixty (60) days. Should the Board move to approve the requested extension, Staff suggests extending the time requirement to one (1) year from the date of approval. This time frame is consistent with extensions granted by the Board for previous requests. A motion was made by Commissioner McCown and seconded by Commissioner Houpt to extend the Upper Divide LLC Subdivision Exemption until May 21, 2008.

In favor: Houpt – aye McCown – aye Martin - aye

FINANCE - DISCUSSION OF 2008 REQUESTS FOR STAFFING – VARIOUS DEPARTMENT HEADS

Patsy Hernandez submitted a notebook containing the new staffing requests for the various departments for 2008 that included suggested pay increases, as well as additional staffing with justification based on the growth of the County.

Those included: Assessor, Clerk & Recorder, Treasurer, Public Trustee, County Attorney, Informational Technology, Criminal Justice Services, Building and Planning, and Public Health.

Discussion followed and justification for the increase in staff was provided by each of the department heads.

Chairman Martin stated that I don’t think all 38 new positions are going to make it,

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Patsy stated the information needed to provide to her by Oct 12th so she could prepare the budget report. She also clarified if this could be put into the contingency fund. Chairman Martin said then we will trim the budget.

EXECUTIVE SESSION – STATUS OF THE VEZZOSO LITIGATION AND CROUCH CLAIMS

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive session to discuss the aforementioned items.
In favor: Houpt – aye Martin – aye McCown - aye
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session.
In favor: Houpt – aye Martin – aye McCown - aye
No action taken.

ADJOURNMENT

ATTEST: _____ CHAIRMAN OF THE BOARD

**OCTOBER 1, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, October 1, 2007 with Chairman John Martin and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord and Jean Alberico Clerk & Recorder. Commissioner Houpt was absent.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

CROUCH PROPERTY – MISSOURI HEIGHTS

Commissioner Martin – We need to find out exactly what this Board can do to help you and Adrienne move on. Step by step what is it you are really asking for?
Louis Beutner – So we can subdivide the property, the 1913 deed is it an easement or a fee title? Then the 162A encroachment. We are running out of construction time this year and you folks as a board agreed that there was an encroachment and it should have been corrected. I’ve been out of town so I don’t know where we stand on that. We also have the drainage problem on 162A. It would appear that if there were construction drawings made for the construction of that road that weren’t adhered to. About 60 days ago I presented the Board with an agreement for the 1913 road whereby we could eliminate that road because right now I don’t believe we can locate that by the description on the deed. That is because of the location of the section corner setting out there. We could agree to a location and thus locate that road across the Crouch property.
Commissioner Martin – That’s encouraging, that is something we were listening for.
Commissioner McCown – That is what I offered last time Adrienne was in here. Where the road is currently on the ground varies, some parts is close to the 1913 survey according to the County Surveyor some parts vary from it. Taking the road, dedicating it where it is on the ground and the vacating the portion that is off of that portion of roadway that might show up on the 1913 map, but still having a road traversing that property where it is on the ground today.
Louis – Well we have the 162A road across there, there has been no dedication for what the County calls the 162 road. That’s the driveway going by her house and servicing the property southerly of her. As I say there has never been a dedication of that road as such.
Commissioner Martin – Still two different issues in reference to two different roads.
Louis – The boundary agreement that I submitted the sample of, takes in account what I surmise to be the old road as constructed. This then from the time it’s lost due to driveway being there, I then used the driveway as the other part of the right-of-way crossing her property. This goes along with your thinking and Mr. DeFord’s thinking.
Commissioner Martin – And making that the right-of-way across that property and then making sure all the adjustments on legal descriptions etc. re-filing that and making sure it is in place, you would live with?
Louis – I could live with it I would have to convince Adrienne. One of the items that I have here on my list, I only have seven today. It’s the county surveyor’s section corner 19, 20, 29, 30 I believe you might have the present county surveyor looking into that. A while back I was talking with George Allen at the BLM Office and he showed me a document that he had copied. I got together with Clerks office to see if we could find that, it seems that the county surveyor relocated that section corner in 1912. So we don’t have to go all the way back to 1888 to locate that corner. I am hoping since the county surveyor located the section corner in 1912 that he may have surveyed the road in 1913. That would give us more evidence to work with. These other items are that I will keep coming down and prodding you.
Commissioner Martin – We want to make sure we have everything in place so we can move forward with this.
Louis – The 1913 if it’s a fee or an easement is fairly important as to how we can get rid of the burden. I think it is a little ridiculous to have two sections of road within a couple hundred of feet of each other when it just divides a property.
Commissioner McCown – I would agree with that too it’s just a matter of, we have to have and I will not support anything other than a legal county road across that parcel wherever it may be. In order to do that whether it is reserving the 1913 historically recorded road or agreeing it is green to use the one that is on the ground and vacating the other one, I don’t care which way we do it but one or the other will happen.

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Louis – I think we should keep in mind here also if we completely eliminate the road easement across the property then that will make it a little easier to divide the property up reasonable and then position a road across it to meet your concerns with the new division. We have one other thing that we have to take into consideration and that is Sun Mesa is using the access for lot 21 across this permissive road. So we have to take that into consideration as well.

Commissioner Martin – We can't cut off access that is our issue here.

Louis – That lot does not have a dedicated access.

Commissioner Martin – We are going to have to work on making sure that it is because the lot was created so we have to make sure there is access to it.

Commissioner McCown – At the time that lot was created there was access.

Louis – Well the access was a permissive access across the Crouch property not a dedicated access.

Commissioner Martin – We want a check list to make sure that we are able to go ahead and do that and you have to work with your client and we will work with our staff to come to a conclusion.

Louis – The easement or fee should only take 5 minutes to look at the preprinted document and the writing on it and say that's it.

Commissioner Martin – We will start making some decisions on these items that will help you out as well.

COUNTY MANAGER UPDATE – ED GREEN

HUMAN SERVICES - 2008 HOLIDAY SCHEDULE – KATHERINE ROSS

Katherine – Presented early for three reasons, number one for budget planning, so customers of the County can be notified on days when the offices will be closed and so employees can make decision regarding their holiday plans.

Commissioner McCown – I make a motion we approve the 2008 designated holiday schedule as presented.

Commissioner Martin – Second

A motion was made by Commissioner McCown and seconded by Commissioner Martin

In favor: Hought – Absent McCown – aye Martin - aye

COMMUNITY CORRECTIONS - REQUEST FOR NEW MEMBER ON THE BOARD OF COMMUNITY CORRECTIONS – DALE HANCOCK

Letter presented to the Board from Carol Schreiner requesting consideration for a seat on this board.

Dale – The nomination you have before you today was submitted by Steve Reynolds who is the chairman of our board. It is asking for the appointment of Carol Schreiner to the Garfield Community Corrections Board. The resolution states there shall be eight citizen members which is where we sit now, however; Bob Johnson who is the warden at the Rifle Correction Facility is currently within that count and it is a little questionable. It makes sense to have a genuine citizen not affiliated with the system be appointed to the board.

Commissioner McCown – I make a motion Carol Schreiner be appointed to the Community Correction Board. Commissioner Martin – Second.

A motion was made by Commissioner McCown and seconded by Commissioner Martin

In favor: Hought – Absent McCown – aye Martin - aye

INFORMATIONAL TECHNOLOGY - REQUEST FOR CONTRACT APPROVAL FOR INFRASTRUCTURE IMPROVEMENT – DS3 PROJECT – CHARLES ZELENKA AND DALE HANCOCK

Dale – After having a discussion with our finance director it is more about letting you know what we plan on doing in advance of doing something. We had budgeted for the 2007 year a pandemic redundancy ability within our leadership team so that they could work from home in the event of a pandemic. A budget was put together for that, Ed and I have since met with the contractor from Risk Management Alliance who has pretty much told us that what we planned to do wasn't right the thing to do. So we have \$200,000.00 sitting in the budget that we were going to use that we aren't going to use for pandemic. What we like to do is use the \$200,000 in 07 to run the fat pipe, DS3, between here and Rifle to take care of the increase computer requirements. This will allow us to accommodate the video conferencing improvement projects during the 2007 year as opposed to the 2008 year.

Commissioner McCown – It's a one time cost or what is the annual cost on a fat pipe monthly?

Charles Zelenka – When those building in the west end were all connected with point to point connections. To accommodate the growth we really need a much larger pipe. As new buildings come up it will help to work out our monthly payments that we have to make.

Dale – I think it will be a wash compared to what we have for an expense for T1's right now.

Commissioner McCown – This will eliminate the T1's?

Dale – Well the need for new ones.

Commissioner McCown – But it will incorporate the ones we have into this new fat pipe?

Charles – No, the connect right now between Glenwood and Rifle is a series of 1.5 T1 connections the DSD is a 45 mag connection. It is a much larger pipe and once we get it to Rifle central office then we do the T1's.

Commissioner McCown – Will the airport office become the central office or will the Henry Building?

Charles – The central office is the Qwest office

Commissioner McCown – So this is a Qwest bill to put this new conductor in?

Charles – A consultant will put in all the equipment and in the process we will replace all of our routers and switches.

Commissioner McCown – We can do this for \$200,000.00? Or we need the \$200,000.00 to boost what?

Dale – We need the \$200,000 to boost right now.

Commissioner McCown – So what is this going to cost overall?

Dale – Roughly what we are spending right now in T1 costs which is about \$27,000.00 per year

Commissioner Martin – The cost is going to continue to be the same but they need the \$200,000.00 to get the equipment in place.

Commissioner McCown – Is the project more than \$200,000.00 that would be scheduled for next year.

Dale – No we need the \$200,000.00

Charles – It replaces the existing infrastructure.

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Dale – The way I had it explained to me from our finance director is, since this was not a part of the 07 project lists this DS3, it is likely she will come in and make this a part of a future supplemental request. Commissioner McCown – Doesn't need a motion and we told you to go forward.

ROAD AND BRIDGE - CR 103 SAFETY IMPROVEMENTS – MARVIN STEPHENS

Recommendation:

Award Bid to Kiewit Western CO for a not to exceed price of \$293,080.25

Marvin – Bobby and Jeff have come to me a couple of times about this project. They had put in a new housing development up there and it wasn't in their scope of work and it was a safety issue. It wasn't budgeted for this year but there is a project or two that I'm not going to get accomplished, one of them being 306 Road on Spring Creek. So I have a little money that I could put toward this. This is a safety issue I'd like to see accomplished this year. Getting late in the construction season but with a little good whether I think it could be accomplished.

Commissioner McCown – How can we get contracts to bid on this project and not bid on the Spring Creek project? I do not support the Spring Creek Project getting swept under the rug.

Jeff – We do have a contractor who is willing to complete 306 that is not the issue that is tabling it. The issue that is tabling 306 is, we have been in front of you before with different project with the same issue now days the land owners are much more sticklers about working on their property. Legally their property because of the restrictive easements of the road. 306 has a restrictive easement across Maryann Bosleys property.

Don - There are two of them Bosley and Weller

Jeff – The other owner I don't believe had as much of an issue. The legal issue of us working on her property has not been cleared up so we did not bid that out.

Commissioner McCown – Have we started condemnation?

Don – No and the reason we haven't we have not received the appraisal on this property. We started this process with Ernie Butler in Grand Junction I think end of May or beginning of June and I talked with him week before last, Jeff has stayed in touch with me trying to get updates on this. I called him week before last and he assured me I would receive those appraisals last week, I still don't have them. Until we get those appraisals we can't even start negotiations with Bosley. That is the position she has taken and she wants to see the appraisal before she starts negotiations. It is possible that once we get to that point for the appraised value she will go forward and agree to transfer the property. But we can't count on that secondly even that will take a little bit of time.

Commissioner McCown – Is the adjoining property owner going to grant us permission in the form of dedicating land what's going to happen?

Don – We appraised both properties since they adjoining I didn't want to be in a posture of appraising one working on that and not the other. We are supposed to get those at same time and we should have received them a month ago.

Commissioner McCown – So there will be no reason for next year not accomplishing this.

Jeff – It is one of the biggest safety issues we have on the road. I'd like to bid this early winter to get done in 08.

Commissioner McCown – I make a motion we award the bid to Kiewit Western Companies in the amount not to exceed \$293,080.25 for the safety improvements of County Road 103 near the entrance to Callicotte Ranch and those fund will come from other projects that are not going to be finished this year.

Commissioner Martin – Second

Don – Before you vote I have a couple of questions. Has the developer already constructed their portion of the

Jeff – To my understanding they are still working inside their subdivision but this is in County right-of-way.

Marvin – It is beyond where their entrance is.

Don- That is my concern is at the point where we will be doing improvements was at the location approved by the Board during the subdivision process. Another words they are constructing this access at an approved point.

Jeff – There is no access here basically they have two accesses a north and a south and we are directly in between those, it's a blind hill.

Don – This is not an access and these improvements were not required as part of the subdivision approval?

Jeff – I believe I asked Fred and Dave Pesnichak and they said no.

In favor: Houpt – Absent McCown – aye Martin - aye

ROAD AND BRIDGE - CULVERT CLEANER – MARVIN STEPHENS

Recommendation:

Procure from Boyle Equipment Company a 747-300R trailer jet for a cost of \$56,855.00.

Marvin – We have rented this a couple of times and it worked real well. Eagle county has one like this, we called them they were impressed with it.

Commissioner McCown – Is that to completely clean or get a hole in there?

Marvin – Either one. I plan on having a water truck with it or close by.

Commissioner McCown – I make a motion we authorize the bid from Boyle Equipment company for a culvert cleaning machine in an amount not to exceed \$56,855.00.

Commissioner Martin - Second

A motion was made by Commissioner McCown and seconded by Commissioner Martin

In favor: Houpt – Absent McCown – aye Martin - aye

FINANCE - DISCUSSION RELATED TO 2008 SALES TAX DISTRIBUTION: APPROPRIATION FOR PUBLIC HEALTH AND COMMUNITY SERVICES AS IT RELATES TO CSU EXTENSION OFFICE – PATSY HERNANDEZ

In preparing the 208 budget, Patsy has several questions relating to the CSU Extension Office. If understood correctly beginning 1/1/08, the Accounting staff will no longer pay the invoices on behalf of the Extension Office. They will enter the 2008 Extension Budget as a single line item in the BOCC department budget in the same manner they enter the Office of the District Attorney.

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Beginning 1/1/08, they will send a monthly warrant to the CSU Accounting Office for 1/12 the approved budget at the beginning of each month. The CSU Accounting Office will be responsible for paying the Extension invoices.

Questions:

1. The Extension 2008 budget request is \$214,700.00. Does the Commissioner want me to enter this amount? The request includes \$1,200.00 (Improvements other than buildings), \$11,000.00 (computers) and \$1,400 (Furniture and fixtures). Does the BOCC wish to make these expenditures in 2008 on behalf of the Extension Office? If not, the total budget is \$201,100.00
2. Pursuant to Resolution #96-54, item F.1., one-half of 12.5% of the .75% sales tax (page 6 and 7 of attached resolution), shall be appropriated for public health and community services... For several years, the CSU Extension Office has received a percentage of this 12.5%; however, this revenue has not been taken into consideration when the Extension Office submitted its budget. For example; in 2005, the expenses exceeded the revenue; in 2006, the revenue exceeded the expenses; and in 2007 the budgeted expenses exceed the budgeted revenue. Do the Commissioners want to continue to have a percentage of the Sales taxes allocated to the Extension Office, or would you prefer to redistribute the "Public Health, Community, Human Service" portion elsewhere and fund the Extension Office with General Fund – Fund Balance?
3. If the commissioners want to continue to have a percentage of the Sales taxes allocated to the Extension Office, do you want to limit the annual budget to this amount?

Don – Before you start on this Patsy and I have talked about this and I want the Board to be aware we are also in the process of drafting a contract with CSU to confirm some of these services and if the Board has contract issues that you wish to discuss in executive session and give direction to my department you can do that. It is also a budget issue and Patsy and I thought we should start as a public discussion.

Patsy – Handed out spread sheet, the one provided with the packet was the 2007 because I have not met with Georgia Chamberlain yet to project the 2008 and we did that Friday afternoon and I now have the sales tax projection for 2008. The first question I have has to do with Extension. In my memorandum I shared with you that it's my understanding that beginning in January, 2008 the accounts payable department is no longer going to pay the individual bills for the Extension Office. As described above, Patsy explained the monies as above. I believe that the contract is going to say you can use the computers that the County has purchased for you until such time that they are not working for you any more. After that you will have to buy your own computer that the County will no longer do that. Furniture, Fixtures is not a County obligation and so in this 2008 budget request we do have item #1 in the memorandum to you where there is a little bit for improvements other than building, computers, and furniture and fixtures included in that \$214,000 and my question is do you want me to keep it in there or remove it and put into the budget only \$201,100.00?

Commissioner McCown – I want you to leave it

Patsy – Okay so leave it at \$214,000.00. Next I'm asking about the sales tax distribution spread sheet.

Highlighted in green on the spreadsheet, basically what we have is, using this year as an example, we have a budget \$214,000 for the past few years a portion of the sales tax has been allocated to the Extension Office. With the new arrangements with the CSU my question does it make sense to keep the sales tax distribution the way it is right now as extension, last year it was 12.9% or does it make sense to consider the extension as really being funded out of the General Fund? Because we are no longer going to have an Extension Department as we have in the past. Do you want me to create a new revenue line item called the Extension Sales Tax Revenue or do you want to reallocate the Public Health and Community and Human Services amount that gone to the Extension and fund the Extension Office out of the General Fund?

Commissioner McCown – No

Commissioner Martin – You want to keep it separate?

Commissioner McCown - Yes

Patsy – Okay so continue to keep the percentage split

Commissioner McCown – Earmarked for Extension and the balance will be paid out of the General Fund to bring it up to their budget.

Patsy – I will set that up so it is very clear in the budget where that revenue is coming in. Next question I have is that when I was working with Georgia on Friday that I had forgotten and this is what is highlighted in blue on the spreadsheet I gave to you. A while back Don and Georgia and I came and visited with you. The communications staff was asking that we have the recovery installment that comes in just to fund administration of the General Fund. It's used to fund operating and personnel costs in the area of Public Health and so on. When we came to you a while back the discussion was making that recovery installment that has simply resided in revenue in the General Fund to go ahead and expense that back out again to the entities that receive the sales tax. We are looking at that recovery installment amount that would still come in as revenue to the General Fund. We are looking at it being approximately \$694,000 in 2008. My question for you is do you want to me to set up a line item in the BOCC budget whereby that revenue will be expensed back out to the entities that receive sales taxes. I don't have that as an expense in the budget right now. We had talked about each year you would decide whether or not you wanted to do that. I'm asking you this morning do you want me to set it up as an expense item in the General Fund and then Georgia and I working with Don can talk about what's the process to make this expense happen.

Commissioner McCown – At this time since Communications is the only one that has asked for it I'm going to leave it that way. Leave it as going into the General Fund other than Communication's portion. If Road and Bridge asks for it, if the municipalities ask for it fine but until they do it will come back to the General Fund.

Patsy – I hear what you are saying but just for budget purposes I need to know, not knowing who's going to step forward beyond Lou and Communications how much do I put into the budget?

Commissioner McCown – Beyond the date the budget is completed if they ask for it, it will not be available until the next year.

Commissioner Martin – Yes they need to ask for it first.

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Patsy – But if they don't know this is happening how will they know to ask?

Commissioner McCown – Apparently they haven't read the paper, watched TV or talked to anybody involved with Communications which entails 16 working groups. We are just saying here's a gift to each one of you that we have collected in the past and used to fund County government and we've decided its Christmas and we are going to give this back to you but next year we may not. \$694,000.00 is a fairly nice gift. I think that a person needs to ask for it if they want it. Sending them a gift will only create a dependence on that fund and will make it much harder to take it back in the future when our money is tight. When you start dealing with outside agencies that money is going outside of the County's budget.

Ed – From a County stand point, can we do it for Communications Group and not for all the other entities? In other words do we have to do all or nothing?

Commissioner McCown – I don't know why they are the only ones that asked for it.

Patsy – From an accounting standpoint we will set this, it's already set up as revenue. What we'll be doing is setting up in the BOCC department because that is where you have grants coming out it's really your department that pays the grants. This would be set up as another expense line item that would just be referred to, we would call it recovery installment.

Commissioner McCown – Well then why don't you put all of that recovery installment in the Commissioners Budget?

Patsy – I certainly can it will still reside in the General Fund. Historically we've got this department that's called Fund Administration and that just means that, this has not come up before this is why it's just been in Fund Administration. Fund Administration means this is revenue that is coming in that is not specific to the expenses of one department. It will be used on behalf of all the departments that reside in the General Fund. I hear what you are saying if you are looking at taking and expensing this does it make sense to expense it in the BOCC? Bottom line it doesn't change its still General Fund.

Commissioner Martin – We understand. We can make that determination, who asked for it etc. and then they can come directly to us and we can make that allocation.

Patsy – I'm still not clear, I do hear lets go ahead and start putting 694,000 rather than put that in the Fund Administration department put that into the BOCC department because if we are looking at expensing it let's go ahead and expense out there. Are you also telling me to put the entire \$694,000 as a potential expense in the budget?

Commissioner McCown – Yes

Commissioner Martin – Yes you have to do that because again just holding on to someone else's funds until they are requesting it or not.

Commissioner McCown – I think it is still a little bit gray maybe is this going to be a grant how is this going to be handled. Usually in a grant there is a scope of service that is provided it's not just a gift.

Patsy – Seeking direction on how do I get this in the budget and then the process of how would this be expensed out and go to that process needs to be discussed and I think that Georgia and I and talking with Don could come to you and make a recommendation on here's what we are thinking would be a process for these funds to be expensed out.

Commissioner McCown – It seems logical that it is going to be expensed out of the BOCC side of the budget that it would be revenue in on the same side.

Ed – Since this was specifically voted upon by the residents, doesn't it require that we will have to have some kind of active contractual arrangement to move it out?

Don – Yes, and that is what was told to Communications.

Commissioner McCown – There will have to be a contract with everybody.

Don – I have a couple of questions about Extension if we could back up a moment. Am I understanding this correctly Patsy that there will be a fixed dollar amount rather than a percentage of the sales tax designated in this budget for extension?

Patsy – No if I understood Commissioner McCown correctly at this point we have estimated that the total minus the recovery installment is almost \$176,000.00 of sales tax revenue that would go toward that Extension line item and then they're looking at spending \$214,000.00. The difference between those two amounts would be funded out of the General Fund balance.

Don – So how do you come up with \$176,000.00?

Patsy – It is the .75 sales tax then 12.5 of the .75 has to go to Public Health or Community or Community Service, I'm sorry Human Service. 50% of that 12.5 has to be Human Service and those are the grants that come out.

Don – That's the part I want to talk about. The \$170,000 is how much percent?

Patsy - 12.9% of 6.25%

Don – There is no resolution at this point that designates a percentage amount so why it is the \$170,000 comes out of sales tax?

Patsy – It is just a percentage amount that the board has directed me to use the last few years. I don't know where those percentage amounts came from. We know the 50% for Human Services came from the resolution.

Don – Take a look at the sales tax resolution you attached paragraph F. And the 12.5% is split as you know into two sections so at this point is it from F1 that the Extension will be taken or from F2?

Patsy – F2, wait let me make sure.

Commissioner McCown – It's coming out of Nursing side.

Don – The Nursing side is F1. So it is not considered similar government agencies under F2?

Patsy – The way we have handled in the past, no it is part of Community Services of F1.

Commissioner McCown – This board voted to change that percentage given the full 50% to Human Services.

Commissioner Martin – So they get their full 50%.

Don – As you know recently you repealed the earlier percentage distribution. I want to make sure what you are doing is consistent.

Georgia – How would you suggest road and bridge and all the other entities make the requests, written, verbal?

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Commissioner Martin – In their budget process and identifying the funds they are pulling from. At that point we give the approval and give you the information back so you can release.

HUMAN SERVICES COMMISSION - REQUEST FOR A CHANGE IN AFFILIATION WITH THE GARFIELD COUNTY HUMAN SERVICES COMMISSION FOR JULIE OLSON FROM AGENCY CATEGORY TO WOMEN'S SERVICES REPRESENTATIVE

Letter presented from Julie Olson, MSW, Executive Director requesting she replace Nancy Reinish in her position on the Garfield County Human Services Commission.

Commissioner McCown – I don't have a problem, so moved. Commissioner Martin – Second.

In favor: Houpt – Absent McCown – aye Martin - aye

HUMAN RESOURCES - RATIFY VARIOUS LUNDY CONTRACTS AS ONE AGREEMENT

A summary of services rendered by Lundy Professional Development was submitted indicating five (5) contracts and two (2) amendments with Lundy. Total cost of those five (5) contracts was \$81,700.00.

Ed – For about a year we didn't have HR director and we have relied on Lundy's Professional Development Services to bridge the gap for big projects. You specifically approved the job description portion of her activity as well as the strategic planning. What's happened in the last few months is that Fred's group has contracted with Phyllis for streamlining processes in his organization. In looking at this and talking with Don we really need a blanket agreement with Phyllis. I'm requesting approval to ratify these agreements and I guess Don and I will try to affect one blanket agreement for her services.

Commissioner McCown – So moved, this will be for 2007 the blanket agreement?

Ed - Yes

Commissioner Martin – Second

Don – Ed has given a good description of what we are looking at. It would be a released contract provision for 2007. If something similar is needed for 2008 that would be our approach but I don't think that decision has been made.

Commissioner McCown – Are we anticipating this as a contract that would be renewable if those needs arise in 2008 so we don't have to go back and reinvent the wheel?

Don – We can certainly do that. It may make sense to simply put a not to exceed figure in for 2008 and renew that contract and if we need it's there.

Ed – She is an integral part of our training program as well.

Commissioner Martin – Do you think we could accomplish that by the end of the year?

Don – Oh yes, Carolyn and I anticipate that for instance the strategic planning and the training are projects that would certainly go into 2008. We'll do it for this year; we'll make it renewable and bring it back as part of budget process.

Commissioner McCown – I make a motion we ratify the actions taken and move forward with the overarching contract for 2007 and 2008 for services. Commissioner Martin – Second.

In favor: Houpt – Absent McCown – aye Martin – aye

Ed – One other issue related to that is we added one additional meeting for strategic planning and the cost is \$2,800.00 so this is an addition and request approval for that.

Commissioner McCown – So moved. Commissioner Martin – Second.

In favor: Houpt – Absent McCown – aye Martin – aye

Executive Session Items – Ed Green

Ed – I have several items for executive session. One related to the staffing issue in DHS, one related to a contract with Jess after his retirement, we need to look at the contract and I think Carolyn has drafted that agreement. We need to look at indemnification language associated with this DOLA Grant and get your guidance on that. We need authorization to for an individual to precede with site acquisition negotiations for property in Glenwood. I think Don and I need to talk to you about the Storey property issue and I need to brief on senior programs.

FEDERAL MINERAL LEASING AND WORKING GROUP – JESSE SMITH

Jesse – We met all day Friday and it was totally devoted to federal mineral leasing. Lloyd Savage was the first presenter and he appeared in his role as Executive Director of the National Royalty Owners Association. He was basically making a plea for removing the tax deduction until after the royalties are paid. He said that takes money out of little old ladies pockets. He also would like to see the way in which gas is valued changed and the way it which it is metered changed. He does not believe it can be done accurately at the well head, he thinks it should be down stream and consistent with the sales meter. Craig Meese disagreed, he thinks it should be at the well head. Lloyd also said there is a real problem with split stream royalties where there are multiple people who have an interest in the same well and they split it and does the severance tax come out before or after. He thinks that is a real issue and then bottom line was he thinks the tax code is absolutely impossible for anyone to understand and thinks it needs to be simplified. Basically the committee agreed with him. Senator Romer is a strong advocate that there needs to be a business plan for mineral extraction and that plan needs to be something that is bought into by the energy proponent that we need to front in mitigation of impacts. He would like to see 3-4 million dollars created to immediately address impacts in the Northwestern part of Colorado. He thinks that should be done with bonding and that the debt load on those bonds would be federal mineral leasing. Federal mineral leasing is exempt from TABOR but it is not exempt from bonding for cost. Jeff Seaman came in from the Colorado Petroleum Association and was asked directly by Craig Meese if they would be willing to sit down and work out a simplified improved valuation taxing model and he said they would be willing. Steve Colby presented on the severance tax credit provision in the statutes and he pointed out it currently has attached to it 9% interest rate, which he thinks when this statute was developed back in 70's that was probably where the interest rates were but it is not appropriate for today and they are going to be recommending a reduction to that interest rate. Susan Kirkpatrick made the comment that she sees severance tax credits being one arrow in the quiver to address problems. Chris Ward came from the Legislative Council to talk about how federal mineral leasing is split up and divided around and basically they have for the first time done some projections. The federal mineral leasing that went to the public school fund for example in 2004 was 50 million, 2005 – 59 million, 2006 – 63 million – 2007 – 78 million and they are projecting for 2008 it will be \$100 million, 2009 will drop to 90 million and 2010 will go back up to 100 million. They think that the

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federal mineral leasing coming to Colorado, which is currently \$120 million dollars, will grow to 200 million dollars within the next 5-10 years. That would generate a huge amount of bonds even if they back down and said we don't want to go beyond 50% or 40% etc.; you're still talking about a very large bonding capability.

Commissioner McCown – In this bonding capability that was discussed, is the state going to be the bond applicant or would it be local government?

Jesse – Steve Bell is with a major bond company; he laid out how it could happen. It is probably going to have to be either a Title 32 District or a Public Improvement District and a Title 32 District could have political subdivisions. It could be multi-county jurisdictional and it would have its own board to monitor and control the bonds. A Public Improvement District, which is the way he thinks he may end up going would be created by the County and the BOCC would be the governing body. In answer to your questions he does not see it being state.

Commissioner McCown – But the state is going to hold the pot of money that guarantees the bond and pay the bill. But the counties are going to be liable for that should the funding for the state fail.

Jesse – That is the fly in the ointment. What this could boil down to is if the state is willing to change the statute and designate federal mineral leasing, that could be done and that would get it out of an annual appropriation. It would still be subject to market variations. If it stays the way it is now the only security you have is annual appropriations and he says that can be done. They are doing it now but it is very difficult to do that when it comes to roads when the only asset the bond holder has is the infrastructure. A building builder could take the building. But a road what does a bond holder do? My sense of the working committee after these presentations there was a shift in some of the members where they have been very hesitant about bonds to feeling more comfortable about bonds. The working committee is meeting again on the afternoon and evening of 8th and all day of the 9th in which they are going to put together all of their final recommendations to the Legislative Committee. They will present that to the Legislative Committee on the 10th of October. They are very close to making their final decisions as to what they are going to recommend and how they are going to recommend. There was one thing I did hear that made me feel much better. Craig Meese made the comment that in the last meeting he had been a very staunch supporter of changing the way severance taxes are distributed within a county to going to simply a percentage of the population for each entity and he said now he doesn't think that's a good idea.

Commissioner McCown – This bonding thing concerns me. I can't be a proponent of this bonding.

Commissioner Martin – I have never been.

SHERIFF UPDATE – LOU VALLARIO

PAYMENT FOR DE BEQUE MARSHAL'S POSITION

Letter submitted from Gary Foss, Town of De Beque Marshal asking the sheriff to pay for 1/3 of a man position in De Beque. They have hired Art Kent as a deputy; he lives in De Beque and will help with the 24 hour coverage in our area. The price for a third of a man is \$24,000.00. This includes \$7,000.00 for a vehicle. The vehicle is a car and not a 4X4, he asked if Garfield had a good 4X4 we are willing to give him and that would knock off \$7,000.00 for our bill.

Lou – Last year around August we discussed splitting the cost for a third DeBeque marshal. They help us quite a bit up there and they have had some problems getting three positions filled. I asked Patsy to see if it was in the budget and it wasn't. I think we did agree in this room here to do this.

Don – Is this individual going to be providing services for your department and the unincorporated area of the county?

Lou – Yes and they have been for some time

Don – So you will need to deputize that person?

Lou – Yes and they are all deputized.

Don – So the Board then would simply be providing you funding through the budget for an additional portion of a deputy sheriff?

Lou – Yes – How ever we want to do that, we talked one time we talked about a grant process.

Don – Are you going to employ this person or are we going to be paying De Beque?

Lou – We are paying DeBeque for their employee costs, they hire an employee at X and we committed to covering 1/3 of that, DeBeque covers 1/3 and I believe Mesa County will cover 1/3.

Don – What I would suggest and you can discuss, I would suggest the Board deal with this as a budget item for Lou and Lou as the chief law enforcement official and separate department head can actually enter into an agreement with DeBeque.

Commissioner McCown – To me it would be a MOU between the BOCC and DeBeque on behalf of the Sheriff.

Don – It can be both Larry. You are providing the funding but Lou as with all of the sheriff's deputies retains control of the individual.

Commissioner McCown – But he doesn't.

Don – He has to in the unincorporated area of the county, he has no choice his bonding company and our insurance company will require that he control the individual in the county.

Lou – So for purposes of when they are operating and working on our behalf they become an agent of ours.

Commissioner McCown – When they are outside of their jurisdiction he becomes Lou's deputy but he is a DeBeque employee.

Don – That's why its important that Lou be part of the agreements since this individual will be providing services for DeBeque and also for the sheriffs department and there has to be some type of control.

Lou – Would an MOU work?

Don – Yes

Patsy – I just want to make sure this is budgeted and expensed correctly. I'm not understanding, is this a person who would come onto the Garfield County payroll; would this be paid out as a professional service; would this be pay out as a grant?

Commissioner Martin – Professional services is what I imagine.

Don – Professional services

Lou – All their benefits are covered by the Town of DeBeque - this is cost sharing.

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Commissioner McCown – What about the vehicle side of it, are we going to be rolling anything out? Historically since we have gone to this process, I think we have been getting significant trade in value out of the vehicles.

Lou – I think your right and I would venture to say it is around \$6 or \$7,000.00 number

Ed – I don't think we have sent any four door pick-ups.

Lou – We have one or two available that will roll out this year with lower mileage than what they have and we could do that. Basically they are saying we need a vehicle we'd love to have one of yours if you're going to roll them out.

Commissioner McCown – Since this is kind of a contract I think it would be cleaner if we left it in there and paid them the money and let them worry about getting the vehicle.

Commissioner Martin – We should keep equipment rolling not disassemble it, we are able to help someone else out and we don't need it.

Ed – The problem is when we offer the new years requirements we ask for trade in value once they do that it is pretty much cemented in the bid so we can't pull it out.

Commissioner McCown – I mean buy it from a dealer they would certainly leave it the way it is rather than strip it, detail it etc.

Marvin – That is pretty close to what we are paying for some of the half ton pickups now. We could just about buy a new one.

Lou – So we will authorize Patsy to put that in the contract the full \$24,000.00

Commissioner Martin – Yes

Security Issues Courthouse

Lou – Court security issue, what we are doing as we discussed earlier in the interim throughout the rest of this year because of the personnel need in the jail we had discussed contracting three people up front and I've been working with Foremost Security in fact they are over here this week looking at it. What we want to do is contract service that they are providing us although we are not entering into the formal contract we are handling on an hourly basis because we want to see how this is going to work, see if we want to continue. If it works out well they may want to give us a bid for next year as a contract. But I need those three individuals back in the jail and I have moved forward on that so this might be an act now and ask forgiveness later. The issue is funding that I don't have. The estimated funds throughout the rest of the year is about \$57,000 to pay for that security in contract services. So originally I was going to come and suggest since we are short those personnel did you want to move money from there to contract services. However; Patsy and I were talking that maybe a better way to do that is with that \$87,000 we were just talking about. Use that money to slide into the contract services and pay for that, then it is not affecting our payroll.

Commissioner McCown – If you're taking those people to the jail because you're short in the jail there should be significant personnel savings somewhere.

Lou – Yes and that was what I was originally going to propose.

Commissioner Martin – Suggested to use what was originally in the budget and to request those funds coming from your contingency.

Patsy – The \$87,000 is 08.

Lou – I was just thinking it was cleaner because you don't like to move personnel to operating etc. Yes the idea is we are short those personnel and we don't need to be paying our own personnel to stand there or are we going to pay the contract service and we worked it out in terms of matching one to the other. It was like \$3,000 difference so I don't have an exact figure but I figured what we are paying throughout the rest of the year and \$57,000 should more than cover it.

Ed – Is that the way you want to handle Rifle as well?

Lou – Potentially I think what we want to do is look and see if this is going to work or not.

Ed – Conceivably we take an additional three folks you're the 08 budget for Rifle and replace it with...

Lou – Yes the three we discussed earlier, out of those seven we kept those three in the fourth quarter that might be the opportunity to do that as well and contract that.

Commissioner Martin – The Judges are on vacation

Lou – All we are talking about is the entrance way, we will always have deputies in the court rooms.

Commissioner Martin – In moving forward on those stairways they are all within the operating budget and the improvement budget at the Courthouse; we need to keep those going and that is about 8 or 9 different swipe card locations we talked about. We also looked at keeping the little glass wall that would make the security on the third floor safe to go ahead with that and get some bids. I think we have a bid on that. It should be under \$10,000 so we can do everything except the elevator, we are still working on the elevator. No changes on the Courthouse until everyone agrees.

Lou – It is an excellent plan, we walked through it. Basically we will be able to secure the first, third and fourth floors and leave the second floor open to the public.

Patsy – So I understand correctly Lou you will be giving me a dollar amount that will be in the next budget supplement, it is going to be transferred out of Lou's contingency line item into professional services so he can expend it there.

Commissioner Martin – Correct.

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don – I need to provide you with an update on the Vezzoso litigation. All of the items Ed mentioned involved the provision of legal advice or direction of my office. I do anticipate public discussion when we come out.

A motion was made by Commissioner McCown and seconded by Commissioner Martin to go into an Executive Session; motion carried.

In favor: Houpt – Absent McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner Martin to come out of Executive Session; motion carried

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In favor: Houpt – Absent McCown – aye Martin – aye
Action Taken: None at this time

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-fund Transfers
- d. Changes to Prior Warrant Lists
- e. Authorize the Chairman to sign the Resolution of Approval Allowing a Shooting Range Facility – Applicant; CNR Shooting Sports, LP – Craig Richardson
- f. Authorize the Chairman to Sign the Special Use Permit Allowing Processing and Material Handling of Natural Resources – Applicant: 3P Properties, LLC (Pine’s Stone) – Craig Richardson
- g. Authorize the Chairman to Sign the Resolution of Approval and Special Use Permit Allowing for Natural Resource Extraction, Storage and Material Handling (logging) – Applicant: Rocking Chair Ranch Irrevocable Trust – Fred Jarman
- h. Authorize the Chairman to Sign the Final Plat for Pinyon Mesa, Filing 1 – Applicant: Pinyon Mesa Holdings, LLC – Craig Richardson
- i. Authorize the Chairman to Sign the Resolution of Denial for the Rapids on the Colorado Planned Unit Development – Applicants: Rapids Development Corporation, The Rapids on the Colorado Homeowners Association and Gene R. Hilton and Mary Jo Hilton – Fred Jarman
- j. Authorize the Chairman to Sign a Resolution Approving and Adopting GARCO Emergency Operations Plan, Permanently Establishing the Position of Emergency Management Coordinator and Amending Resolution No. 2004-49
- k. Liquor License Renewals for Rhino Liquors and Trappers Lake Lodge & Resort – Jean Alberico

A motion was made by Commissioner McCown and seconded by Commissioner Martin to approve the Consent Agenda Items a - k; carried.

LIBRARY - 2008 LIBRARY BUDGET – WILMA PADDOCK

Wilma presented the Board with a Budget Worksheet for 2008 and a Budget for Capital Improvements 2008.

<u>Budget Worksheet</u>	
<u>Income :</u>	\$3,873,592.00
<u>Expenses:</u>	
Employee costs	\$2,464,839.25
Professional & Technical	\$ 199,887.92
Building Overhead	\$ 188,239.04
Equipment Overhead	\$ 60,052.26
Other Overhead	\$ 357,795.00
Library Materials	\$ 471,447.26
Treasurer’s Fee	<u>\$ 75,771.84</u>
<u>Total Operating Expenses</u>	\$3,818,032.91
<u>Capital Expenses:</u>	
New Castle changes	\$ 35,000.00
Parachute changes	\$ 12,000.00
Glenwood changes	<u>\$ 8,000.00</u>
<u>Total Capital Expenses</u>	\$ 55,000.00
<u>Fund Balance at December 31, 2008</u>	\$1,070,140.50
<u>Budget for Capital Improvements</u>	
<u>Estimated Cash Balance as of December 31, 2007</u>	\$ 900,000.00
<u>Income:</u>	\$2,520,000.00
<u>Expenses:</u>	
Cost of Issuing Bonds	\$
Architecture Costs	\$ 110,000.00
Construction Costs	\$
Other Expenses	\$
<u>Total Operating Expenses</u>	<u>\$ 110,000.00</u>
<u>Fund Balance at December 31, 2009</u>	\$3,310,000.00

Cheryl Currier, Library Board President and Wilma Paddock, Business Manager for the Library District were present.

Wilma – We have expected an 8% increase in revenues as stated by Georgia Chamberlain and from that we have done our budget. We have increased our materials library budget from \$350K to \$471,000 and that is something that we are very proud to be spending more of our money on materials for our libraries. We also are keeping our salaries under control. We are presently at 65% of our expected expenses for our employee costs. We have also set up our budget for Capitol improvements. We expect to start receiving money from the mill levy this next year. It will be 2.5 million according to Garfield County. We said we would hold it at 2.5 million for the first year and that is what we are expecting it to be. I think we actually came in at 2.8 but we will collect only the 2.5. We do not expect to sell bonds this next year. We are hoping to work this next year with the County and with each one of the cities working on land and how the new libraries will fit into each one of the town plans. From there we will hire architects and then we will start working on the selling of bonds after that.

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Commissioner McCown – Do you envision hiring one architect for the different towns?

Wilma – One for each town is what we are hoping. Depending on what we get when we put out the RFQ’s.

Commissioner Martin – The Board will determine that if they go forward with multiples or one.

Wilma – We are actually expecting to come in about \$500,000.00 under budget for this year due to the increase revenues and then the savings and expenses.

Linda Levy – a member of the board said we are conducting interviews for our new executive director. We happen to have two of those candidates with us today.

Cheryl introduced those who are running.

Commissioner McCown – I make motion we approve the budget as presented.

Commissioner Martin – He read the overall revenue for the record

Wilma – We expect \$3, 873,000.00 in revenues this next year and of that we will spend \$3,818,000.00

Commissioner Martin – I’ll second the motion

In favor: Houpt – Absent McCown – aye Martin - aye

TREASURER - ABATEMENT FOR STORM KING HUNTING RANCH – LISA WARDER

Schedule No. R043729, \$5,175.28, tax year 2006

Lisa – This property tax was a result of two parcels that were joined together. One was residential and the other was vacant. When they were joined together they both should have got the residential rate instead they go the vacant rate.

TREASURER - ABATEMENT FOR DAVID REED – LISA WARDER

Schedule No. R041930, \$1,176.88, tax year 2006

Lisa – This is a property that had a residence as of January 1, 2006 and again it should have been changed to the residential rate.

TREASURER - ABATEMENT FOR NEW CASTLE HOUSING CORPORATION – LISA WARDER

Schedule No. R041646, \$2,282.40, tax year 2006

Lisa – This is the senior citizen housing in New Castle. It has been declared exempt from taxation by the Division of Property Tax as of Jan 1, 2006.

Commissioner McCown – I move to go out of public hearing Commissioner Martin – Second

In favor: Houpt – Absent McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the abatement reference schedule number R043729 in the amount of \$5,175.28, I make a motion we approve the abatement on schedule R041930 in the amount of \$1,176.88 and then the same motion I would approve the abatement of schedule R041646 in an amount of \$2,282.40. Commissioner Martin - Second

In favor: Houpt – Absent McCown – aye Martin – aye

COMMISSIONER REPORT

Commissioner McCown – ANG&C Thursday, this evening with the BLM director Kip Horn at The Rivers in Glenwood Springs and a ground breaking event in Rifle at 5:30 at the new police facility.

Chairman Martin – I’ll be on the same circuit. I am going to also see the BLM as well as 15 different Western States in the Western Interstate Region; I’m a Board Director on that particular issue in St. George Utah. We meet Wednesday morning at 10:00 AM. We will discuss numerous issues including federal mineral leasing and our approach verses the other states. We also have legislation that has been introduced to the Congress on beetle kill and the tax incentives it is an entire Colorado Contingency supported bill all federally elected officials have signed on as sponsors. First time in the history of Colorado that every representative has supported one piece of legislation together.

Official Representative – County Site Acquisition

Don DeFord – Did the board take action designating an official representative of the County for site acquisition?

Commissioner Martin – We postponed that until we finish with negotiations.

Executive Session

Commissioner McCown – I move we go back into Executive Session for contract negotiations.

Commissioner Martin – Second

In favor: Houpt – Absent McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner Martin to come out of Executive Session

In Favor: Houpt – Absent McCown – aye Martin – aye

Action Taken:

Don – To designate an official County representative for the purpose of site acquisition for property in Glenwood Springs.

Commissioner McCown – I make a motion that we authorize Dale Hancock to be the individual designated as the site acquisition representative for Garfield County for any property that may need to be acquired in the Glenwood Springs area.

Chairman Martin – Second

All in favor: Houpt – Absent McCown – aye Marin - aye

BUILDING AND PLANNING - CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT ALLOWING A RESORT NEAR THE COMMUNITY OF NO NAME – APPLICANT: JAMES CRAIG BAIR FAMILY – CRAIG RICHARDSON

Planner Craig Richardson explained:

Request

This request is for consideration for referral of a Special Use Permit to the Planning Commission. The Applicant is seeking approval for an existing Resort located on the subject property and anticipated changes to the operation.

Site Information

The subject property is located east of the City of Glenwood Springs, near the eastern boundary of Garfield County. The subject property consists of more than 4,500 acres zoned Agricultural Residential Rural Density. Adjacent land uses consist of undeveloped BLM land and National Forest land.

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Operation hours will vary but generally will be 8:00am-8:00pm during the summer months and 8:00am-5:00pm during the winter months. A maximum of 50 vehicles per day accessing the site is represented. Actual daily trips are expected to remain around 5-10 with the maximum (50) occurring during events such as weddings.

As the Board is aware a business called “High Canyon Adventures” (<http://www.high-canyon.com>) is operated on the subject property. High Canyon Adventures conducts the following activities on-site: ATV rides, hunting and fishing activities, horseback riding, wedding accommodations, hay rides and lodging. The property is currently improved with cabins, a lodge, and picnic area utilized in the operation of High Canyon Adventures. The proposed Special Use Permit will allow the following:

- Headquarters building area;
- Cabin areas;
- Family retreat area;
- Lodge;

If approved, prior to the issuance of a Special Use Permit. The Applicant must obtain permits for all structures constructed without a building permit on the subject property.

Staff Recommendation

Staff recommends that the Board of County Commissioners not refer this Special Use Permit request to the Planning Commission and schedule it before the board for hearing.

Commissioner McCown – I would concur, schedule it.

Commissioner Martin – The motion is to schedule in front of this Board

In favor: Hought – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A PLAT AMENDMENT FOR LOTS 2, 3 AND 4, BLOCK 6, UNIT ONE OF ELK CREEK – APPLICANTS: PAM RUZICKA, DANIEL NIEDBALSKI, KENNETH AND CYNTHIA SPEEDY – CRAIG RICHARDSON

Planner Craig Richardson explained that the owners of the parcels would like to dissolve lot 3, in order to increase the lot size of the existing Lots 2 and 4. The requested amendment will also bring the existing structures on Lot 2 into compliance with the Garfield County Zoning Resolution of 1978, as amended (setback requirements). If approved, this request will create a .462 acre parcel to be described as Lot 2A and a .329 acre parcel to be described as Lot 4A.

STAFF RECOMMENDATION

Staff is in support of this amendment. Planning Staff therefore recommends that the Board of County Commissioners approve the request to amend the Final Plat of Elk Creek Development, Block 6, Lots 2, 3 and 4 with the following conditions:

- 1) That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
- 2) Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder’s Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.

Craig – Explained no one was going to show for this.

Commissioner McCown – It looks like there may be some encroachment issues. I make a motion we approve the plat amendment with the two recommendations from staff. Commissioner Martin – Second

In favor: Hought – Absent McCown – aye Martin - aye

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

**OCTOBER 8, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, October 8, 2007 with Chairman John Martin and Commissioners Tresi Hought and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

CROUCH PROPERTY – MISSOURI HEIGHTS - Louis Beutner – Representing Miss. Crouch.

Commissioner Martin – Were you successful in reference to our discussion of identifying the items and taking Larry’s suggestion on what to do?

Louis Beutner - The Items I stated are the good starting points and I am here today to ask if anything been finalized on the 1913 Road as being either a fee or an easement?

Don – Let me ask the Board first, this is really a matter of legal advise to the Board of course the Board can wave any privileges of confidentially if you wish, do you want me to proceed on this or do you want to discuss in executive session?

Commissioner McCown – I think at the end of the day we will still have to deal with this in a public format. I don’t have any problems with proceeding.

Commissioner Hought – I’m fine

Commissioner Martin – I’m fine

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Don – The position that we have taken for many years is that absent something unusual the dedication of a County right-of-way by either deed or other fashion is an acceptance of a right-of-way. To address Mr. Beutner's question directly, right-of-way is in the nature of an easement it is a little bit different but it is closest to an easement rather than a fee transfer. The County gains the right through acceptance of a dedication of a right-of-way by deed by road viewers report or otherwise to use the surface of the ground for a road and gets to use the subsurface as is necessary to support the road. So that is why it's a little different from the term easement and it is available for use by all members of the public in an unrestrictive way. The County once it accepts a right-of-way then can incorporate that right-of-way in the County road system or not as it chooses to do so. I guess I would have to ask Mr. Beutner does that answer your question.

Mr. Beutner – Basically we're going to consider it an easement in effect.

Don – Well I'll consider it a right-of-way which is closest to an easement. But it's not a fee transfer I'll put it that way.

Mr. Beutner – I read the deed and I was thoroughly confused thinking the County at that time would take a right-of-way as an easement, that way they could continue taxing the property. My next question is how do we stand on the 162A encroachment? That has been kicking around for over 4 years. I think it's about time something is done to take care of this.

Commissioner McCown – I certainly would agree with that and the last I've hear is that the responsible parties with the Stirling/Sun Meadows, have not been able to be reached. I don't know if there has been an official service attempted through certified mail. I know our planning director has tried to contact them by phone to set up a meeting regarding this encroachment and has not been able to make contact. I don't know if a certified letter to a last known address would get us any further or not if they are not at that address. I do know that Fred attempted to contact the responsible parties with the Stirling Subdivision and had no luck on the initial attempt and I can't give you an update now.

Mr. Beutner – For your information Miss Crouch was informed that the Stirling sisters were in town. That may be of some help to you.

Commissioner Martin – That information was passed on to Fred.

Commissioner McCown – But we are aware of the encroachment and that is one of the directions we have given our staff is to take care of that.

Mr. Beutner – The encroachment is part of the problem up there namely we have the drainage problem from that road also. Will that be part of that?

Commissioner Martin – That would be part of the discussion.

Mr. Beutner – Thank you. In regards to 1913 Road in my researching I've looked at properties adjoining the road and to the north and to the south and in looking at some of these subdivision exemptions, lot line adjustment plats and such as that, I find that the 1913 Road does not appear on any of these documents and yet I know it goes through the southeast quarter, the southwest quarter of section 20. Because the description its self puts it there and yet the Board has approved subdivision exemptions, lot line adjustments, I presume that a lot line adjustment is reviewed by the County as it does change the ownership of property unlike a boundary agreement which doesn't change any property rights. As a result there may be houses built on this 1913 right-of-way now, if not now they could be. I would like the Board to make sure this consideration is reviewed on any property that is basically to the northeast or to the south and west of the Crouch property. As I am basically concentrating on the Crouch property myself. The next item is back in March a letter was sent to the Board requesting information about the right-of-ways for 100, 102, 162 and 162A. 162A I am happy with the right-of-way even though the County may or may not own it. Because of the party granting it to you may not have had rights to grant it. Would it proper for me to presume since this letter has not been replied to that the County has no information as to a dedicated right-of-way for 100 Road, 102 Road or 162Road.

Commissioner McCown- It might be safe to assume we have not checked into it. But we do have prescriptive use on all of those roads that you just addressed and would say so in court if we had to.

Don – We may well have dedication documents for those but I would suggest to do the research that has been requested by Mr. Beutner is very extensive and really is the work of a title company or Mr. Beutner himself. The County records are free and available and open records for him to examine. But to require that the County actually conduct a title search every time an individual requests it would become very burdensome.

Mr. Beutner – I beg to differ there. I think it is part of the County's duty to know what they have rights on. Be it a road right-of-way or be it a fee ownership of land and this I think should be no more than the time required there to look at a map and say yes that is on page so and so and that's it.

Commissioner McCown – But Mr. Beutner I don't know if you're aware, I'm sure you probably are, the County has over 700 miles of those type of roads and to start a study and why would your road be any more important than the person down on the pass north of Grand Junction? We are not going to do it for you if we don't do it for every road and it would be cost prohibitive to do all 700 miles of those roads because quite honestly, like I told you earlier as long as we have the use and the ability to use that surface, which is a legal use, I don't personally care if its fee title or an easement as long as we can use the surface.

Mr. Beutner – Well 1913 Road is an example. You have a deed to that road, right-of-way and it doesn't appear on subdivision exemptions and such as that and so consequently as I say it's stated, there may be house built on this road right-of-way. I know the right-of-way has been fenced off for probably 50 years and when fencing there is no gates crossing the right-of-way.

Commissioner Martin – That goes back to another argument, once dedicated or once accepted it's always a right-of-way for the public no matter if it's used or not it does not go away unless there is a public action to do away with it and that has not occurred to our knowledge. Therefore it still remains a public right-of-way that goes across that piece of property. That is an argument we have all the time, it still exists. What we are willing to do is to look at relocating or to put in like Larry suggested an acceptable manner, but that right-of-way has to remain across to certain areas to have access to another piece of property. That is our only dilemma that I see Louis and what's on the ground may not be what is in the legal description so therefore we are willing to look at that and make adjustments.

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Mr. Beutner – Well as I say the 1913 Road right-of-way as we are basically unable to locate it on the ground now other than through some areas where the ground has not been cultivated and such.

Commissioner Martin – Looking at a map that I have in land use coming up this afternoon, it describes your road right down the middle and it is still on the maps that are there. 162, 162A and the adjoining pieces of property, numerous pieces of property that go across. They are identified one way or another so there are maps that show it right across there today.

Mr. Beutner – I have a very good map right here and I wish to thank Jean in front of the Board here for the work that she helped with Friday looking for a book on the County surveyors plats and such as that. She spent with me two hours looking for that plat, that book and we were unsuccessful but I have come up with some more information I will follow through on. If I find the book I will return it to the County.

Commissioner Martin – Well we are still in the same mind frame, if we could take one step at a time and do an agreement or a relocation on 162 of 1913 Road and then we will sit down and work out details, have a public meeting and go from there.

Mr. Beutner – Could we get something worked out as to the boundary agreement so we can tie that down. Because I can not do anything with the Crouch property as far as dividing it until I know where these easements are. I use the word encroachment I hope I am right in that.

Don – That is correct

Mr. Beutner – And that encroachment is a trespass. One further thing, some months ago Mr. Martin you gave me a letter from the county surveyor where he was giving you the estimated costs.

Commissioner Martin – I haven't seen that cost yet Louis.

Mr. Beutner – What I am questioning is on the section corner.

Commissioner Martin – I haven't heard back from him since that letter went to you. I've been waiting but I haven't had any information come from the surveyor back to the Board.

Mr. Beutner – Well if he would contact me in his researching that out I have a copy of a 1912 County Surveyors notes as he said it 1912.

Mr. Martin – I will let him know and I will have him get in touch directly with your as well as give a report back to this Board because we need to have that update as well. Thank you Louis

COUNTY MANAGER UPDATE – ED GREEN

OIL AND GAS QUARTERLY UPDATE – JUDY JORDON

Judy – Friday I sent a quarterly report to you all. She gave hard copy to the Board. Highlights, personnel issues we hired Wendy Swan to be our administrative assistant and she is doing a great job. Complaint broken out by the month and for the quarter we have 20 complaints. Each of those cases we enter and include what was done, follow-up what the status is; whether they are closed or resolved.

Commissioner McCown – How many are repetitive?

Judy – Didn't have that on the report. Drilling activities, summary there for permits approved cumulatively, to date (actually through September). Give you a sense of what is going on in the County a summary of the total number of rigs that are operating in the State versus in the Garfield County so we have about half the activity going on as far as drilling goes. Wanted to let you know at the oil & gas forum Mesa County made a presentation of their master plan for oil and gas development but it really wasn't that so much as it was showing geographic information system was all about which is very impressive. What really caught my eye was they have an interactive map on line that you can zero in on a spot. In our case it would help us out with complaints in terms of being able to nail down what company we might approach to see if they could resolve a given complaint. Right now we have a lot of difficulty figuring out who we should call when we get a complaint because we can't really tell whose facility is closest by.

Commissioner McCown – Rob did go down and meet with Mesa County shortly after the Northwest Oil and Gas Forum to see getting the nuts and bolts of how they did that and we are looking at implementing that some time in the future.

Judy – I took him down there on Wednesday to Mesa and they were very nice. It took them 10 years to put the system together and a lot of money. I think it was something that Rob felt would be useful.

Commissioner McCown – We have an on going assessment being done now that should have GIS locations, every well, every pipeline when it's completed and that could be plugged into Robs map it would give you an instant overlay of what's really on the ground and who it belongs to.

Judy – We do have those locations on GIS and we do have the well locations as often as they are down loaded. The gas commission of course updates that data daily.

Commissioner Houpt – In looking at what we have in place are you talking about a priority list and how long that might take? 10 years they started from the very beginning but we have some things in place that might speed up that process.

Judy – We do, we have the ground work in place and we have a lot of layers need to be in GIS itself. We even have software we can use, load onto our computer now and make us more capable. But in terms of making the interactive map you have to build a data base behind it. Investigating with IT. Wants to have meetings on a monthly occurrence where Jim, Marvin, Fred and Jake get together and talk about oil and gas issues. From time to time we are receiving checks where people think we are the owner of mineral rights.

Judy will be handling. We have some special studies we are involved in. Hydrogen logic study doing around Mamm Creek. That is in phase two and we are taking some samples taken particularly ground water samples of springs and surface water. They were not able to take any surface water samples during the summer because the ditches were running and it would have contaminated the samples. They did take samples out of domestic wells and they got some good data. The Oil and Gas Commission doesn't go about sampling the way the rest of the world does. We still have about \$200,000.00 left for phase three. I'm not able to detect from the way we have this current sampling going is what the actual flow system looks like because we used existing domestic well that may or may not have logs associated with it. We don't know if they are screened. Would like to put some actual monitoring wells in the future and get some real data. What we are going to do next is sample some gas coming out of wells close to domestic wells. Looking to create two data bases one going to be south of 70 and one north of 70. Trying to collect contributions for that. Gas Company is chipping in \$10,000 to \$20,000 a year for the next couple of years and they are looking for a contribution on our part of \$30,000 towards that system. We will need to give

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letter of commitment on that if we decide to do. We got a report from DOE, sent out on September 17th. Up shot from my perspective it is useful because what they did simulate was a hypothetical gas well, placed on edge of Lot 11. Judy talked about a test that was done and her feelings on that test. She feels the DOE owes us more than just this little modeling site, more comprehensive report.

Commissioner Houpt – In their presentation they refer to it as a tool to move forward with but certainly not the document to hang your hat on in making determinations in that area and how you move forward in that area. The CDPHE is going through it and trying to figure out also what additional data should be out there. Commissioner McCown – do you think that should occur outside of Lot 11 or inside the perimeter of Lot 11?

Judy – I think they should do an assessment of what any risk is to help out the environment.

Commissioner McCown – But if they were to do the assessment on Lot 11 and it found nothing on the perimeter of Lot 11 that should alleviate concerns that it has migrated beyond that wouldn't it?

Judy – Yes if they were to look at what's there.

Commissioner McCown – Yes what's on Lot 11 which is where the true restrictions lie. There is no true restrictions beyond the Lot 11 boundary so if there study were to be in depth and inside the perimeter of Lot 11 and either found migration or didn't find migration and publish that report, that would tend to document-able evidence on whether that had moved.

Judy – I think you are right that if they would publish whatever data they have or might be able to accumulate from that boundary and also determine what the likely hood is further migration. I think that is what they owe us, what the future holds as well.

Judy – Last thing, result of our strategic planning. I was asked to put together an improvement project that was going to be on oil and gas and that is in the form of a what I would call a Comprehensive Oil and Gas Plan for the County. That is in the beginning stages, will keep them updated.

Commissioner McCown – Who is the coordination team?

Judy – Fred, Don, Marvin, Ed and Jake

FAIRGROUNDS STATUE

Ed Green – Handed out a picture of a statue available. Team Roping, this one proposed to have placed in front of the fair grounds. They are also contemplating developing a complimentary statue, little girl as well. The Two statues on the both side of the fair grounds entrance would be a great compliment. We have \$60,000 identified in our proposed budget for landscaping and I would propose that we use that to develop the entrance using these two statues.

Commissioner Houpt – I think it is a great idea.

Don – Is that for this years budget?

Ed – 2008

Commissioner McCown – What are the actual size of these?

Ed – Shows there, 42" by 36". We will have to build a platform so it doesn't get hit by cars. Another item is both Lynn Renick and Mary are involved in a health fair task force that is going to hold a meeting with local care providers, hospitals, clinics, doctors and so forth. What they want to do is host this on November 13th at the Hotel Colorado, they need help funding this event and request \$2,000 from the County Commissioners.

Commissioner Martin – This is on the health reform?

Commissioner McCown – yes go ahead

Executive Session Items

Ed – I have a couple of items for Executive Session. One related to an HR issue and the other negotiations with Bob Jensen. The other thing is don't forget you have your budget and we will have a presentation on Friday at 9:00 AM.

COUNTY ATTORNEY UPDATE – DON DEFORD

DISCUSSION/DIRECTION TO STAFF RE: REQUEST OF WHITE RIVER NATIONAL FOREST TO TERMINATE ACCESS COMMITTEE MOU

Letter submitted from Maribeth Gustafson, Forest Supervisor, September 14, 2007 to Chairman Martin.

This letter states the Forest Service recommends closure of this Memorandum of Understanding (MOU) No. CO-078-MOU-O-))& due to current law and policy changes since this agreement was signed and lack of participation due to personnel changes.

Maribeth states if Garfield County would like to pursue future participation other than current methods that all parties utilize, they can contact Wendy Hsdkins, Forest Planner. The White River National Forest will terminate this MOU in 90 days, with this letter being the advance notice.

Don – Several years ago the formation of access committee was the subject of extensive public discussion and this was put together as a result of a number of fair contentious issues that revolved around public roads in the County and access to the National Forest. I was surprised to see this although I don't know that this committee has been that active. Larry may have more information.

Commissioner McCown – We have not met on a regular basis. We have not spent any money of anyone's budget. As you remember there was an issue of access, a National Forest issues of access several years ago involving a private land owner that had dozed a forest service road shut. The Forest Service was reluctant to move forward on that because they did not have a deed the County and this particular access committee pursued that and in dealing with the land owner we did get that road re-opened. I do not agree with discontinuing this arbitrarily at the request of the Forest Service at all! It's not costing anyone any money. It is there with the makeup clearly defined when we were meeting we did accomplish several issues. We just ceased to meet simply because we all have enough meetings to go to and there weren't any specific issues that required us to meet and deal with access. So we chose not to meet. It is on a as needed basis. I don't agree with disbanding it.

Commissioner Houpt – Sounds as if they are going through all of their old documents and trying to decide what is appropriate and what isn't appropriate. On an as needed basis it sounds like this is a really productive MOU and we might just send a letter stating that we don't agree that this is something that

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should go away but should be supported on an as needed basis. Maybe they don't realize the benefit of having this and just saw it as something that hadn't been used for a long time.

Don – It may be that most of the current staff haven't participated in this committee, I don't know. I would suggest if that's the position of the Board that you authorize the Chair to sign the letter to the White River National Forest supervisors indicating that the Board disagrees with the termination of this agreement.

Commissioner McCown I would so move

Houpt – Second

Commissioner Martin – Also bring it to your attention on the very last paragraph above the signature says the termination clause and they followed it properly. We have a response back to them and if we need to amend it or continue it on request that gives us the ability on that last paragraph as well.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt

In favor: Houpt – aye McCown – aye Martin - aye

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE

Don – Provide you an update on the Vezzoso litigation, the Silt litigation, brief discussion on the potential site for gas drilling, would like Judy Jordan present for, update on the Storey Zoning violation and Ed noted an HR issue.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

In favor: Houpt – aye McCown – aye Martin - aye

Action Taken:

OIL AND GAS - RIFLE VILLAGE SUBDIVISION

Don – Couple of items to address first in regard to any potential for Natural Gas drilling in the vicinity or within the Rifle Village Subdivision I would like the Board to consider giving Judy Jordan as a local designated authority to request a hearing if an APD is requested.

Commissioner McCown so moved. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING – STORY/GRADY PERMIT - VIOLATION

Don- In regard to the ongoing discussion of the Storey/Grady permit based upon the documentation that was presented by the Board, I would like the Board to consider directing the Building Department to Cite Mr. Storey for violation of his grading permit and authorize my office to seek conjunctive relief requiring Mr. Storey to comply with the conditions of that permit.

Commissioner Houpt – so moved

Commissioner McCown – Second

In favor: Houpt – aye McCown – aye Martin - aye

COMMISSIONER REPORT

Commissioner Houpt – Last week we had Colorado oil and Gas Conservation Commission hearings, well a hearing. On Monday we had a tour through Garfield County starting out with a tour arranged by the Grand Valley Citizens Alliance and then had a comprehensive tour by EnCana following that. For those people who hadn't been to Garfield County or other energy impacted counties it was very beneficial for all of us but I think it really gave them a better understanding of the extent of development that we are seeing in this area. On Wednesday I had an I-70 Corridor Board meeting and CDOT has put together an I-70 Corridor collaborative effort to come up to pull all the stake holders together, Federal, State, Local government, local government business, historic transit users, fixed guide way and environmental groups together to put together a preferred alternative for I-70. Interestingly we have been involved in I-70 Collation since the beginning and the preferred alternative that was brought forward because we obviously are impacted with any decision that are made along the corridor and I found myself having to fight last week to keep Garfield County in the loop. But we are back on the stake holder group. They still think it stops at the Airport. I want this as a part of my commissioner report every week so we can bring forward what our priorities are with that. Went to the Energy Advisory Board meeting on Thursday. This week there is an I-70 Collation meeting on Thursday. We have our budget meeting on Friday. There is a Landowners meeting with EnCana in the moratorium area. They are going to resume work and they want to meet with all the neighbors. That will be tomorrow afternoon

Commissioner McCown – AG & C meeting I did not make the meeting. I will be in the office.

Chairman Martin – Went to Western State Interstate Region in St. George on Wednesday, Thursday and back on Friday. I did miss the enhancement grants. Two grants, one for Glenwood and one for Rifle.

Hopefully went well. The WIR Board through a major effort of Colorado County, supported whole heartedly as well as took back to fifteen other states the beetle infestation bill that was introduced into congress supported by every Colorado Federally elected representative, they are supporting 100%. I also made the very big point that water and the change in definition in reference to the clean water act is a controlling interest for the federal government to take over all waters of the United States. That is a number one priority of the Western Interstate Region at this present time in opposing those changes and to keeping it as it is under the Clean Water Act and not losing the control of everything from the gutter control to eaves to irrigation systems. There were at one point 197 supporters in the House of Representatives on the bill to change that and it is now down to 130 and dwindling simply because of the definition changes and the overall outcome of that. We have one Colorado representative that is on there and she will be contacted and say do you realize what this really means to Colorado and what it does to the water law in Colorado? Hopefully we will get through that we need to control our own water and not give it all to the Federal government. I do meet with Judge Boyd as well as the Sheriff, probation folks in reference to the courthouse. We will have a sit down at noon and go over some of the steps we would like to see and if they are acceptable and any fine tuning by the Sheriff. No major changes, everything stays in place until we can agree on what can be done.

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CONSENT AGENDA

- a. Approve Bills
- b. Inter-fund Transfers
- c. Changes to Prior Warrant Lists
- d. Authorize the Chairman to sign the Acknowledgement of Fourth Partial Satisfaction of the Subdivision Improvements Agreement for Callicotte Ranch Subdivision – Applicant: Callicotte Ranch, LLC – Fred Jarman
- e. Authorize the Chairman to Sign the final Plat for Elk Springs Filing 8 Phase 2, Los Amigos Ranch PUD – Applicant: Elk Springs, LLC – Craig Richardson
- f. Authorize the Chairman to Sign the Resolution of Approval for a Special Use Permit for Material Handling of Natural Resources, Including one (1), 400 Barrel Tank for use as a Satellite Water Gathering Facility on the EnCana Oil and Gas M34 Well Pad – Applicant: Juan Suarez – David Pesnichak
- g. Authorize the Chairman to Sign the Resolution and Exemption Plat for the CRMS Subdivision Exemption – Applicant: Colorado Rocky Mountain School, Inc. – Fred Jarman

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Consent Agenda Items a – g; carried.

Don – I would like the Board to remove item g concerning the exemption Plat for CRMS.

Commissioner McCown – I make a motion we approve the consent agenda Items a through f.

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin - aye

Don – Regard to item g, Jean received the Mylar on this exemption; it is substantially illegible as received.

We would like the Chair authorize to sign the exemption plat for CRMS as set forth in your agenda with a copy that is acceptable with Fred and change this one.

Commissioner Houpt – so moved. Commissioner McCown – second.

In favor: Houpt – aye McCown – aye Martin - aye

WATER - CONTAMINATION ON THE RIFLE BIKE PATH/WAL-MART AREA – DARLA DEAN

Complainant failed to show.

OIL AND GAS - WILLIAMS ENERGY NEW CLUSTER PLAN FOR DRILLING – DAVE CESARK

Failed to show

BUILDING AND PLANNING - PRESENTATION OF THE DRAFT UNIFIED LAND USE RESOLUTION OF 2007 CERTIFIED BY THE GARFIELD COUNTY PLANNING COMMISSION TO THE BOARD OF COUNTY COMMISSIONERS – PHILIP VAUGHN AND FRED JARMAN

Mark Bean was also present.

Purpose: Update and refine the regulations to deal with a maturing and more complicated land use climate in Garfield county; Eliminate antiquated or meaningless language and solve inconsistencies and Streamline process where possible making the regulations more practically meaningful and user friendly.

General changes:

- Both the Zoning Resolution (the Zoning Regs) and the Subdivision Regulations (the Sub Regs) have been incorporated into one document rather than having to go back and forth between two separate documents.

Process(es)

- (Change) Sketch Plan: Presently, as the first step in subdividing land in the County, all proposals require a public meeting before the Planning Commission which requires an application, submittal materials, Staff site visit, review and report and finally a scheduled public meeting before the Commission. After which no decision is made. This has been changed to be optional reducing the subdivision process to a 2-Step process rather than a 3-Step process.
- (New) Pre-Application Conference: With making the Sketch plan optional, a new step has been added that requires a formal meeting between an applicant and the Planning Staff called a pre-application conference for all land use changes. Which is designed to provide direction on process, standards, submittal requirements, fees, etc. so that an applicant can go directly to Preliminary Plan and not have to go through Sketch Plan.
- (New) Subdivision (Minor) Exemption: Presently, the Subdivision Regulations allow for an Exemption process if a property qualifies which means a much shorter process as well as less detailed submittal information is required. The County, because it is bound by the statutory provisions subdividing land, cannot effectively create a “Minor Subdivision” process which was Exemption process so that the regular “every day” (4 lot) Exemption has now been renamed as a “Major Exemption” and a new “Minor (2 Lot) Exemption” has been created for “lot-splits.”
- To be eligible for a Minor Exemption, the parcel had to have existed prior to January 1, 1973, regardless of size. Presently, the parcel must be at least 35 acres to be eligible. (Of course, the lots to be created need to comply with the minimum lot size of zoning.) This new process is administrative; however, all administrative processes allow for call up to the Board of County Commissioners as a mechanism to require a public hearing if necessary.
- (New) Amendment to Preliminary Plans and Exemption Plats: Presently, there is no amendment process in place that allows an applicant to change some element of an approved Preliminary Plan. As a result, the Applicant would be required to start over and resubmit a new plan and through the same public hearing process no matter how small the change. The new Code provides a new administrative process for amendments if they are not considered to be a “substantial change”

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which is defined in the definitions as follows:

1. A change in land use category
 2. A change in site design which increases or decreases:
 - a. the number of dwelling units
 - b. the number of structures of a size of nature requiring a building permit
 - c. the minimum or maximum square footage of structures if a minimum or maximum has been specified in a permit or approval
 - d. projected traffic such that a highway access permit or an amendment to a highway access permit is required as a result of the change or
 - e. the size of the land which is the subject of the permit or approval
 3. A change in land use which creates or increases the incompatibility of the land use.
- (new) Administrative Process(es) in Zoning: Strides have already occurred in making some reviews which formerly required a Special Use Permit review administrative such as certain Pipelines and Flood plan Development. Staff is presently working on an administrative review process for Temporary Employee Housing, which we anticipate would be put in place prior to the adoption of the new code. The new Code also makes Home Office/Business (formerly Home Occupation) administrative as well as Accessory Dwelling Units. The ultimate approval is by the Planning Director; however, all administrative processes allow for call up to the Board of county Commissioners as a mechanism to require a public hearing if necessary.
 - (New) Amendment to an Approved Site Specific Development plan: For the purposes of this section, Site Specific Development Plan shall only mean a final Plat for Subdivision, Rural Land Development Exemption Plat, Subdivision Exemption Plat, or the filing of a Final PUD Plan.
 - (New) User-Friendly Administration: The new Code utilizes flow charts, illustrations, and matrices to guide the user more quickly through the germane portions of the Code. Specifically within the process sections, the new Code includes flow charts that show the variety of processes an application will move through from beginning to end. The zoning section has been largely modified so that a large matrix easily shows all of the user in the County on the left with a symbol in the corresponding box to the right showing where (Zone District) the use is or is not allowed and what process would be required.
 - (New) User-Friendly Navigation: The new Code utilizes detailed headers and footers to allow the reader to know exactly where they are in the documents. Additionally, the code includes numerous cross-referencing when appropriate to send the reader to other areas of note throughout the document.
 - (New) Zoning Process: Presently, uses are contemplated in zone districts as either “Uses-by-right” or “conditional Uses” or “Special Uses”. The latter two require a public hearing process and more stringent review due to the potential land use impacts on adjacent properties which ultimately requires approval from the Board of county commissioners. Generally, the new Code designates Conditional Use Permit Review to “Limited Impact Review (Permit)” and Special Uses to “Major Impact Review (Permit).”
 - (new) Zoning Designations: Presently, the County has 20 zone district (which includes public lands and three overlay district). Several of the zone districts are virtually identical such as ARRD and A1. The new Code combines those to form the “RURAL” zone district. Similarly, the County presently has two urban-like districts and two sub-urban-like district which have been combined to form the “Residential Urban” and “Residential Sub-Urban” districts, respectively.
 - (New) Affordable Housing Regulations: The Planning Commission considered amendments to the Affordable Housing requirements (Article VIII) specifically to link to commercial development, an option of cash-in-lieu, and increasing the percentage of AH required for a development. Ultimately, no substantial changes were recommended because they felt they needed more information. They are proposing to apply the existing regulations to Study Areas 2 and 3 and not just Study Area 1. The Affordable Housing guidelines will now be kept in the workbook.
 - (New) Definitions: One of the most challenging aspects of administering a land use code is the terms that are used but not defined. The new Code includes a major overhaul in the Definitions Section which better reflects the terms used in today’s land use world and eliminates antiquated terms in an effort to reduce ambiguity and add clarity.
 - (New) Conservation Subdivision: The purpose of this regulation is to provide an applicant considering developing land into a residential subdivision in Garfield County with certain incentives which include density bonuses and zoning flexibility in exchange for the provision of plan. This regulation is intended to provide a regulatory mechanism which encourages residential lots to be reduced in size as well as be clustered on a property so that a greater amount of open space can be provided as an integral component in a development’s design and possible integration into adjoining property open space.
 - (New) Standards: Because the proposed uses and land use context of the County has changed since 1978, it was necessary to revisit what standards should be used to deal with these uses and the changing County landscape. To that end, the new Code rewrites the “Supplemental Section” of the present zoning regulations with a more specific set of standards for specific land uses rather than trying to use general standards for a wide variety of uses. This new section also takes the standards that were located in a variety of locations in the present regulations and places them all in one section for the ease of the reader.
 - (New) Workbook: Often, the users of the land use code are required to provide certain documents such as Subdivision Improvements Agreements, Well/Access Sharing Agreements, etc. Additionally, certain regulations in the code need extra explanation or examples of concepts to make them more clear to the reader. The workbook is a document to be used as a side resource to provide examples of documents in the form used by the County. The Workbook is intended not to be codified/adopted as it is more a resource to aid in the administration of the code.

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What Did Not Change: While there has been a lot of change in the regulations, there were sections that were not changed from the present regulations.

- PUD's (No change as this is primarily statutorily determined)
- Affordable Housing (While the County recently commissioned a study, the Planning Commission believed more information was needed to revise the Housing Regulations to add a commercial linkage, cash-in-lieu, and an increase in the % of Affordable Housing units required per development)
- Preliminary Plan (No change as this is primarily statutorily determined)
- Final Plat (No changes as this is primarily statutorily determined)
- Exemption (Rural Land Development Option/Normal Exemption)
- Non-conforming Land Uses/Structures (No changes as this is primarily statutorily determined)
- Enforcement (No reason for change)
- Zoning (dimensional standards such as min. lot size, height, etc.)

Summary & Next Steps: The process to rewrite Garfield County's land use regulations has been a long endeavor which has required thousands of hours in Staff time, consultant time, and Planning commission time in approximately 45 public meetings over the course of the last three years. The purpose of this endeavor is to rewrite the land use code and to accomplish the following:

- Update and refine the regulations to deal with a maturing and more complicated land use climate in Garfield County.
- Eliminate antiquated or meaningless language and solve inconsistencies
- Streamline process where possible making the regulations more practically meaningful and user friendly.

Phillip Vaughn – Gave a list of all the people who helped with this program. – August 24th, 2005 a roll out session occurred and about one month later went to Rifle City Hall and at that point started having meetings. We did that on a basis of meeting here in the County Commissioners room and setting forth typically from 6:30 at night till 10-10:30 at night depending upon where we were. That has come out to about 46 meetings now. I think what you have before you is a document that we have spent a lot of time and effort and energy on. Explained how long some of the members have been around and himself. The Code drafting you have in front of you is not perfect. Like any code that is written by government there will be amendments and adjustments to it that will happen in the first month after adoption and five years and ten years down the road. There are things that are unforeseen. It's not that you have a bad code in front of you it is just simply that amendments need to be made to codes. This code is built the same way the 78 code is in the fact that it is able to be amended. You have an executive summary in your packets. Went over the high points on the code.

Commissioner McCown – 46 meetings putting this together and I know the answer to this but if you would for the public, were those meetings open to the public for their input?

Phillip – All open to the public as all planning and zoning commission meeting are. We have noticed these meetings on the website. The code is kept up to date on the website so you can always review a PDF of the code as we work through it. Speak now or for ever hold your peace meeting was held a month and a half or so ago, it advertised that twice. We had a large public notice. Staff from the very beginning had done mail outs we did our first work sessions with the public, we asked the public to come in and have a large work session. Not the most exciting subject. Tough to get folks to show up and fill a room. Showed presentation from September 26th.

The first public meeting will be held in Rifle on the 18th of October and a workshop with the Planning Commissioner on November 13th at 6:00 PM in Glenwood.

TREASURER - ABATEMENT OF TAX LIEN SALE CERTIFICATE NO. 2006-0159 ON SCHEDULE NO. M007276 ASSESSED TO ARACELY TERRAZAS AND AUTURO ALVAREX, GARFIELD COUNTY – CERTIFICATE HOLDER – GEORGIA CHAMBERLAIN

Chairman Martin swore in Georgia Chamberlain. Georgia asked for the abatement to be voided as the mobile home was destroyed so it resulted in a zero value and should have never been included in the tax lien sale. Since no one bid on it at the sale, no money passed hands and no money needs to be refunded.

Commissioner McCown – I make a motion to close the public hearing

Commissioner Houpt – second. In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown – I make a motion that tax lien sales certificate of purchase 2006-0159 be declared void and that the schedule M007276 be abated in the amount of \$34.82. Commissioner Houpt – second.

In favor: Houpt – aye McCown – aye Martin – aye

AIRPORT - OPERATING RIGHTS FOR BOB WOOLDRIDGE HANGAR AT THE GARFIELD COUNTY AIRPORT – BOB WOOLDRIDGE

Bob Wooldridge was present.

Don reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Bob – Our proposal is to build a private hangar. Gave dimensions. On the lease parcel 5FL we have been working with Brian on this for some time. Didn't plan on starting construction this year. Our proposal is to lease the area effective with your action here today to lease the parcel and realize we can't start construction until the ground thaws next year with a completion date of approximately a year from today, next Oct, 2008. Will be used for his own aircraft.

Brian – Two things I'm required to do, he is in compliance, and his application is in compliance with the minimum standards and rules and regulations at the airport. This hangar is compatible with the land use in that area. Second in the lease we did come up with concept plan. This hangar is smaller and it sets back off of the flight line and so they were able to approve, just don't objection. Bob is moving forward because we now have a waiting list for people wanting to build hangars. He doesn't want to lose site so we are willing to lease it now and pay rent on it for a year. The legal lot description includes public taxi way so

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we need to make a few changes. Give back to development guy. That would be a change in the lease document and the start date from May to Oct 8, 2007

Carolyn – We are looking for action on two items, one being the approval of the ground lease and authority for you to sign. And, second approval of operating rights as a private hangar operator under the rules and regulations of minimum standards. Please don't throw away your packets

Bob – In talking with Carolyn earlier the lease prohibits pledging any of the improvements to a third party like a lender. I have understood that all the way through but we are discussing the reasons for it and so forth here today and she said there had been some exceptions to that. I'm willing to move a head and just fund it and not do that but she said there had been others that had made request to be able to pledge the improvements for third party financing in the past so if that is appropriate I'd like to ask for that and if it is not I understand.

Carolyn – That would have been a pledge of the lease hold interest.

Brian – I think that was a carry over from our commercial leases.

Carolyn – It is totally up to you

Commissioner McCown – I make a motion to close the public hearing. Commissioner Houpt – second.

In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown – I make a motion we approve the ground lease agreement with Wooldridge Construction Company Inc. Commissioner Houpt – second.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make motion we approve the operating rights of the applicant of the Wooldridge organization for the private hangar at Garfield County Airport. Commissioner Houpt – second.

In favor: Houpt – aye McCown – aye Martin - aye

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

OIL AND GAS - GRAND VALLEY CITIZEN ALLIANCE - Patrick Parker – We are committed to pursuing this and the time is right for Garfield County to **IMPLEMENT A SPECIAL SECTION FOR OIL AND GAS USES** only. I'll go back to the codes purpose and it is to protect and promote the health safety, prosperity and general welfare of the present and future residents and property owners of Garfield County. The time is right the industry is growing rapidly and we can really take a stand now in the coming months to create a section of code that would do just these things. Protect and promote the health and safety of not only the GVC's members but other residents in the county. And that is our primary concern. It's not about slowing down the industry or stopping them in any regard but we want to make sure the public welfare of Garfield County is protected as much as possible now and into the future without placing any undo burden on the industry. It would definitely ease understanding of permitting process not only for the industry staff but for county residents. You have to deal with gas well being placed next to their home. Again given the potential for growth of the industry in the County our view is it is better to get ahead of the curve and do something on this within the next year or very soon to augment what the County Staff has done and again they have done a commendable job.

Commissioner Martin – Are you under the impression we permit oil and gas?

Patrick – No I'm not.

Commissioner Martin – But you imply that we are. We wanted to do a unified land code which didn't single anyone out and that we did have numerous items that are addressed for oil and gas as well as other interests. We didn't want to single anyone out. The unified code is easy to use, understandable and there are certain sections that apply and don't apply. But there are still within the code. I'm not sure what kind of rules and regulations you're looking at. If it is going to be the same as the state as you know they preempt us in reference to operational conflicts. But we do pipe lines we do compressor stations and we do a bunch of other things that again are in our unified land code so that's what we were trying to do. I think we gave that direction to our planning and zoning folks to unify it, not to set it out by itself. In the definitions and also the indexes you can find those rules and regulations that apply to oil and gas.

Commissioner Houpt – But actually we are just starting our process so we as a Commission haven't had a complete opportunity to have this discussion. As it was presented today it is incorporated into the rest of the code those items that we do at this time regulate. We're going to have opportunity for the public to comment on that until we make our final decision. So if you have other ideas you want to bring forward that certainly be part of that process as well.

Commissioner Martin – We're not going to even adopt them probably between now and June of next year.

Patrick – Before the 11th hour the playing field definitely shifted with some judicial decisions that definitely impacted counties abilities to get in and regulate this matter and the industry came forward during the 11th hour proceedings as did we calling for implementation of a specific section for oil and gas and at this time I really do think it just makes sense because oil and gas is far and away the largest land use change in the county and it probably will be for the foreseeable future.

Commissioner Martin – I say housing is the biggest use of land use. But this is one of the extraction industries it does take a lot of time.

Patrick – We will have some specific recommendations going through this process.

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT LOCATED ON A 5 ACRE PARCEL EAST OF THE TOWN OF CARBONDALE AND ACCESSED FROM COUNTY ROAD 102 – APPLICANT: KATHA ROSSEIN – DAVID PESNICHAK

Katha Rossein, Michael Howard and David Pesnichak were present.

Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner submitted the following exhibits: Exhibit A –Proof of Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff Memorandum; Exhibit E – Application and Exhibit F – Memo from Jake Mall of the Garfield County Road and Bridge Department, dated September 10, 2007

Chairman Martin entered Exhibit's A – F into the record.

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Planner Dave Pesnichak explained:

Proposal:

The applicant requests the Board of county Commissioners grant a Special Use Permit (SUP) for an Accessory Dwelling Unit (ADU) located on a 5 Acre parcel, described as parcel number 239120300276 and located east of the Town of Carbondale. The proposed ADU is to be a new free standing unit. The driveway is to utilize a driveway cut off County Road 102 used for the primary dwelling unit and will be used as access to the proposed ADU.

Staff Comment:

The Applicant has provided well permit number 108631 which was originally drilled and is currently in use by Lot A of the Crusoe Exemption. The application indicates that Katha Rossein and Ronald M. Razzore own Lot A while only Katha Rossein owns Lot B, where the ADU is proposed. This exempt permit allows for household use in three residential dwelling units. A review of the Garfield County Assessor's records had indicated that Lot A (890 County road 102) is currently developed with one single-family dwelling unit, which is the current residence of Katha Rossein and Ronald M. Razzore. As Lot A is developed with one dwelling unit and the well permit is legally able to serve up to three dwelling units, it is Staff's opinion that with the execution of the proposed well sharing agreement, well permit 108631 is legally able to serve the existing dwelling unit on Lot A as well as the new single family dwelling unit on Lot B and the proposed Accessory Dwelling Unit on Lot B. Should this application be approved, well permit 108631 will not be able to legally serve any further units in the future.

In addition, the Applicant has provided a well test report which was conducted on November 6, 2006 by J & M Pump Inc. The report indicates that at the time of the test, the well was producing 13 gallons per minute.

The Applicant is proposing to install a new ISDS for the proposed ADU and new dwelling unit on Lot B. Staff understands that the new single family dwelling unit contains two bedrooms while the ADU it is to contain two bedrooms as well. In addition, Staff understands that the Applicant has applied for an ISDS permit (number 4341), but it has not been issued. The proposed ISDS has been designed to handle up to four bedrooms, which would accommodate both the new single family dwelling unit and the ADU. As of the writing of this report the Applicant has applied for a septic permit, but this permit has not yet been issued. As long as the ISDS is constructed as proposed, it is Staff's opinion that adequate sewage and wastewater capacity exists for the proposed development.

Staffs Recommendation:

Staff recommends approval, with the following conditions:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
2. All lighting associated with the ADU shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
3. The applicant shall obtain any applicable Garfield County building permits, grading permits and access permits.
4. The applicant shall meet all requirement of the Garfield County Zoning Resolution of 1978, as amended and shall meet all building code requirements.
5. The gross floor area of the accessory dwelling unit shall not exceed 1,500 square feet.
6. The accessory dwelling unit shall not be conveyed as a separate interest but may be leased.
7. The applicant shall obtain final approval for a septic permit (number 4341) which is adequate to accommodate both the primary dwelling unit and the accessory.

David – Eliminate no. 7 as it has been activated now having 6 conditions.

Katha – I need to know what the process is because the original permit was based on waiting for this to be okay. So is that an automatic thing or do I have to do something?

David – Explained a resolution will be drafted if approved today.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown - I make a motion we approve the Special Use Permit for an Accessory Dwelling Unit with the six (6) conditions recommended by staff. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR TWO TEMPORARY EMPLOYEE HOUSING FACILITIES LOCATED ON A 7000 ACRE PARCEL

APPROXIMATELY 15 MILES NORTH OF THE TOWN OF PARACHUTE AND ACCESSED FROM COUNTY ROAD 215 – APPLICANT: CHEVRON USA, INC. – DAVID PESNICHAK

Doug Dennison and Amy Stoodt were present.

Carolyn – I want as a preamble to the noticing to let you know that Doug and Amy and I had numerous conversations and e-mails about some ownership issues. I've been on the phone with Chevron's land use attorney. I'm convinced Chevron does own the land.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner submitted the following exhibits: Exhibit A –Proof of Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff Memorandum; Exhibit E – Application and Exhibit F – E-mail from Judy Jordan of the Garfield County Oil and Gas Department dated September 26, 2007.

Chairman Martin entered Exhibit's A – F into the record.

Planner David Pesnichak explained

Proposal:

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The Applicant requests approval for two Temporary Employee Housing facilities to house personnel for the purpose of natural gas drilling operations. The sites are relatively close to the Town of Parachute (10-15 miles) and are intended to be contained on approved COGCC well pads along with other drilling facilities. The temporary employee housing facilities will be in use year round to accommodate those considered to be “essential personnel” to the drilling operations; however, no one housing facility will be at location for more than one year. The maximum number of people to be housed at a facility will be 24.

Staff Recommendation:

Due to 1.) the limited nature of potential impacts to surrounding properties, 2.) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3.) the fact that the Temporary Employee Housing facilities will be situated on existing well pads with active gas operations, and 4.) that the Temporary Employee Housing facilities meet the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing in the resource Lands (RL) zone district with the twenty-three (23) conditions set by Staff.

Discussion:

David – There are three special conditions I would like draw your attention to, number 20 indicates that the minimum of 12,000 gallons water storage, that was represented in application that way and staff wants to ensure through the conditions of approval that the building folks know that as well and 8,000 gallons of sewage and waste water. We do also need a letter of authority from Chevron USA as the operator’s marathon. What happened here is staffs understanding that the technical compliance was that a surface use agreement identifies housing on these sites. It has since been determined by our legal staff that the surface use agreement needs to identify specifically that Marathon can pursue with permitting and not just identify the housing on the site. That is why we are looking at condition number 23 at this point.

Carolyn – I’ve spoken with the attorney for Chevron and he has identified who can give permission so it should be forth coming.

Commissioner Houpt – There is no concern that the trucks that will service the vault and bring in fresh water throughout the year can pass the road during the winter months?

David – Staffs understanding particularly with County Road 215 is it is adequate to haul up to that point.

Commissioner McCown – I’m still a little unclear on number 10. Can you address that again for me please?

David – Yes the special use permits at the regulations written that the special use permit needs to be renewed annually and the applicant can request an annual renewal. But without an ISDS the temporary camp can’t physically be on the ground for more than one year. So if the applicant doesn’t actually get the temporary employee housing on site until February or March that is permitted to be on the ground until that next February or March. But that would exceed the one year time limit for the special use permit itself.

Commissioner Houpt – Is this worded the way you want it worded?

David – I feel as though it works.

Commissioner McCown – To me they should run consecutively when one expires the other expires. You are creating an unenforceable tool.

David – The way the regulations are written the applicants they let us know when the site is being constructed and at that point we have on file when each one starts on the ground and we can go back and periodically audit that file to make sure what they are representing is actually true. But the special use permit is a time for the applicant to come back and let you know how everything is going.

Commissioner McCown – What I’m reading here is if they get these on the ground in February they in essence have a ten month permit because they have to come back no later than October 8th of next year and renew the special use permit.

Commissioner Houpt – Regardless of what happens with that permit they have to come back in a year’s period? Except that the temporary housing has to be removed within a year’s period.

David – It’s the difference between a site and a permit. The permit clock starts one year from today if approved. But the facility clock doesn’t start until we get on the ground.

Commissioner McCown – I guess I don’t see the special use permit clock starting today until they have met all the conditions and the permit has been issued.

David – Yes that is important. If we don’t receive particularly number 23 then the permit would never be issued and the clock would never start.

Commissioner McCown – If they with hold that letter until at which time they are willing to go on the ground with their units, they will get a full year out of it.

Amy – Generally we agree with everything that David captured as far as the request within the application. Tresi to answer you question with regard to the Garden Gulch Road, Marathon is not the operator of that asset however we are an owner so we do have a 25% stake in the maintenance of that asset not only for the drilling rigs but for construction projects, get people through safely. So we actually have about 50 pieces of equipment on the ground that can assist in maintaining that road.

Commissioner McCown – I think that is the intent of the three day window both on the waste water and the water. If there is an event within three days that code will be reopened, that is the buffer the planning department built into this.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the Special Use Permit for the temporary housing facility located on 7000 acres, the applicant is Chevron USA Inc., with the conditions from Staff as recommended, one through 23. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR TWO TEMPORARY EMPLOYEE HOUSING FACILITIES LOCATED ON A 45,000 ACRE PARCEL

APPROXIMATELY 10 MILES NORTH OF THE TOWN OF PARACHUTE AND ACCESSED FROM COUNTY ROAD 215 – APPLICANT: ENCANA USA, INC – CHRISTINA MONTALVO

Brenda Lindster (EnCana) & Brett Crab, Permit Coordinator, EnCana were present.

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Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner submitted the following exhibits: Exhibit A – Proof of Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff Memorandum; Exhibit E – Application; Exhibit F – E-mail from Rob Ferguson of the Grand Valley Fire Protection District dated September 19, 2007 and Exhibit G – APD Permit Number 20073837 for EnCana Well Pad D31 595

Chairman Martin entered Exhibit’s A – G into the record.

Planner Christina Montalvo explained:

The temporary employee housing will be located on well pads permitted by the Colorado Oil and Gas Conservation Commission (COGCC) and will be located on the well pad only during duration of drilling activities. Temporary employee housing facilities will be rig-specific and will move from well pad to well pad as the drill rig moves from well pad to well pad. When the drill rig has completed drilling operations at that well pad, the temporary employee housing will be removed and transferred to the next location with along with the drill rig. Duration of the temporary employee housing on any given well pad is determined by the number of wells drilled on each pad (4 to 16) and the timeframe will vary between 4 and 48 weeks.

The temporary employee housing will be used 24 hours a day, 365 days a year, for the duration of natural gas development in the North Parachute Ranch (contingent upon approval of this permit application and yearly renewal). Temporary employee housing units will be pre-fabricated, modular skid-mounted units that have sleeping quarters, a recreational room, showers, kitchen, and laundry facilities. Units have up to 24 available beds with an average occupancy of 13 workers.

Staff Recommendation:

Due to 1.) the limited nature of potential impacts to surrounding properties, 2.) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3.) the fact that the Temporary Employee Housing facilities will be situated on existing well pads with active gas operations, and 4.) that the Temporary Employee Housing facilities meet the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing in the resource Lands (RL) zone district with the twenty-three (23) conditions set by Staff.

Christina – Applicants shall provide a copy of the appropriate Colorado oil and gas conservation commissioner approved application for permit to drill for the proposed temporary employee housing facility prior to the issuance of the special use permit. Each facility shall have a minimum and total capacity of 8,820 of potable water storage which shall be refilled a minimum of every three days. Each facility shall have a minimum total capacity of 8,000 galls of sewage and waster water source capacity which shall be emptied a minimum of every three days.

Greg – Just thank you to the staff and everyone and for their hard work.

A motion was made by Commissioner McCown and seconded by Commissioner Second to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the special use permit for two temporary housing facilities located on the 45,000 acre parcel, applicant EnCana USA with the 23 recommendations of staff.

Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT ALLOWING FOR DEVIATION FROM THE MAXIMUM HEIGHT REQUIREMENT WITHIN THE DRINKING WATER CONSTRAINT ZONE – APPLICANT: UNION PACIFIC – CRAG RICHARDSON

Scott Grosscup with Balcomb and Green, Andrew Kachele from UNIMIN, Ken Jamron from UNIMIN, George Hicks, Kent Monsen (Engineer) and Tim Thulson were all present

Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner submitted the following exhibits: Exhibit A – Proof of Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff Memorandum; Exhibit E – Application; Exhibit F – Letter from Scott Grosscup, Balcomb and Green, PC, dated September 26, 2007 and Exhibit G -

Chairman Martin entered Exhibit’s A – G into the record.

Planner Craig Richardson explained that the Applicant has submitted a Special Use Permit to allow the construction of three (3) storage silos exceeding the identified maximum height requirement (40ft) within the Drinking Water Constraint Zone (DWC), deviation from this standard is allowed if approved by the Board of County Commissioners (the Board) as a Special Use Permit (§3.14.07). ☐

As proposed the silos will be constructed at approximately eighty-nine (89) feet in height excluding the proposed elevator. The total height of the new silos including the elevator will be one hundred thirty-two (132) feet in height. The Applicant has cited \$5.06.01 regarding the exemption of elevator cupolas and has requested that the elevator not be included in measuring the height of the proposed structures.

Staff’s interpretation of “Elevator cupola” is a dome structure situated on top of another structure to allow room for mechanical components of an elevator. This is an architectural term associated with inhabitable structures. When determining the height of the proposed storage silos, the measurement shall include the height of the proposed elevator. (One hundred and thirty-two feet)

The requested one hundred thirty-two (132) feet structure results in an increase of 230% from the maximum building height requirement.

STAFF RECOMMENDATION

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Staff recommends denial of the proposed Special Use Permit allowing deviation from the maximum height requirements within the Drinking Water Constraint Zone as represented. The request to increase the maximum height requirement by 230% within the identified visual corridor is inappropriate. Should the Board move to approve the request Staff recommends that a height limitation consistent with the adjacent legal uses be considered. (Cement storage facility – 100.6 ft)

Craig – Frac Tech receiving zoning violation on height of silos.

Scott Grosscup – (Gave Presentation) We are here to ask for an SUP solely for the purpose of building a silo structure that will be above the present zoning height limitation of 40 feet. The activity that goes on at this property right now is the unloading of sand for use in the energy industry and those uses will not change. The main purpose of building the silos is to increase efficiencies and create a better environment. The property is located west of Rifle. It is an industrial park. Explained what other industries were in the area.

Andrew Kachele – Unimon Corp. 22 years. Explained his role in company and showed slide presentation. Our only business here is Frac sand. Product selling and delivering here comes out of Minnesota brought in by rail cars. Explained what the product is used for. They transfer sand now from rail cars directly to trucks how that happens and how long it takes. Shows on the slides how they can get backed up with this process and have had over 25 trucks in line waiting to be loaded. What this means is they have all these trucks sitting there with diesel engines idling affecting air quality.

Ken Jamron– Explained how trucks sit for hours because of the way they currently load sand. They can load 6 trucks and hour so they have trucks at the end of the line sitting for 3 hours waiting. Silo's will basically eliminate this situation and we will be able to load a truck in 2 ½ minutes.

Andrew – The challenge was to find a better to meet this market demand, improve service to customers and address a number of problems. Basically we are trying to have silos that will have enough capacity to take a full unit train, bring the cars in and continuously unload cars into the bins. We can get them in and out in a day get them back into service and not sitting on our track. Explained why they needed the height on the Silos. Spent time with Fred Jarman and asked what kinds of issues we should be looking at. Height was an issue. End result was to get three tanks at a reasonable diameter that would not give a segregation problem (with the sand) and also let us hold 6,000 tons and we came up with 89 foot tank. Safety put spiral staircase up the tank.

Commissioner Houpt – You made reference to possible other alternatives that would work better in our visual corridor but you didn't spend much time on that. What you're looking at is significant higher than what is deemed appropriate for that corridor, what other practical solutions did you look at? You named one you didn't feel was practical but there has to be more than two.

Andrew – There could be any number you could create, take the size of the tanks Frac Tech has, you could put 100 of those in and probably have the same amount of storage.

Commissioner Houpt – you wouldn't need 100?

Andrew – Those are pretty small tanks. If you went with more tanks that becomes a traffic problem because now you have to provide a greater access area. We are trying to limit the amount of space that we take up. If we put in more tanks, the three tank configuration we have minimizes the amount of space needed for the trucks to turn around and driveway space. Shorter tanks, wider tanks gave us problems with product quality. The only other thing that would have potential would be a different approach to moving the sand. We would still need a bucket elevator to get it up above the top of the tanks and that is at the 89 foot level which is below where the wholesome tanks are. In order to do that we would have to put in conveyors which means spillage issues, motors and drives up on top of the tanks, it means more energy usage obviously because instead of using gravity to move it we are using electric power to move it. It would be a more complicated mechanical system with more maintenance which means we have people up there greasing bearings more often, replacing belts, replacing motors and it is an overall less efficient and less safe to move that material. It also is obviously more costly gravity is awfully cheap as a source of energy for us. It was something we took a look at. We felt from a cost and efficiency stand point they are not the right way to go but those weren't the prime driving factors. We ran the risk of compromising the quality of the product and we had a less safe condition for employees. When none of them offered a benefit our choice was not to pursue them.

Commissioner Martin – What is the life span of the silo design right now? Do you have a projected time?

Ken – Our currently lease agreement with Union Pacific for this land states that if we ever vacate the land we must remove the assets on that land. If we don't the Union Pacific will remove it for us and charge us.

Commissioner Martin – Your life span is just the length of the field and the development and then you consider how long it is going to take to take it down or to give it back to Union Pacific. What kind of traffic control do you have on site? You are going to have to have some kind of coordination if there are trucks coming and going to three different silos. Are you going to have someone there directing traffic? A guard house or something like that plus the scale operators etc. How many people are going to be on the site?

Ken – Generally two. Generally one road coming in and you have to go around and all your going to see is if one silo full you can go to the other one.

Commissioner Martin – In reference to the entrance on 6 & 24 getting onto I-70 going each direction etc. Are you changing anything?

Ken – We are not changing anything there. From time to time we back up onto the front road but with this facility there will be no backup.

Commissioner Martin – In staging you're not going to be using the frontage road and blocking the traffic there and using the shoulder you're going to get them all out. Otherwise CDOT is going to have a continued problem in reference to that.

Andrew – We think this will be a major improvement in that perspective.

Commissioner Martin – Stop sign still there?

Ken – Yes

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Commissioner McCown – Asked to go back to a drawing. I’m a little unclear on the rail unloading process, normally when you have a bucket conveyor system you unload into a pit directly from the rail where it picks it up.

Ken- We still will.

Commissioner McCown – Absolutely but you are using an overhead conveyor then taking it to your bucket conveyor?

Andrew – There is a pit underneath there and that will not change and right now the conveyor that is there looks very much like what’s there but instead of extending out to here (showing on slid) it stops with a spout coming off of it. So instead, what is going to happen is we will have a slight incline; conveyor will come straight across and drop into the bottom of that bucket elevator

Commissioner McCown – Will it do that underground?

Ken – It will be below concrete level. The cement silos are 106”, that bucket elevator being 4 ft wide and the aspect of that bucket elevator going up, in effect we are looking for a 30 foot variance, that bucket elevator from in our distance back from route 70 and our elevation down from route 70 I think our silos are going to look lower than the cement from the visual aspect and that bucket elevator is going to be so narrow of an aspect that I’m sure you will see it if your looking for it but to stand out I don’t think that will happen.

Andrew – Pipes coming down from the bucket elevator are 10 inch diameter pipes so it will look like a thick cable if you can actually see them from 790 feet. Again going back to the alternatives, if you were to put belt conveyors up there they won’t be as thick or skinny as that bucket elevator, they won’t go as high but they will be thicker and bulkier and almost like an extension of the silo itself.

Commissioner Martin – Reminds me of the silo at Summerset, same design. In reference to the surface that you have on yard, it’s going to remain the same which is the pack gravel? No mud problem in reference to access 6 & 24.

Everyone answered remain the same and no mud problem.

Ken – We are going to extend that roadway (showed on map) and it will extend 12 foot more, further south. Showed on map how it would all play out.

Commissioner Martin – Drainage wouldn’t be an issue towards the river?

Ken – No

Commissioner McCown – Is there enough of a siding there to accommodate your 60 car unit train and Holcomb?

Ken – They are on a separate spur track. Right now we can hold about 40 cars and we have room to expand to hold about 45 cars. With the speed of the conveyor we can unload those 45 in one day, 24 hours, and then when the railroad comes to pick up will stop the last 15.

Commissioner McCown – You don’t have access to any of the other sidings?

Ken – No I don’t. There are two tracks there. Those two tracks together will hold 45 cars.

Commissioner McCown – Is there any future plans to extend any of those sidings on to the adjoining property to the east? I know there is a SUP on some property east of here for trash handling.

Commissioner Houpt – Going back to the traffic picture, you don’t anticipate this happening too? (looking at a picture of trucks lined up) If you start serving more companies?

Ken – Won’t get trucks waiting. We’ll be able to load three trucks in 2 1/2 minutes. 15 trucks in 10 minutes they will be gone.

Commissioner Martin – three different scales or one scale?

Ken – One big long scale and one short scale. (Explained how the operator did his job)

Commissioner Martin - Computer operated or manually operated?

Ken – All computers from a control room with cameras.

Tim Thulson – OCEA

Commissioner Houpt asked if there would be an on site restroom. They stated they would have a port-a-potty and Commissioner Houpt stated those are for temporary facilities. They stated they could not have on that land they could not drill a well.

Commissioner McCown – Your gravity fed conduit at the top of your bucket, are they gated or do they just run until they fill up and then automatically switch to the one that will take the sand?

Automatically controlled by the operator.

Commissioner McCown – I do support your operation here but I do have some problems with the gravity fed tubes which is the crutch of the problem that is driving your height. You could have surface conveyors on the top of these tanks using the same warning and sensing system you just mentioned. That would elevate that 43 feet of extra height. I’ve been around grain elevators all my life it works and your cutting out that 43 feet that seems to be the bone of contention. You are adding three motors but you use the same gating system or the same dumping system you would use with your gravity feed and your same sensors when your tank reaches a certain level it would simply switch to another conveyor and it would drop in and do the same thing. I think that may not have been your first choice and that may not have been the option that you chose but that is clearly an option that would elevate at least 25 foot of this 43 feet that we are looking at and that would get you closer to compliance and well under the 230%.

Andrew – You’re absolutely right and probably not far off in your estimate of how much of that height would be saved because the conveyor system would take height. When we looked at it and our reaction was that the efficiency and safety issues on the belt conveyors outweighed the visual effect.

Ken – this sand is much more abrasive and is a lot heavier than grain.

Commissioner McCown – I know we are talking about apples and oranges but I’m talking about conveyance systems and they make them to handle your sand and that is a rubber conveyor belt will do that just the same as grain.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin – aye

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Commissioner McCown – I make a motion we approve the special use permit to allow for a deviation on the maximum height requirement within the drinking water restraint zone for this particular application in a height not to exceed 110 feet.

Commissioner Martin – Second for discussion. I’m looking at what we were presented from the gravel pit situation and we have to import our material and if we do that we have to have infrastructure in place to allow that transportation and distributing of that material to be used within our own borders. Obviously we don’t have enough silicon sand in Garfield County but we have other sand but it doesn’t qualify for that. Unit train that’s a big train as well as the problem we had with the sand trucks that are out there and I see them just about every time I go by they are there. We need to eliminate that back. If this is the approach we need to do then we need to have large capacity because industry is going to be here and that fracing is not going to go away that is the only way that these tight sand coordination are going to be extracted.

Tim Thulson – Can I move to open the hearing up again I have one minor point of information. A small modification to Larry’s motion but I think it is very important.

Commissioner McCown – Ill withdraw my motion.

Tim Thulson – Our engineer informed me that if we are going to do conveyors we would need 112 feet not 110.

Commissioner McCown – I make a motion to approve the special use permit to allow for height deviation in a water constraint zone for a height not to exceed 112 feet for this particular project.

Commissioner Houpt – Second for discussion. I don’t like deviating from height constraints. If you drive down I-70 I think we are seeing a lot of impacts in this County. I don’t like the precedence that it sets.

However; I don’t like seeing a line of trucks idling and thinking about what that is doing to our air quality in that area. I guess I don’t like your project your business, but putting that aside I like the idea of a gravity based system instead of having more engines. I don’t like the height at all and you know you look at the pictures you presented today and more than half of the silos you showed us are in violation anyway. It doesn’t help the argument of changing our height restrictions but I’m having a difficult time with this because I think there is an even greater impact with the number of truck idling out there then we would have with the height. I am struggling with this process but you certainly have had a long term business and have every right to be there. I as a Commissioner need to figure out which is the lesser of the two evils.

Commissioner Martin – that is a good point but you also have the other traffic that is coming in off of Highway 13 as well as I-70 in both directions on delivery. And that is another impact we need to look at is the side traffic coming in from Rock Springs, Wyoming, Utah on through.

Commissioner Houpt – I’m not talking about the traffic I’m talking about the idling.

Commissioner Martin – I’m talking about eliminating that by the train delivery and the silos and trying to do away with the heavy traffic coming down those roads. Which actually lessens the impact on our road.

Commissioner Houpt – How are you cutting down on traffic?

Commission Martin – Because they are not hauling from Utah coming down 40 to 13 and coming on through Highway 13, there not coming down through Glenwood Canyon, DeBeque Canyon delivering to this site to distribute. What I am looking at is a central location for distribution. And to use the Union Pacific as that hauler is less impacting on our roads and also on our citizens than it is with all those trucks.

Commissioner Houpt – And that’s what’s being used now and I would argue that there still may be times when you have to rely on trucks. There is no guarantee you will be able to keep up with the demand that is occurring in our County.

Commissioner Martin – One questions in reference to clarification for me on staff. Craig was the City of Rifle contacted in reference to any impact or any input on this project?

Craig – Yes and I received no comment

Commissioner McCown – this is what it is. It’s a facility that will allow a critical support to an industry. I see it no different than driving across the eastern slope and see all the grain elevators, which far exceed this height that they have asked for. I see it no different than driving down I-70 through Denver and seeing buildings on both sides of the road that are far higher than this and you cannot see beyond a block area because of the building heights along the interstate corridor. The interstate highway system was built back in 70’s and 80’s and when they decided where to put the interstate highway system they did not ask anyone that was adjacent to that if that was going to interfere with their view shed. Now every planner and every elected official from the east coast to Utah has to plan around the view corridor of that interstate highway system that was built, not asking how it affected their view shed when they put it in. So now we try to utilize every inch of space so somebody can’t see off of that highway system. You can’t do it. And an industrial facility which this is located in is what one would expect for an industrial activity to take place. I think it is the exact location. I think that if we can compromise with the 112 foot from the 143 we both lost so it must be good. I know it is not your ideal plan but I think by doing that I have been able to gut 25 foot approximately off the top of it which will cut down on some of that view shed. I hope you can come up with a compatible color with our planning department that will make it less obtrusive because it is going to be a big structure. Three silos that size are going to be a significant view shed. But you are absolutely right it does set considerably further back off the road than the Holcomb facility and the Frac Tech facility and it is well below the elevation of I-70 going both ways. So it will be perceived lower than it really is and that is why I made this motion. I think it can be utilized, I think it is for the good of the area and the environment. If it makes good business sense I’m not against that either. I think it is a good compromise for everybody.

Commissioner Houpt – I need to say that I will not be able to support this motion ironically I would be able to support the original request because of the gravity feed. I’m concerned (and pointed to a slid) about this slid than anything else I have heard today. I think the gravity feed would make more sense.

Commissioner Martin – Wasn’t that an overall height of 106 feet?

Every one said 132

In favor: Houpt – Opposed McCown – aye Martin – Opposed

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Commissioner Houpt – I’ll make a motion that we approve (this is so against my) this special use permit to allow deviation in from the maximum height requirement within the drinking water constraint zone in a height not to exceed 132feet.Commissioner McCown – Second
In favor: Houpt – Aye McCown – aye Martin – Aye

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

OCTOBER 15, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, October 15, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

CROUCH PROPERTY – MISSOURI HEIGHTS Mr. Beutner – For the Crouch property on Missouri Heights. To find out what the standing is basically number one 162A road encroachment.

Commissioner Martin – Asked Fred if he made contact with Sun Mesa

Fred – I have two phone calls in and a letter went out Friday.

Commissioner Martin – The letter has been sent and the process has been started Louis. Notification has been made.

Louis – Does that letter include the drainage problem coming off of 162A?

Commissioner Martin – By the motion from Fred it includes the encroachment discussion as well as all of the road discussions.

Louis – Did the county staff have a construction drawing for the construction of 162A? I haven’t found anything.

Commissioner Martin – I don’t know if we have or not on that.

Louis – Now we are down to the County Surveyors opinion on the section corner.

Commissioner Martin – I have not received anything from the County Surveyor. Don?

Don – No the Board specifically has not requested that he undertake the resurvey or reestablishment so he won’t be receiving anything.

Commissioner McCown – No, we have not given him that direction.

Louis – Now we get down to the agreement for the 1913 Road alignment, since it relies upon the section corner and such I wonder if we might get together on the agreement and decide where to put that dang thing.

Commissioner Martin – It will probably be where it is right now not where it is surveyed to. In other words what’s on the ground is what we will have on that one. What we will have to do is to do the legal description changes most likely. That will also take a public meeting to do that I do believe.

Louis – The only place that road is on the ground is the physical placement across the properties that haven’t been irrigated and such as that. I have surveyed that part across the Crouch property but I have not run it beyond and the road does go northeast, south and west from there.

Commissioner Martin – At our meeting last week you also noticed on the map that it is plotted across several properties so we will have to tie them together.

Louis – The plotting is who knows what it is tied to. We are down to the March letter from Ms. Crouch; she’s unhappy with the response that the Board gave her last meeting. It’s pertaining to the request for rights-of-way for the different roads up there, 100, 102, 162 and 162A. I have basically beat her over the head to the extent that 162A, even though it is not possibly legally conveyed the Board is accepting the area crossing the Henderson/Stirling Subdivision as the dedication for that and the agreement up above on 162. But she would like a response to her letter by letter. I brought along a copy of her letter just in case so I will give it to you. Louis gave a copy of letter to Commissioner Martin.

Commissioner Martin – We will return that in writing.

Louis – Just to inform the Board in my research pertaining to the Crouch property, I have informed probably five surveyors of errors on their plats and they will be taking care of these I hope.

Commissioner Martin – They will have to go through their proper means and also through the County Surveyor to make sure those corrections are done.

Louis – Some of these are recording or depositing problems of surveyors and one of the surveyors was the County Surveyor himself.

Commissioner Martin – The most current surveyor or not?

Louis – Well he was here with the Board and he didn’t do a complete job; I pointed that out to the Board with that pin for the southeast corner of the Crouch property. As you know I have done extensive work up there and part of it has been the historical location of documents and such as that. Yesterday I was presented with a document that I think the County should have in their possession. Jean, you and I looked for it and I got it yesterday. I would like to give this to the County to take care of. He presented a package to the Board. It is a document that goes from about 1895 up until about 1915 or thereabouts. (It was a book).

Commissioner Martin – Who does the book belong to, the County?

Louis – It belongs to the County. It’s a County’s Surveyors records. It is the book we could not find. If you turn back to page 160. Being over 100 years old the book is beginning to fall apart.

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Commissioner McCown – Would it be appropriate to ask how you came to be in possession of this book?
Louis – In my research I have talked to lots of surveyors; Mr. Allen over at BLM gave me a copy of this page 160 and as a result I’ve been looking for it and I inquired of my fellow peers and such as that and as I say this was given to me by a non surveyor yesterday. If you’ll notice there, I believe its page 160 the County Surveyor Thromburg reestablished the section corner for 1920, 29 and 30 via stone. I may be mistaken to the exact page there. There is some confusion by the surveying personnel in the valley. In about 1992 Mr. Pace found a County Surveyor’s monument; brass cap to that corner. In 1994 I found a brass cap County Surveyors monument for that corner. But in 1995 Mr. Harris found a stone for that corner. So that brass cap has turned into a stone or the brass cap was set wrong and the stone is correct or there is no stone there. That section corner needs to be looked at and it needs to be looked at by the County.

Commissioner Martin – Agree. That is 1890 according to the survey here; Mr. Rosenberg was the original surveyor and partner of the land company that founded this area.

Louis – Well whoever. As I say I just got it yesterday and haven’t had a chance to peruse all of it. In fact the only copies I have are copies. Any book that I find that’s 100 years old I find is very useful. That concludes my questions and everything for today.

Commissioner Martin – Thank you Louis

Louis – One think I would request the Board do is to think about the boundary agreement for that 1913 road as we cannot do anything until I can show or make a statement on the plat that it will be negotiated later because I can’t in good faith divide the property and know there is an easement some place that somebody might build on.

Commissioner Martin – For that we will have to set for a public hearing to make sure it goes right.

COUNTY MANAGER UPDATE – ED GREEN

COMMUNITY CORRECTIONS - APPROVAL OF ISP CONTRACT – GUY MEYER

Guy Meyer was present

Guy – The Board has seen this contract a few times and I know the legal department has worked with the AG’s office ironing out some issues.

Don – Still have some disputes on some provisions particularly the one on the indemnity. The Board is aware of the ongoing problem.

Commissioner McCown – I make a motion we approve the contract in the amount of \$16,000.00.

Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

LIBRARY - APPROVAL OF ALTERNATE BOARD OF TRUSTEE POSITION FOR THE LIBRARY

Letter received from Leta Terrell, dated October 8, 2007 regarding her interest in becoming an alternate for the Board of Trustee position for the Library.

Commissioner Martin – I do believe the Board appoints their own now don’t they?

Don – That is a question I have on this too; I need to see a document that authorizes the Board to appoint alternates that is not contemplated by the statutes; either by the Board or by the Library. I think John’s point may be well taken on alternates. The original trustees still remain appointments of the Board as you may recall and then subject to re-appointment or elections, but alternates I don’t think are addressed in STATUTES. So we need some input from the Library District on the authority to appoint an alternate.

Commissioner Martin – Let’s go ahead and postpone that and get a response back from them hopefully in writing so that we can respond back to Ms. Terrell.

FINANCE PUBLIC COMMENT – EXCESS REVENUES

Ed – As result of our budget presentation on Friday, Tresl raised the issue of the November 5th public comment. Tresl will not be available for public comment on the 5th so is there an alternate date that works for the Board preferably in November?

Commissioner Houpt – Can it be on a Board meeting day?

Ed – Yes, the 13th

Don – Before the Board sets a date can I ask Patsy a question on scheduling. Patsy are we going to have a hearing on excess revenues this year?

Patsy – This is a question I have on my desk to bring to you Don. Because our property tax has only gone from 35 to 39, that percentage amount that we record is actually a negative percentage now. So I need to come to you and ask do we still have a public hearing given that is not a positive percentage?

Don – If we don’t go over the 5.5% we don’t need a hearing.

Patsy – My answer is no.

Ed - Okay November 13th.

Commissioner Martin – We are going to continue that meeting with Planning Commission on the land use rule.

Patsy – The budget has to be made available to the public and my questions is would you like for the proposed budget as it was presented to you be put out onto the Garfield County website and then perhaps we could publish that if somebody doesn’t want to come in and pick-up a whole big copy?

Commissioner Martin – Yes, as long as they know it’s not a final document.

Ed – Concerning the special study meeting the board has with other elected and department heads; I would suggest you do it on exception basis this year. Don’t schedule everyone because as we presented on Friday there are some that there aren’t any issues. We were going to try and do it on Monday but it looks like Mondays are out.

Everyone informed Ed that Linda has this scheduled the 9th and 14th of November.

WATER - \$30,000.00 TO CREATE– DOLA GRANT - WATER DATA BASE

Jesse – I brought to you six weeks ago a task force meeting discussion that took place between the USGS and all other interested parties in water in which they were wanting to put together a totally integrated data base of all water testing throughout Garfield County. The energy companies will be providing the bulk of the data along with the COGCC and ourselves. The USGS had turned in a proposal to create this data base; the steering committee kicked it back and had reduced the price by \$150,000. The West Divide Water Conservancy District is going to be the financial entity that will go for a DOLA grant. They are going to

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ask for \$300,000 from DOLA and then they are raising the other \$305,000. At the time I brought it to you I had said that it would probably be in the \$30 to \$50 thousand range; they are asking us for \$30,000 to create this data base. They are ready to go on December 1st to DOLA for the \$300,000 so I would ask for approval for that.

Commissioner Martin – The commitment should be there in the budget; we set it for 2008 dollars

Jesse – We need a letter to them so they can get it to DOLA.

Commissioner McCown – I make a motion that the Chair be authorized to sign a letter endorsing the \$30,000 grant on the water data study that is being put together and the culmination of all that water data by the USGS. Commissioner Hought – Second. In favor: Hought – aye McCown – aye Martin – aye

Commissioner McCown – Is this going to be a private firm doing this study? So we are paying the government \$600,000 to do this?

Jesse – USGS is going to create the data base, it will be an interactive data base.

COUNTY SHERIFF UPDATE – LOU VALLARIO

SHERIFF - PERSONNEL FUNDING REQUESTS - HR MANAGER POSITION

Lou Vallario and Katherine Ross were present

Lou – We have had an HR position since I started as Sheriff, shall we say embedded in the Sheriffs Office from the HR Department. Katherine came on board and realized a greater HR need county wide and as a result she and I discussed this and we'll be taking the position that I bring back more over to the County side. The discussion really led to that it is time for the Sheriffs office to have an HR Director. This is in the contingency in 2008 as a position request. All we are looking to do is potentially speed the process up so that we can make a transition during the rest of this year and flow more smoothly into 2008. As you know we have 133 employees as of now. Based on the budget requests we will have 140 or more so certainly there is a need for full time HR person to handle the load.

Katherine – I concur. Originally, we were looking at making the transition into the first quarter of 2008 but if we have an opportunity to do this sooner then I think it's wise because there is a lot of end of year things where there has to be some cross over to move things over.

Lou – Clearly it is an additional position but a lot had to do with what happened in HR during the course of this last year minus a director there was a position approved and filled at a different level.

Commissioner Hought – It sounds as if we'd either need to approve a position in your department or in HR is that what I am hearing?

Katherine – Technically the position already is in HR; it does belong to the County so it would be in his department.

Commissioner Hought – I make a motion we approve the request by the Sheriff for a new position, Human Resource Manager and that will be at a pay grade 10. Commissioner McCown – Second.

Commissioner Hought – That will be effective immediately

In favor: Hought – aye McCown – aye Martin – aye

SHERIFF - UPGRADING OF GRADES – DETENTION DEPUTIES AND PATROL

Lou – The second is a little bit harder in wanting to improve the hiring process and improve retention. We sat down as a group of supervisors and had a very good meeting. They came up with some creative ideas on how to handle this little crunch we are in with the shortage in detention deputies but also what we could do to recruit and retain people and came up with several ideas. Several of which were actually born out of the strategic planning. We felt and it is common in sheriff's offices, we want to equalize pay with regards to the separation between detention and patrol. For example Eagle County right next door offers the same pay rate, same job grade for either detention officer or patrol officer. Traditionally there has always been this feeling that patrol officers should start at higher grade, there's training involved, academy involved but if you look at what we do with detention folks there's training involved too. We send them through detention academy and they are dealing with the same individuals and they are dealing with the same risks and same responsibility as patrol. We felt by trying to equalize these steps and move Detention 1 equal to Patrol 1, Detention 2 and Patrol 2 and so on, equalize everything across the board. That would number one obviously give a little higher rate of pay; it will be a higher advertised rate and although I'm not sure how more successful we will be in hiring people, I think we will certainly be more successful in retaining people. For several reasons not only on a pay scale but also shall we say the moral scale as well. What I'm asking for is to re-grade some of those positions so they are consistent across the board. I really think of all the things that came out of our meeting is that everybody decided this was by far the most important first step to recruit and retain employees.

Commissioner McCown – How different are the requirements Lou for detention deputy and a road deputy?

Lou – Right off the top Larry we can hire somebody as a detention deputy with no training or experience.

A patrol deputy in order to get them certified they have to be POST certified and go through the academy.

We either provide that expense or someone puts themselves through the academy and they are already POST certified when we hire them. Initially there is a little bit of difference. However, as soon as we hire detention employees they go through the same FTO program, we run through the County Sheriffs of Colorado Detention Academy and then quite honestly with respect to job risks, job responsibility they're dealing with the same individuals patrol is dealing with, same responsibilities, same inherent risks.

Commissioner McCown – I know that has always been the historical argument, the difference in the qualifications for the road deputies over correction folks and the fact that they are dealing with the same people but they're dealing with them in a controlled environment.

Lou – I have to tell you for example with the direct supervision type of facility we have, we have one deputy with 30 to 35 individuals

Commissioner McCown – I'm not saying that it is not a one on one situation but by the same token you feel relatively sure those people aren't armed in there and carrying weapons. You don't know the situation when you approach a vehicle at 2 o'clock in the morning.

Lou – I agree there are different risks although there are similar risks as well. Whereas in patrol we may have to deal with them for an hour, then people in the jail get to deal with them for 24 hours. During the meeting patrol supervisors stepped forward and said they were absolutely okay with it. One even said they have a tougher job than we do because I can take this guy who is upset and hand him over to them.

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Commissioner McCown – Is this going to affect your control room folks as well?

Lou – It probably will and I will have to double check where we are with that.

Commissioner McCown – They are actually a civilian employee aren't they?

Lou – Yes, it is an entry level and they are sworn in just for FLSA and other purposes but it is really an entry level position. It probably will and I can't tell you if we are looking at doing that now or as a proposed 2008 adjustment. Just to clarify in my memo, everything equals out at sergeant but we bump that line when we get to corporal because of the step in grade scale we have there, now there is no space between Deputy 2 and Patrol and Sergeant so everybody will have to get split up a little bit so we can equalize back at the Corporal range. Part of the proposal for 2008 is to include Corporals in the patrol division so this gives us the opportunity to rearrange the scale for 2008.

Don DeFord– I have a few questions of the Sheriff because of the statutory requirements. Are you going to implement change in salary structure right now or are you going to wait until the first of the year?

Lou – We are hoping with the contingency funds available we could do it potentially the last two months of the year.

Don – The reason I ask is there is a statute that allows you to set the salaries and compensation rates for your staff but with the approval of the Board. I wonder if it would be appropriate to give the Board a detailed breakdown on how you intend to compensate your staff so the Board can formally approve. Then we have a document for the record.

Lou – I did provide that with a spreadsheet.

Don – The effective date you would like that to be is the first of November then?

Lou – Or the equivalent next pay period

Commissioner McCown – That will change the base line budget for 2008

Don – It will change it for 2007 and 2008. I guess it is a question for the Board given that statutory requirement, I don't know how you want to approach your responsibility in either approving or rejecting the request and or whether you want to do it today? Is this the generalized way to adopt this spreadsheet or if you want to wait and approve each personnel action request.

Lou – Back to you Don the question regarding the statutory authority to set that, do I have to set each individuals or can we simply say by grade? Detention deputies now move from a grade 7 to a grade 8 and therefore subsequently those will all be adjusted. Detention 2 will go from a grade 8 to a grade 9, the position title in other words.

Don – I think the Board can do either and that is what I am really asking the Board how they want to approach this so we know we have a formal record.

Commissioner Houpt – I think we have that in front of us. She showed the spreadsheet to Don to see if it answered his questions.

Lou – I guess what I would suggest, since we do adhere to the County grade scale, is stay with that and we could do it by position title and grade.

Don – This represents the action for 2007 and it's fine with me; I'm asking the Board whether you want to approve this, if you do you need to take action and set a date on which it is to become effective or if you want to wait and get each one separately.

Commissioner Houpt – I make a motion to approve the request for equalizing pay scale for detention and patrol based on the request by the Sheriff and the spreadsheet presented to the Board of County Commissioners effective the next pay period.

Commissioner Martin – And that total Lou if I'm correct is \$168,764.00

Commissioner McCown – Second

In favor: Houpt – aye McCown – aye Martin - aye

AIRPORT - RATIFY CHAIRMAN'S SIGNATURE – SAXS RIFLE AIR RAMP LICENSE AGREEMENT

Carolyn – This was a document that you approved; it was really a private agreement between two entities to allow one entity to use the lease hold of the other to get from the new building that is being built for DHL onto the ramp. After it was presented to you as a done deal the parties decided their document wasn't clear enough about the right-of-way being used only for four wheel drive vehicles and not for airplanes so they went back and clarified the definition of vehicle. I spoke with John about it and he said he was comfortable signing it, that is what he understood and he was sure you all understood that the ramp access agreement was for DHL's trucks not for airplanes. I brought it back to you because it was different than what you approved and I would ask you to ratify the Chairman's signature and do you have any questions? Commissioner McCown – I make a motion we ratify the Chairman's signature on the Saxs Rifle Air Ramp License Agreement. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE

Don – Discuss potential code violation, zoning code, building code and ISDS code violation all wrapped into one site. Fred and Andy present to discuss. Provide you with legal advice concerning the hearing coming up on CR 304 with Marvin and Jake.

A motion was made by Commissioner Martin and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken:

PUBLIC HEALTH - ISDS VIOLATION - NABORS

Don – I would like to ask for action, we have a current potential zoning ISDS violation, asked Fred to describe for the record.

Fred Jarman – The property is located just west of the Rulison interchange on I-70 south of the interstate between that and the Colorado River.

Don – We would ask the Board to authorize the County Attorney's Office to proceed as expeditiously as we can to seek injunctive relief for the continuing violations recognizing there is some historical research

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that needs to be done. To verify proper uses on the property and also to authorize the Health Department to proceed to contact the state and also undertake any enforcement action necessary.

Commissioner Houpt – so moved

Commissioner McCown – Second

In favor: Houpt – aye McCown – aye Martin – aye

COMMISSIONER REPORT

Commissioner Houpt –If you haven’t been over to the River Bridge Building go visit. It is wonderful and I applaud our staff for the work that was done and all of the people who spent countless hours and gave great donations; it is an amazing building. That project is going to be up and running in the next few months and will be a great asset for this region. I had an I-70 Collation meeting on Thursday and we got an update from the transportation funding committee and everybody in this state is looking for money and it will be an interesting discussion in the Governors office when education, health care, transportation comes forward and asks for not only the severance tax increase but a whole lot more. We are seeing the result of a very detrimental tax system. We had a great budget presentation on Friday. My compliments to the staff, it was very well done. This week we have strategic planning on Thursday and then a meeting with staff on the new land use code and then a Rocky Mountain Rail Authority meeting on Friday. Tomorrow and Wednesday I will be in LaPlata County, talk to them about Oil & Gas Commission, rule making and answer any questions they have.

Commissioner McCown – Basically the same things as Tresi this week. I have a meeting tomorrow afternoon with BLM in Grand Junction. Thursday strategic planning and the meeting after that.

Chairman Martin – On Tuesday I meet with the judicial system, the probation folks, the Sheriffs office etc. to discuss the security and any proposed changes on the Courthouse Building actually the County Building. It seemed to go fairly well. We will get some prices and some items to institute our changes. Then I hand delivered our letter in reference to the access committee to the Forest Service superintendent. Again a good budget presentation.

Tresi asked about bringing back the security issue to the Board.

Commissioner Martin – There is an on going contract with Current Solutions; they are going to put the price tag together. We have \$200,000 in the budget already and those dollars are sitting there to be used for maintenance and improvements of the building. We have not allocated those to anything; they will be within the budget. We will have a confirmation with the Board before we spend any money.

Commissioner Houpt – My only question is on any structural work that will be done whether that is going to be short term since we’re talking about reconfiguring anyway.

Commissioner Martin – There is no major anything that is going to be rearranged. The glass wall, yes we can discuss.

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-fund Transfers
- d. Changes to Prior Warrant Lists
- e. Liquor License Renewal for Sunlight Inc. d.b.a. Sunlight Mountain Resort – Jean Alberico
- f. Authorize the Chairman to Sign the Amended Plat for Lots 34 and 35 of the Roaring Fork Mesa at Aspen Glen, Filing 2 – Applicants: Enis and Karen Alldredge – Craig Richardson
- g. Authorize the Chairman to Sign the final Plat for Valley view Village Phase C/D Lot 24, Building A – Applicant: Darter LLC – Craig Richardson
- h. Authorize the Chairman to Sign the Resolution of Approval for a Special se Permit for Two Temporary Employee Housing Facilities located Approximately 15 Miles Northwest of the town of Parachute off County road 215 – Applicant: Chevron USA, Inc. – David Pesnichak
- i. Authorize the Chairman to Sign the Resolution of approval and Special Use Permit for an Accessory Dwelling Unit Located East of the Town of Carbondale on County road 102 – Applicant: Katha Rossein – David Pesnichak

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a - g; carried. In favor: Houpt – aye McCown – aye Martin - aye

HUMAN SERVICES COMMISSION - ADULT HEALTH CARE ISSUES

Jackie Skramstad, Dave Admonson and Michael Wurtz were present.

Jackie – This is the final presentation in the health series. We did a presentation on child health issues, senior health issues and this is the adult health issues. To prepare we made a list of all the adult health issues and picked the one that seemed to be the most pressing at this time. She handed out some studies from Dave Admonson.

Dave – We had to dredge up every awful thing we could find out about Garfield County. What is encouraging is this looks awful but the fact of the matter is this is better than average. Take a look at the statistics from the National Health Center for Health Statistics on the leading causes of death in the United States, heart disease, cancer, stroke, lower respiratory disease, accidents, diabetes and he named many more. If you take the list you have for Garfield County and put into this context, two things are missing; we have eight of the ten. They are influenza and diabetes. Other communities are much worse than this. Dave talked about California being no comparison to Garfield County; it is much worse. They have fresh good research. They have screened 884 people. 2/3 are uninsured and 2/3 are Latino. Good news and bad news in this data too. Some of the good news is 83% have low risk of sudden cardiac death. When data is gathered it is put into the computer into a thing called the Framingham Risk Assessment, a well established use by cardiologists. Massachusetts has been doing a study for about 30 years now. 83% have a low risk which is extremely good. 90% have normal blood pressure, total surprise. Really surprised this particular group does not smoke, very positive. There is a concern, 67% exercise less than once a week if at all. I remember when you did your assessment in 2006; one thing people complained about is not having time to exercise. Good news about our county, people work and that is important to have funds to get health care. With long commutes it’s hard to give people a pep talk to jog when they get home from work. 51% eat a relatively high fat diet. A lot of folks eat fast food. 47% have borderline high cholesterol. Not an awful

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number but of some concern. This was a surprise, 76% are either overweight or obese. Good thing about these indicators are they are called modifiable risk factors. People can make behavioral change and that is good. Health education and prevention being a real important thing to put emphasis on. To close, we are lucky to be in Colorado, Garfield County. We have clean air, clean water. Health Institute came out with a new thing; Colorado has the third lowest incidence of chronic disease in the United States. That is impressive. Hopefully we will get to keep that. Good infrastructure around health care in Garfield County. Commissioner Hought – I've heard Colorado has a very high percentage of asthma.

Dave – It may have a high incidence of asthma but it does not have all the chronic diseases together. There are issues with the altitude, etc.

Michael – Two things apparent, first it's interesting to look at TV news or the paper and find out what you're going to talk about is front page and that is the incidents in decrease in cancer among women and men. That relates to what we looked at in terms of the significant increase the number of diagnostic and screening mammography procedures being done as well as for men in colon rectal detection for those over 50. The behavior in people what we are finding is for them to increasingly assess themselves and determine what their physical condition is. That is a positive. The second side, contradictory to the stereotype is that men are seeking out wellness exams to determine the level of their health. Stereotypically and traditionally men arrive screaming and kicking and resisting on the arms of spouses and significant others in lieu of initiating in checking themselves out. We are seeing in our clinics the behavior of men arriving independently, making appointments, coming in and saying I'm just here for a wellness exam. This is a healthy indicator in terms of behavior on the part of our community. Those are the two positives that are remarkable here recently.

Jackie – There is a front page article in the Sentinel about changes to the psychiatric facility that Colorado West Regional Health is running that is specifically tied to and particular to how we will be managing substance abuse issues there. It is interesting that all of these things come together at once. Substance abuse was one of the areas when we sat down we talked about what are the biggest areas of concern. Substance abuse kept coming up time and time again. Valley View is not here today but they did give information to me about the fact that there is a significant increase in the need for medical detoxes for alcohol and for folks who don't realize alcohol can be a very tricky medical detox. There can be medical complications as well as death resulting from a detox from alcohol. They are seeing an increase rise in people who cannot go to the traditional social level of detox that Colorado West Mental Health provides but that actually require a medical detox model. Other thing they are seeing is an increase in a combination of that along with suicidal thinking or behaviors. It is adding some complex management issues for the hospital.

Michael – I went back and looked at the data in terms of the incidents primary or secondary reason for admission to the emergency room since 2004. Year to year it is a dramatic and remarkable increase with alcohol being a primary or secondary cause of ER admission. When I read the article on Sunday it took me back for a moment when I thought about when someone presents themselves to an emergency room and alcohol is one of the factors and medical is the secondary or medical is the primary factor for presentation in the ER. What we have moved to is a point where we could stabilize the medical and alcohol condition maybe, not address it completely but we had a resource in the services from Colorado West in Grand Junction. The individual could be stabilized and transported so the two situations coincidentally could be treated in their hospital base program. The article immediately said to me we are immediately going to back to a situation that we had about a year ago where the hospitals here as well as in Rifle area are going to have to keep and retain patients longer. It again becomes another resource drain in terms of our responsibility and a need for increased resources to be able to address both the detox side as well as the medical side. This remarkable increase in the alcohol activity, you can't draw a straight line relationship between the other pressures on our community, whether it is I-70 corridor traffic or the increase in populations. There is not a line relationship but they are certainly related over time. You're going to hear more requests from the Human Services Commission over the next year and other resources and community organizations to address the alcohol issue. It's huge, it's draining our resources and the number of mortalities will continue to increase.

Dave – I'll second that on a primary care level. He talked about people not being trained to do this.

Commissioner Hought – What types of changes are occurring that are shifting these responsibilities?

Jackie – I can speak some to that since I am with Colorado West Regional Mental Health. When the triage center was opened and it was developed with a coalition of particular folks in Mesa County and Grand Junction at those local hospitals but the model that we wanted to embrace is a model where people would come to this triage center whether they were intoxicated, whether they were not intoxicated but if they were showing suicidal, homicidal, you know dangerous type behaviors, instead of the in the field triage that happens, like in Garfield County, is he drunk, then he need to go here, but to have one stop shopping. He/she goes into triage and then we would decide what does this person need and one criteria which is for psychic involuntary hold or an emergency commit (EC) for an involuntary hold due to substance abuse. There have been some financial as well as licensing issues recently with that and what we have had to do is step back and that is no longer licensed as part of our hospital. What that means is that it has changed the level of care that we can receive and accept in that triage facility. They are going to go back to a model similar to what we do here, police picks somebody up who is intoxicated and suicidal and they take them to the hospital ER's and then we triage them from there.

Commissioner Martin – Then burden used to be on the police officer in the street to do an M1 or a critical mental health evaluation.

Jackie – It often is and we consult with law enforcement after hours and when we look at resources and how we are utilizing our resources, law enforcement is a huge resource. When we are talking about these increased people presenting at ER's, they're not showing up because of a family member, they just walked in. They are showing up because a law enforcement officer was called to the residence and picked them up and transported them to the ER. I did some research too because I was curious. If the ER's seeing so many more detox people it is presenting our detox as not being utilized as our usage has gone down. Our usage

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continues to increase as well so it is not that it is not being utilized; it's just that there is that much more detox folks presenting to different places.

Commissioner Houpt – Have records always been continually kept when a person is brought in who needs detoxed as well? Because I was under the impression that at some point in time that record keeping process had changed, so there may not be a huge increase or these people may have been coming in to the various emergency rooms anyway but perhaps the records don't indicate that.

Jackie – I'm not quite clear to what you're referring to Tresi.

Commissioner Martin – If you're checked into detox you can't find out if you're checked into detox if you're not that person. Those become private records that can't be divulged.

Commissioner Houpt – What I was actually saying is that at one point in time Grand River didn't keep track of who came in.

Jackie – You're referring to the study that was done. There was a hospital study done that was showing ER admissions and hospital admissions for substance abuse and you're right, the numbers in that study were very low. There were some changes as to how emergency rooms and hospitals started to code their admissions differently so you're correct. This is part of why we are not bringing statistical data, what we are really bringing is antidotal information about how the hospitals are experiencing this rise because whether they coded it, how they coded it before is not the reality people are experiencing; there's a significant increase in the severity of these issues.

Commissioner McCown – Is there a statistical tracking on what percent is alcohol and what percent is other abuse if you will?

Michael – It is not as crisp and clear. Multiple diagnoses at the admission in terms of primary and secondary..... and most of the situations where you have alcohol involved....

Commissioner McCown – Meth is becoming such a nation wide problem I was trying to lead into what percent of our problems are meth driven with the alcohol back-up or which ones are primarily alcohol driven with other drug activity?

Michael – That is exactly the same question we asked and I went looking for that and from the data base couldn't discern that. If I went back to files and individual accounts and did that kind of endeavor as opposed to our data base I might get more.

Jackie – The methamphetamine task force is currently gathering some specific statistics about meth. I think one thing meth has gotten a lot of discussion lately is because of some of the issues that come with it around crime, social service involvement. But we can't lose sight of the drug that is more heavily abused than any in the nation and in Garfield County which is alcohol. I can say when I get called in as a supervisor on the most complicated detox cases at the hospitals that nobody knows what to do with and we are all trying to put our heads together, it is typically alcohol as the primary issue. It's not meth. Because typically there are issues with the medical detox that warrant a different level of care than we see in other areas of the County.

Commissioner McCown – How many of these are habitual or repeat offenders?

Michael – Anecdotally I would say more than 50%.

Jackie – Which is why we are seeing so many complicated issues because the detox becomes more complicated with the long term use. There can also be dementia and cognitive defects as well as other medical complications that make it a real challenge to sort out how to help these folks at that moment.

Commissioner McCown – You will have one number of patients for treatment and then you would have half that number as patients that are clients. If you had the repeat offenders you've got the same people reoccurring that are driving those numbers.

Michael – Right, they are using the resources so you're treating advance stages and then where are your resources to devote to the prevention center?

Commissioner Houpt – So what are solutions that you have been talking about?

Jackie – That is a real challenge. Unfortunately one of the solutions we have been talking about more recently was how to deal with the transportation issue to transport more people to the Grand Junction facility that already existed. As of October 1st that is not going to be a viable option any more.

Commissioner Houpt – Is that short term?

Jackie – No, I believe that is a long term issue and the article in the paper did address there were other conversations, I don't know because I'm not in Mesa County, but there have been other conversations on how to handle that issue and other stakeholders not named in the article that may want to come on board to address this issue. What they were seeing in the triage unit, this I do have statistics on, they saw an increase by 60% from 2006 to 2007 from people presenting substance abuse issues to that unit, which equates to year-to-date they have seen 780 patients through the triage and that is up by 301 patients for the same time frame last year. That is a significant number. That does serve a 16 county region but we weren't even sending many of our folks that direction. Our detox bed days have also increased by 80 to 100 bed days in the last year. In terms of solution, one thing that is always a struggle and I'm going to point this out because I think any opportunity you all have to support funding for substance abuse, there was a recent study by Columbia University that took 47 states and looked at funding wise per capita who's funded in what way and we were at the bottom of the study. And by we I mean Colorado. One of the challenges we are running into with folks and we see this as a treatment facility, even people who want to access treatment often insurance does not always pay for substance abuse treatment and when it does it is very limited. Medicaid now has some limited outpatient treatment benefits but for long term treatment there is some limitations. So people can't often afford it. Certainly the affordability of getting the care is because part of the challenge and the struggle is there is treatment available in the valley. It's not that we don't have any programs at all but for people to be able to access and pay for that has been a real challenge. Some things other counties have done recently, are you familiar with the Right Door in Pitkin County? It's a program run by Fred Osborne, non-profit, and what they focus on is taking people who have been arrested for substance abuse and help connect them to resources. It's a model that Eagle County recently put some money into. It has had some conversation in Garfield County but hasn't gone much beyond. Tresi ask what Eagle County is doing with this and Jackie didn't know, just that they put some money this

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summer towards helping fund detox through Colorado West as well as money towards development of case management. Eagle County put in over \$100,000.00.

Commissioner McCown – What would be the number count the group of you have seen as being treated in Garfield County? What is that patient count? You were talking about Colorado West, 16 counties, if we did an equal proportion share of the 16 counties that would be 43 people from Garfield County which is far less than 1/10 of 1% of our population so what are we seeing based on our population count?

Jackie that is difficult one to determine

Commissioner McCown – So you don't really know how many people are getting this treatment or asking for this treatment and not getting it but we know there is a need for more of it? How many problem cases anecdotally in Garfield County are we talking about? We are talking about this being a monumental problem but are we talking 4,000 people, 5,000 people 400, 40 what do you see coming in for treatment?

Dave – Very fair question. What I think is hard it's usually bundled with something else. It's not always the primary diagnoses. The detox piece comes later. He feels it, even though it's not a big number, it is one of the biggest disruptive things for families and work places. Unintentional death and death on the highways in Garfield County is a pretty strong influence by that factor.

Commissioner Houpt – I think it is an important number and I know you are not prepared today to give it. I would include the numbers from studies done on alcohol abuse with teens. Those statistics have always been very high.

Jackie – We have been tracking the suicide prevention coalition. Suicides in Garfield County and of the 9 suicides, last month, 8 of them had substances involved with that. We are working with the Coroner to get more information about what specific substances.

Commissioner Martin – People came here from all walks of life and all communities, they didn't live here but they came here to commit suicide because it was a beautiful place. Do you have that on those suicides, were they really residents here or did they just come here to meet there end? And the other question, the repeat offenders going back to detox, I can remember arresting one individual 60+ times in a year and every time he went to detox. That's 60 times that person went to detox. Is that in your repeat offenders and I know those folks are still out there. Isn't there a different way to go about it? It's up to the individual or total commitment removed from freedom and you can't put them in the jail you have to put them in a treatment program which is a lock down. Detox was voluntary and if you decide to leave you left and there wasn't anything you could do about it.

Jackie – You eloquently put what the challenges are for those of us providing treatment and are trying to address. But there are a fair amount of folks that aren't the repeat offenders that are coming through. We can certainly do some follow-up to get some numbers.

Commissioner McCown – At the end of the day a very important point was brought up by you and John, this is a voluntary program. An individual can go in and out of this program at their will and often times their will changes as their level of sobriety changes. You can go through those same stages of treatment with that individual numerous times a year, when they get to a certain level they walk.

Michael – Generally when we see them it is involuntary.

Jackie – We are not coming here today with a special program. We wanted to come today just to provide information and education that this is something that we as a community need to tackle. Shifting gears to something more positive we did hear. The Human Service Commission did get the information from Ed Green that there are additional funds available for distribution. We did meet as a group last Wednesday and made the following recommendation which is we take of the left over money \$55,000 and then the additional \$103,000.00 out of the combined pot and set aside \$50,000 for what we will call discretionary spending. Our recommendation is that we immediately move towards a new grant application cycle to disperse the rest of the funds. The grant committee did meet I believe last week and are already making some recommendations around how that process will work. Our third recommendation was that come June if we have not spent that \$50,000 discretionary funds it will roll into whatever our grant amount request is in June.

Commissioner Martin – Good to have a cushion. He thanked them for the presentation.

BOARD OF HUMAN SERVICES –LYNN RENICK

APPROVAL OF EBT/EFT DISBURSEMENTS FOR SEPTEMBER, 2007

For the month of September 2007, client and provider disbursements for allocated programs, totaled \$217,744.27. Client benefits for Food Assistance Totaled \$123,652.72. Total EFT/EBT disbursements for September equaled \$341,396.99. A copy of the certification summary has been included and the Department is requesting Board approval and signature.

Lynn – Reviewed the disbursements and requested approval for the September disbursements equaling \$341,396.99.

Commissioner Houpt – so moved. Commissioner McCown – second

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES - CONSIDERATION AND APPROVAL OF THE MEMORANDUM OF UNDERSTANDING WITH THE COLORADO DEPARTMENT OF HUMAN SERVICES FOR COLORADO WORKS AND CHILD CARE ASSISTANCE PROGRAMS

The CO Works Program is funded by federal Temporary Assistance for Needy Families (TANF) funds. The term of agreement in this MOU is July 1, 2007 through June 30, 2008. A copy of the MOU was provided.

Lynn stated this is an every year MOU; she requested approval.

Commissioner Houpt – So moved

Commissioner McCown – Second

Carolyn – Lynn and I discussed some language changes in this document from last year. The only one that could have been a potential legal effect is at the bottom of page 10 small letter g, they took out the information that says if any automated system developed by the department is incompatible with any existing County system and a reporting error or discrepancy results, the department shall not impose sanctions on the County. Lynn says she is not concerned about that. I have no clue what instigated the deletion of that language.

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Lynn – I think semantics.

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES - CONSIDERATION AND APPROVAL OF THE FATHERHOOD SERVICES CONTRACT WITH THE STATE OF COLORADO

The amount of this contract is \$50,000.00. This money will be utilized to support the Department’s Family Connections/Responsible Fatherhood Program.

Lynn – Requesting signature and approval

Commissioner Houpt – so moved

Carolyn – Did you get the correction pages on the special provision and on the signature page?

Lynn – Yes

Commissioner McCown – second

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES - CONSIDERATION AND APPROVAL OF ASPEN VALLEY MEDICAL FOUNDATION AFFILIATE GRANT CONTRACT FOR THE EARLY CHILDHOOD SOCIAL EMOTIONAL INTERVENTION PROGRAM

The Department’s Child Care Consultant, Ericka Meade Anderson, wrote a grant proposal to the Aspen Valley Medical Foundation in support of the Department’s Early Childhood Social Emotional Intervention Program. The proposal request of \$5,000 has been fully funded.

Lynn – Wanted to bring this to the full board.

Commissioner McCown – Move to approve the grant and the Chair be authorized to sign.

Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

BOARD OF HEALTH

PUBLIC HEALTH - HIGHLIGHTS

Jim Rada – Ample supply of flu vaccine this year. November 6th is the targeted date for County employees in Rifle and Glenwood. We have an active TB case in eastern Garfield County which is zapping a lot of resources. These cases take a lot of time and attention. Jim stated it is great we have experienced staff to help with this.

PUBLIC HEALTH - ENVIRONMENTAL PROGRAM UP-DATE – JIM RADA

Draft report is due out to me this week. Hopefully final report out in a few weeks. I met last week with Dr. Koonz and Dr. Walker regarding the health risk assessment. The household survey is still underway. The response has not been as successful as they had anticipated although they had 1% of a response so far which in Dr. Koonz’s words is still statistically significant. They have decided to supplement the telephone survey with a written survey and that goes out this week. Using the same random listings they are going to send out about 1,700 surveys both in English and in Spanish. They hope to be done with the survey part at the end of this month. They are also underway in terms of analyzing the health data they have been able to get hold of and they anticipate the draft report out very shortly after the holidays. Although their contract is up at the end of the year. I believe Dr. Koontz has been working with all the local hospitals and the state health’s statistics folks. In support of the upcoming air quality report I, as a member of the EAB Education Committee, have initiated a community seminar effort to be focused on air quality, November 15th at the Rifle Campus of CMC 6:30 PM. There will be an air quality 101 presentation for the community. It will be a seminar that is aimed at increasing public knowledge of basic air quality. What is air pollution, where does it come from, how does it act in the environment and those types of things. It will be advertised. As air quality is a pretty hot issue in this community we are really hoping the community will begin to participate at this level to get some knowledge and as we move down the road into other efforts that we will have folks that will be able to actively participate in a number of other efforts. There will be a second seminar November 29th in the same location, same time. That one will deal with air quality regulation, how does that work, who does it, those types of things and follow that with a discussion about risk. What is risk and how does exposure relate to risk. All of this is being done to tie into the release of the air study and the health risk assessment coming up. I mentioned the last time I visited with you that we are being awarded two EPA grants. I want to give you a brief rundown on the text that will be associated with those grants. The first grant is called Regional Geographic Initiatives Grant that is from EPA Region Eight that is \$107,000.00. This grant, the basis of it is around energy development and air quality impacts. It is a 1 year grant and will encompass four main tasks. The first task will be short term targeted air quality monitoring. We are trying to take that next step in getting at what health risks may be associated with energy development by doing targeted air monitoring around energy development sites. Be it during drilling, during completion work, during production we are in the midst of trying to put the monitoring plan together. We are working in a cooperative agreement with EPA and the State Health Department so we have their technical experts working directly with us to develop this monitoring plan. It is all being done with amazing amounts of quality control and the EPA is very interested in making sure that this is a defensible study so that this information can be used in other parts of the country where there is extreme energy development going on.

Commissioner McCown – When you say energy development I’m assuming given Garfield County’s position you are going to be looking at natural gas drill? Surface coal mining and any other activities that may be related, wind farms anything that may be related to energy development?

Jim – The proposal was written to address natural gas development because that is our primary issue right now and my hope was to get deeper into this whole health risk issue. Because we continue to have comments from the general public about health concern or personal health issues related to energy development and I really wanted to get at is there really a health risk associated with exposure of emissions from this particular aspect or that. Hopefully we will get an answer.

Commissioner McCown – Will there be extensive testing on personnel who work in this environment everyday?

Jim – We haven’t finished the design of the study of that aspect but I believe this grant will focus mainly on air quality around the work site. I don’t believe we will be doing personal monitoring of individuals working on the site.

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Commissioner McCown – So the air quality around the work site will not be directly related back to any activity of the workers and/or any condition of the workers?

Jim – It will likely be related to the activity going on the well pad at the time. The second task we are going to work on with this grant, the RGI grant is an emission inventory we hope to get a better handle on emission from the energy industry and add that to our existing emission inventory that we have began developing. That would extend to other types of industries and mobile sources and other sources of air emissions in the county.

Commissioner Martin – Does it go along with the forest services air quality study on PM2, PM3 some where in there below what you are doing on PM10? They were doing a very comprehensive study in reference to the entire area. I wondered if Andrea Sears had gotten in touch with you.

Jim – She’s involved with our group. The third task is a countywide air quality issue and opportunity assessment report in communications and this report will really be designed to take all of the information that has been gathered and collected and create an assessment report. It is mainly for leadership, community leaders to understand where we are in term of air quality in Garfield County. The fourth step is the creation of a citizen’s guide to air quality issues in Garfield County that we can take and boil down that assessment to provide the community with the basic information about the area quality issues that we see in the county. The second grant is called the Care Grant. The Care* Grant is also an EPA Grant; this is a national program. (Care) is *Community Action for Renewable Environment. This is a \$99,000 two-year grant. This one is really targeted at countywide environmental health issues. When I was brought on board a couple of years ago we had a vision of creating a more comprehensive environmental health program as a part of the Public Health Department. Hopefully this work will help us to identify all environmental health issues of significance within the county and help us to then begin to prioritize and strategize on how we want to move towards addressing those environmental health issues well into the future. This work will involve three main or primary tasks; the first being a countywide environmental issues assessment. Most of the money involved here will involve contracting with an outside group to come and help us to do a community environmental health assessment. As a result of that we will take that information again and create a comprehensive citizens guide to environmental health or what we have titled a Comprehensive Citizens Guide to Health in Garfield County and then we will follow that with a two-phase public education involvement campaign and process to get people involved. As a small agency we aren’t going to be able to do it all ourselves, we will need to get the community actively involved in addressing some of these issues. Commissioner Martin – In that assessment are you going to use Saccamano Institutes Health Risk Analysis to help out?

Jim – We need all the data we can from the community and from other areas.

Commissioner Martin – I just hate to see doing study on a study which studies a study.

Jim – We want to bring all the data we can together on those issues, if it relates to the environmental health of the community. Saccamano is looking at a lot of different health issues, broad based health risks within the community; it may not be all environmentally related.

Commissioner Houpt – These are wonderful, I applaud you for bringing these grants into our county.

Jim – It is a bit intimidating to have these two large projects coming but now we are leveraging the new staff that we do have and we will be bringing on some contractual support to help us with some aspects. The thing I wanted to update you on is a project that was initiated by EnCana close to a year ago. It evolved from a water quality issues group working now towards a specific project which is being developed by the USGS. It is a USGS data depository proposal and what is currently underway in this group, which is made up of several counties including a number of different municipalities, water conservancy groups and industry in an effort to gather up all the ground water, surface water data that is out there and bring into a central place under the USGS. Then, develop this as a website accessible to a common data repository that provides energy operator researchers, consultant’s agencies and interested stake holders with pertinent information. They will also have equal access to the latest information. It also has an objective to evaluate existing water resources data for uniformity since so much of this data is in different formats; it’s really hard to bring it together and do any kind of an assessment. The third objective is to perform and publish a baseline assessment of the data once it has all been pulled together and recommend regional monitoring strategies to more economically fill data gaps by reducing duplication of effort while still meeting the regulatory requirements. There is a push currently underway to find funding for this; it is about a \$600,000 effort at this stage in terms of the base proposal. The West Divide Water Conservancy District is going to be preparing grant application to DOLA for approximately half of that amount and then between the industry and government representatives we will be looking for additional funding. USGS has also stated that they will have about \$100,000 of available funding to put towards this so that brings us down to about \$200,000 + to try to round up.

Commissioner Martin – Just to help you out Jim we already approved 2008 dollars to go towards that.

Don - \$30,000 for 2008.

Carolyn – You were going to have some outside contracting, is this going to be on an RFP basis and have you spoken to our purchasing office?

Jim – Not at this point but that grant will be several months down the road.

Carolyn – Is it going to be 2008?

Jim answered yes.

Carolyn just wants to make sure he checks in with the purchasing office and also with Mary Lynn who can show the forms for professional services contracts.

FINANCE - DISCUSSION OF THE 6TH SUPPLEMENT TO THE 2007 APPROVED BUDGET AND THE 6TH AMENDED APPROPRIATION OF FUNDS – CATHLEEN VAN ROEKEL

Cathleen – Submitted exhibits A & B regarding the 2007 approved budget and the 6th amended appropriation of funds.

Chairman Martin entered Exhibits A and B into the record.

Carolyn stated the notice was supplied to Clerk and Recorder with the actual publication. She stated the Board was entitled to proceed.

Commissioner Martin swore in the speakers.

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Exhibits A - Budget Supplement for increasing and decreasing to the 2007 existing budget and the second exhibit B is the item is the Contingency Transfer request.

Commissioner McCown – I move to close public hearing. Commissioner Houpt – second.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the 6th amendment to the 2007 budget and the 6th amendment to the appropriation of funds and Chair be authorized to sign. Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin - aye

ASSESSOR - ABATEMENT FOR GARFIELD VISION – DR. WILLIAM L. HINES – LISA WARDER

Schedule – P004680 – Tax year 2006 - \$1,671.12

Lisa – This is for personal property these assets were leased and were not owned so that would be a double assessment.

ASSESSOR - ABATEMENT FOR ROARING FORK ANGLERS – LISA WARDER

Schedule – P005024 – Tax year 2006 - \$1,553.64

Lisa pulled this abatement and said she will contact that member of the public. This abatement will go beyond you to the Division of Property Tax and they will need more clarification than is on this form.

ASSESSOR - ABATEMENT FOR ROARING FORK RENTALS – LISA WARDER

Schedule - P090002 – Tax year 2005 and 2006 - \$2,540.30/\$2,336.04

Lisa – This property is rental property that was rented for 30 days or less and under Colorado Statutes it is then exempt from taxation. For 2005 we are abating the full amount of \$2,540.30 and for 2006 we will abate the full amount of \$2,336.04.

Commissioner McCown – Move to close the public hearing.

Commissioner Houpt – Second.

Commissioner McCown – I make a motion we approve the abatement for 08-055 Schedule # P004680 in the amt \$1,671.12 and we also approve the abatement Schedule # 08-057 Schedule # P090002 in an amount for the year 2005 of \$2,540.30 and in the year of 2006 \$2,336.04.

Commissioner Houpt – second.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER THE REFERRAL OF A CONDITIONAL USE PERMIT TO ALLOW WAREHOUSE FACILITIES/STORAGE AREA – APPLICANT: BERRY PETROLEUM – CRAIG RICHARDSON

Craig Richardson explained the subject property is approximately seventeen (17) miles northwest of the Town of Parachute and is zoned Resource Lands: Plateau. Access is provided from County Road 215. The proposed storage facility will be situated on an approximately twelve (12) acre site within the 880 acre parcel owned by Berry Petroleum. The site will be graded and utilized for storage of materials and equipment. The site plan includes the location of the proposed warehouse. Marathon is proposing a twenty-four (24) hour a day operation at the site. Once construction is complete the anticipated average daily trips (ADT) generated by the proposed use is represented to be from none (9) to fourteen (14) round trips a day.

Staff Recommendation:

Due to the remote location of the proposed facility and minimal impacts to adjacent uses, Staff does not recommend referral of this application to the Planning Commission for review.

Discussion:

Commissioner McCown – Schedule it before the Board of County Commissioners.

Commissioner Houpt – If that is a motion; I will second it.

In favor: Houpt – aye McCown – aye Martin - aye

ROAD AND BRIDGE – CR 304 - KLEBOLD

BUILDING AND PLANNING - CONSIDER A REQUEST TO VACATE A PORTION OF COUNTY ROAD 304 (RICHARDSON ROAD) – APPLICANTS: LARRY AND KAREN KLEBOLD – CRAIG RICHARDSON

Planner Craig Richardson submitted the following exhibits: Exhibit A – Proof of Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Application; Exhibit E – Staff Memorandum; Exhibit F – Memo from Garfield County Road and Bridge Department dated October 1, 2007; Exhibit G – Letter from Bureau of Land Management dated September 25, 2007; Exhibit H – E-mail from Jeff Nelson, Garfield County Assistant Engineer dated September 5, 2007 and Exhibit I – Letter from the United States Department of Agriculture dated September 27, 2007. Chairman Martin entered Exhibits A – I into the record.

John Savage – Attorney representing applicants was present. He tendered proof of public notice to Don DeFord who took time to review. He Asked Mr. Savage if he could speak for the applicant in terms of the adequacy of notice and he stated he could. Mr. Savage stated they are asking for vacation of all of County Road 304 on the Klebold property wherever that may be located. Don noted that the request as Mr. Savage has stated is to vacate the public road wherever it might lie on Mr. Klebold's property. According to Don that is not what the notice provides.

Don reviewed the noticing requirements for the public hearing and determined the legal description does not imply what Mr. Savage is asking for. It is a decision for the Board whether the proper notification has occurred under your resolution and under state law.

Commissioner McCown – The problem I'm having on its face was alluded to by the applicant and by our attorney and that is the series of several maps show this public road taking numerous routes and stopping at several different locations. Several maps that I have seen clearly show this road continuing on into public land. And if that is the case then the 18 month notice has to qualify and given the history of this Board I don't think we have ever vacated any road that accessed public land. Not saying we wouldn't but I don't recall this Board ever doing it. Right now it's hard for me to make a decision on whether to go forward or not on the evidence that I have seen in the staff report on whether or not this road does access public property. I've seen no concrete documented evidence either way that it does or it doesn't so in the least I would have to ask for a continuance to see more information. And documentation on whether this road is

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in its public forum, not as a County Road but in its public format, does in fact enter into or access public land. I know the BLM has alluded to the fact that it does. I know our own County Engineers alluded to the fact that it does but I have not seen a historical map that shows me that it does so I guess that is what I would be looking for before I feel comfortable making a decision on this.

Commissioner Houpt – This gets down to the whole debate; actually because the applicant doesn't believe it accesses public land and we have heard from our staff and there are old maps that indicate that there is that historical use and it does access public lands. If we continue this there would still on my part not be a guarantee that I still wouldn't want us to require the 18 month notice period.

Commissioner McCown – That was the point I was eluding to if it does access public land the 18 month notice clearly has to apply. But until I've seen a map that says yes it does access public land or no it doesn't, I can't rule on that today because I'm not seeing any evidence other than GIS Maps that we've created for our own road and bridge use that show the roads that are in our road system.

Commissioner Martin – I did road research in the same area and there are original surveys somewhere around 1879 that the BLM conducted. I think we need to locate those particular items as pieces of evidence to see if it does or does not exist. That will clear up the debate between the BLM and Forrest Service. I'm looking for a continuance and more research by the staff to come back. I don't think we need to give the applicant the brush off and say you have to start over for another 18 months. I think we need to take this particular notice under advisement one more time and either establish it needs the 18 month period or not.

Commissioner Houpt – Can we accomplish that if we open this hearing and continue it; can we then come back and say when we have more evidence that the notice is not acceptable? Are we waving that opportunity by agreeing to open this hearing?

Commissioner McCown – Wouldn't that be the similar circumstances on any notice that is flawed if we choose to go forward; it would be subject to question and possible reversal of whatever decision might come out of it Don?

Commissioner Houpt – If we are looking for maps the BLM stated they had some evidence and we would want to check with them.

Craig – Also regarding the letter of the Forest Service and the BLM they are not contradicting each other. The Forest Service is saying they do not manage lands at this road and BLM says that they do manage lands that this provides access to.

Don – One of the problems I'm struggling with is we focused on the 18 month notice and maybe appropriately so but I don't want the Board or the applicant to just go by the problem I'm looking at in terms of the description of the property for which vacation is being sought because in a way they are related. The applicant in the notice has set forth a specific alignment for the roadway. But that alignment does not provide access to public land. But we have also discussed the possibility that there are other alignments other than the legally described alignment that we have on this property for which the applicant is also seeking vacation by this Board. We don't have a description for those properties and it is those other alignments that may in fact provide access to public land. So it makes it difficult to decide where we are in the sense if we are only proceeding on the legally described right-of-way that can be laid out on the ground; a determination can be made whether that contacts public land or not and we can go forward. But that doesn't end the question if the applicant is seeking vacation for road alignments that have not been legally presented.

Commissioner Houpt – I don't think I would agree with going forward.

Commissioner Martin – With the possibility that the access to public lands will be vacated by any action found in the defendants favor and therefore proper notice has not been served to the general public because it has not been depicted legally for access to the public lands then to me that is a vested right, access to public land. If it was there prior, again out of the private sector and had been established as a public transportation corridor to public lands, I don't think it's our right to go ahead and vacate without locating it.

John – I was going to ask for a continuance. I filed this as a generic filing for all the existing and possible configurations of the road. I made the mistake in not including in the notice both the specific plus all those other roads wherever they may exist. I can't describe those roads. The best I can do is say as shown on road map dated X. We are requesting a continuance anyway because of new information and as Don has pointed out my notice is defective. The access to public lands issue is a little more complicated and I am not sure how to deal with that but the bottom line is if we felt this road had any evidence of providing access to public lands as configured we wouldn't be here. We are not admitting the road exists at all because as far as we know there are no deeds, no easements etc. We are not conceding that a road exists at all except for the purposes of this vacation. If one's there we ask to vacate it. This may not be the proper forum to pursue this matter. We may have to go to court. Then we come back and say okay a judge says there is no road here, and then we can vacate.

Commissioner Houpt – So I don't think you're talking about a continuance you are just withdrawing your application.

John – No, I would like to continue it for now.

Commissioner Houpt – If there is a problem with notice we can't continue anyway.

Don – If the notice is defective you can't open the hearing and I would suggest appropriately we can re-set this hearing but it should be re-noticed. It should be vacated and re-set for a different date allowing adequate time for John to complete his research.

John – We may have to do the 18 month notice so it doesn't procedurally become an issue. I would look at something after the first of the year.

Commissioner McCown – If that is a possibility for your client, there is not a problem scheduling hearings after the first of the year. Why don't you visit with them and see what they want to do and then contact the Planning Department and reschedule.

Commissioner Martin – The finding will be the notice is defective therefore the public hearing cannot go forward and we will give you the option to re-file.

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BUILDING AND PLANNING - CONSIDER A CONDITIONAL USE PERMIT FOR STORAGE LOCATED 6.5 MILES NORTHWEST OF THE TOWN OF PARACHUTE – APPLICANT: PETROLEUM DEVELOPMENT CORPORATION – KATY MIDDLETON

Michael Howard, Katy Middleton, Steven A Bain, Kent Lynberg and Tyson Johnson were present.
Kent Lynberg answered questions on notification.

Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner Katy Middleton submitted the following exhibits: Exhibit A – Proof of Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff Memorandum; Exhibit E – Application; Exhibit F – Garfield County Oil & Gas Department Comments dated 9/27/2007; Exhibit G – Garfield County Road & Bridge Department Comments dated 8/29, 2007; Exhibit H – Garfield County Vegetation Management comments dated 9/24/2007; Exhibit I – Mountain Cross Engineering Comments dated 9/25/2007 and Exhibit J – Town of Parachute Comments dated 9/27/2007.

Chairman Martin entered Exhibit’s A – J into the record.

Planner Katy Middleton explained the Applicant requests approval for a Conditional Use Permit for Storage to operate a laydown yard for drilling supplies and materials. This proposed use involves storing drill pipe and casing, drill bits and rig parts, drilling mud supplies and a forklift. The storage site will comprise a total of 2.75 acres. The subject property is approximately 5,000 acres in size. The drilling supplies and materials will be transported to drilling operations in the area. These drilling supplies and materials are required for natural gas extraction. The laydown yard will allow for employees to obtain necessary supplies without having to access public roads and thus reducing the traffic on County Road 215. The location of the laydown yard will minimize travel time and distance which will provide safer travel especially during winter months. Hours of operation are proposed to be 24 hours a day, 7 days a week. This site will not have employees based at the laydown yard full-time. One semi-trailer, 6-9 pick-up trucks or larger will be accessing the site during a week period. The laydown yard will be covered with 6 inches of gravel to minimize dust.

Staff Recommendation

Due to 1) the extreme remote location of the storage area centrally located on 5,000 acre property, 2) limited nature of potential impacts, and 3) the reduction of traffic on the County Road System, Staff recommends the Board approve the request for a conditional Use Permit for Storage for the Petroleum Development Corporation Laydown Yard with conditions and Staff read the conditions.

Discussion:

Commissioner Houpt – Was there a need for storm water management plan for this laydown and would that be part of the condition? I would like to add that as part of the condition.

Steve – Had a question about the bond.

Commissioner Martin – All conditions will be discussed if we go forward. That is usually to be held for re-vegetation to make sure it is returned to its natural state.

Tyson – We are going to begin winter hours and so our application is still pending with the temporary employee housing. With the safety issues involved in traveling up and down the mountain, especially large trucks this laydown yard would alleviate a lot of that and give us a place to stage our drilling needs.

Commissioner Martin – The whole purpose is to have a staging area so you are not moving back and forth daily is that correct?

Tyson – Correct.

Commissioner Martin – Asked if they had the agreement to get through the guard gate onto Garden Gulch?

Tyson – Explained they are the operator of the Garden Gulch Road.

Commissioner McCown – Was it your idea to fence the laydown yard with the 8 foot fence or was that staffs?

Tyson – We are going to fence the entire area; it will be enclosed with the laydown yard and the man camp to prevent any wildlife interaction.

Commissioner McCown – Why? Two and three quarter acres in the middle of a 5,000 acre parcel with human activity.

Tyson – Another issue is protecting the property that it is on there as well; security issues we are going to put a guard at the entry point.

Commissioner Martin – And that is because it is a shared road and there are other uses on that particular road even though you control it. You’re going to protect your interest by fencing your laydown yard.

Tyson – Explained there was a lot of valuable equipment that is small enough to be taken away in a pick-up truck. Tyson also explained again that the security is for the entire facility not separate for the laydown yard and the man camp.

Katy – The applicant had stated they would fence the entire area, the laydown yard and the proposed temporary housing. They also stated in their application they were going to build an ISDS system large enough to facilitate anyone accessing the laydown yard if they needed to use the restrooms. But at this time staff cannot go on the assumption that this proposed temporary housing will be approved so that is why staff is proposing that the laydown yard be fenced separately in case the proposed temporary housing is not approved and the same with the portable toilets.

Commissioner McCown – Actually the application that is being dealt with today is only 2 ¾ acres. If they incorporate the temporary housing, the leech fields and the other operations are going to take place that entails a much larger footprint that we can’t discuss today. All we are discussing today is the 2 ¾ acres.

Katy – The applicant had stated in their application in order to prevent wild life from being able to access the site they were going to put in fencing. That was fencing for the two different facilities. So staff had said if they were going to do that they would have to fence in the laydown yard separately. The 8 foot requirement is from the Colorado Division of Wildlife.

Tyson – Our plan is to build everything at once when permits are approved.

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Commissioner Houpt – Asked if they were putting this on hold until you know what happens with your permit?

Tyson – We submitted both of these at the same time with the expectation that one may take longer than the other.

Commissioner Houpt – Are you planning on building this if the temporary housing permit is not approved?

Tyson – Yes

Commissioner Houpt – Add a caveat to have the sanitary facilities (chemical toilet) when or if an application for temporary housing is approved.

Tyson – Could we add the changes to this stand alone to our temporary employee housing permit to alleviate those? Would that work to come back when we sit in front of you for the temporary housing to change what you request?

Commissioner Martin – Conditions in reference to the fencing can be readdressed if you have a larger piece of property that you want to use.

Commissioner McCown – A building permit will address the fencing tomorrow. They can apply for a building permit, build a fence around the entire perimeter; it has nothing to do with this conditional use permit.

Commissioner Houpt – As long as it complies with the condition that staff is recommending if that is what we adopt. You had recommendations in your power point that I am not seeing in here. Do you want those to be incorporated in?

Katy – Staff added two conditions of approval which was the requirement of a noise analysis prior to issuance and the requirement of wildlife analysis prior of issuance of the permit.

Kent – With regard to the noise analysis I don't think that is something PDC is opposed to doing but considering the fact that the laydown yard is going to be accessed by semi-trucks, pick-up trucks, vehicles that are basically currently permitted, licensed to travel on roadways and meet any state and federal requirements, I guess I am wondering since the noise analysis has to be done before the CUP can be issued, it would be sort of a paper study not necessarily something we could go out with field instruments and do a voice analysis. I don't quite understand the process there.

Fred – The Board's regulations actually require the noise analysis be submitted at the time the application is filed with the County. In your application there was not an analysis provided and this has been an issue with this Board on laydown yards counting the last at least where an analysis had to be performed prior to issuance so that you can demonstrate that you can meet the states guidelines.

Commissioner McCown – I've questioned this regulation because it has to be in a similar location and finding a location as remote as this one to test an existing lay down yard for sound is going to be a little tough. You cannot test one adjacent to Interstate 70 that is currently being used and get the same results as you would this one that is seven miles up on the top of the Mesa. So how does an applicant come up with a like kind and like method of testing on a remote location like this?

Fred – that is a great question for the applicant since it is their burden to demonstrate to you.

Commissioner McCown – I know it's their burden of proof but if it's not done properly we don't accept it. Rather than keep the dog from chasing its tail we need to build one somewhere in a remote location so we can get base line data. You can't get the permit until you get the sound analysis, you can't get the sound analysis until you build the laydown yard. It's a catch 22 on behalf of the applicant. I would be terribly frustrated unless I could find someone else that had one on a ridge that is this far away to test it on.

Fred – The most recent one we had came before you a couple of months ago which was McCloud. Not a dissimilar scenario than this. You didn't have I-70 right next door so these do exist and again it's their burden.

Commissioner Martin – Any piece of equipment that has not measured in sound, from the diesel to a crane, to a pick-up truck.....no race and rail up there with no exhaust...

Tyson – That is exactly what is going to be accessing that site is pick-up trucks and semi-trucks, forklift, loader, etc. Are we allowed to get a sound analysis from someone else's site?

Commissioner Martin – Sure, doing the some type of labor.

Fred – The test is to measure at least the way we measure it, which is to stand 25 feet off of the boundary line.

Tyson – Due to cost and activity that we have up there would a test on our own property without the laydown yard suffice?

Fred – No, you have to represent an operation that you are proposing.

Tyson – We have rig sites, we have sites that all this equipment is being used on.

Commissioner Martin – If it is the same equipment and the same confined type of space I would say....

Commissioner McCown – With the exception you would have the rig noise at that location that you wouldn't have on the laydown yard scenario.

Tyson – In regards to bonds, \$11,000.00, and trucks permitting under that bond?

Commissioner Martin – Two separate issues, the bond is for re-vegetation; it's based on a couple thousand dollars per acre.

Katy – It was \$4,000 per acre. The County Vegetation Management made it higher per acre because he looked at this as a longer term versus a short term use.

Tyson – My question on the permitting of trucks that we submit a list of trucks that are permitted to do so. These trucks are permitting under, currently the rigs that they are operating for, when they bring the loads from Denver or wherever they are coming from would this be an additional permit?

Commissioner Martin – This is an overweight oversized permit on county roads from 215 to Garden Gulch they will need to have a permit to go across those County roads.

Commissioner McCown – Only if overweight

Tyson – so if they are currently doing that under the rigs, they just need to give a copy

Commissioner McCown – Everyone stated correct and Larry stated if they are a legal highway load they would be legal and would not need any over weight...

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Kent - With regard to the weed inventory, Exhibit H talks about the applicant submitting and inventory, staff recommendations were to do that prior to any construction. Do you want us to inspect and map the weeds prior to any construction?

Commissioner Martin – Explained that to be correct because of the migration of those particular weeds etc. We need to know what is there and what you are doing to control them.

Commissioner McCown – Move to close public hearing.

Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner Houpt – I make a motion we approve the Conditional Use Permit for a laydown yard for Petroleum Development Corporation with recommendations brought forward by staff, I have a few adjustments and additions, under number 6, I would like to add they supply a portable chemical toilet until the time when or if an application for temporary housing is approved and if temporary housing is built in the location of the laydown yard and then the facilities for that development can be used in place of that and I would like to add number 11, the requirement of storm water management plan and number 12, is requirement for noise analysis as recommended by staff and 13, wildlife analysis as recommended.

Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT TO ALLOW A CONTRACTOR'S YARD – APPLICANT: GEORGE STRONG – CRAIG RICHARDSON

George Strong and Kay Isle were present; Kay Isle answered all questions.

Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner Craig Richardson submitted the following exhibits: Exhibit A – Proof of Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Application; Exhibit E – Staff Report; Exhibit F –Memo from Garfield County Road and Bridge Department dated July 31, 2007; Exhibit G – Memo from Garfield County Vegetation Management dated August 27, 2007; Exhibit H – Letter from Grand Valley Fire Protection District dated August 10, 2007; Exhibit I – Letter from the Town of Parachute dated August 14, 2007; Exhibit J – E-mail from Dan Roussin, CDOT dated August 15, 2007 and Exhibit K – Memo from Mountain Cross Engineering, Inc. dated August 14, 2007.

Chairman Martin entered Exhibit's A – K into the record.

Entered in Exhibit from applicant Exhibit L – Dan Roussin and Exhibit M – Well Permit

Planner Craig Richardson explained the Applicant has submitted a Special Use Permit to allow a "Contractors Yard" on a property situated within the Agricultural residential Rural Density (ARRD) Zone District, southwest of the Town of Parachute. A Contractors Yard is contemplated as a Special Use within the ARRD Zone District. The subject property is approximately eighteen (18) acres in size. The Applicant is seeking approval of the proposed Special Use Permit in order to lease out an area of the subject property for storage of oil and gas equipment including an office area. Storage of equipment will be conducted indoors and within an approximately six (6) acre storage area. The Applicant's site plan identifies the proposed storage areas "Parcel 1". The Applicant's request is consistent with the definition of a Contractors Yard approved by the Board of County Commissioners.

STAFF RECOMMENDATION

Staff recommends approval of the proposed Special Use Permit allowing a "Contractors Yard" with fifteen conditions. Craig read the conditions to the Board.

Discussion:

Kay – Presented a power point presentation. Only 6.02 acres are to be used as Contractor's Yard. The traffic study was given to you on September 18, 2007 and is in your packet. Strong's have been in the valley for four generations. They have received a driveway permit from Garfield County giving them approval to have the driveway. It has been paved and the stop sign has already been installed. She continued to show pictures of the area. We would like clarification as to heavy equipment definition. We ask that Garfield County apply for the state access permit for 6 & 24 Road and removed the filing of the permit as one of our requirements. Both our traffic study on Page 20 under recommendations states that they feel that Garfield County should apply for the access permit. She passed out e-mail from Dan Roussin with CDOT stating Garfield County should apply for the access permit and it also states that this has gone up 60% in the last year as far as access on this property. We only have 12.6% increase in this traffic and it is rather misleading when you read this because he says it has increased 60% in last year but ours is only 12.6%. He did receive this traffic study approximately September 20th and I just got this from him this morning when I got into the office. We would also ask the Board of County Commissioner to allow outdoor storage on this site as part of the approval of the SUP. We just need a clarification on that; we would be willing to screen this area. We don't know if we could do much screening from I-70 it is not adjacent to this property. We also have received the permit approving our commercial well and submitted it for the record.

Craig explained he did not refer to the new traffic study because the opinion letter he had required a state highway access permit and was waiting for a new opinion. Also regarding Dan Roussin's memo, an access permit is not required as a result of this use which would with draw his former opinion.

Kay – He does state Garfield should apply for the access permit and that is what we are asking for.

Craig felt this did not cancel his past e-mail in his opinion.

Commissioner Martin found it interesting with the upgrades to County Road 300; he is saying it would make a monumental effort for us to meet that requirement which is already met.

Kay stated our own road and bridge people say this isn't going to impact County Road 300. We don't have direct access on Hwy 6 & 24; we have direct access on County Road 300.

Craig – Right now it is staffs opinion that it will require a state access permit. As far as outdoor storage, everything but heavy equipment and materials that could transferred off site would be allowed outside.

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George Strong – This might actually relieve some of this traffic stuff. That road services a whole lot of area to the south, southeast, southwest (CR 300). There is actually quite a need for someone to help service that area.

Katy – One thing with an access permit, if we are required to do an access permit and then CDOT requires an excel/decel lane that will be an undo hardship on Mr. Strong. He shouldn't be required to do that on his own when he has such a small impact. The larger impact is due to the oil and gas industry around him, they come in here from out of area and have a tremendous impact. This is one of our larger concerns. In order to get an access permit Mr. Strong would have to create a decel lane on Hwy. 6 & 24. That would create a considerable hardship on him and we really appeal to you to help us with this issue. We feel that the very small development Mr. Strong is doing is not going to create a problem. Everyone has been aware of this problem for quite a few years. It is in the state statutes that Hwy 6 & 24 needs to be upgraded and that should not be on Mr. Strong to do it all by himself.

Mr. Strong – We would be glad to help after this whole thing gets amended but everybody needs to jump in there.

Craig – The opinion came from this proposed use and in the past and the Board has required the applicants to be responsible for any improvements.

Kay – Our traffic study shows it is not 20% and there is no impact. Discussion occurred again about Dan Roussin's statement.

Commissioner Martin – He will need to address that issue, if it is or is not required and he will grant an access permit to George or he won't and we will need to discuss it then.

Mr. Strong – This has been a discussion with Don the County Attorney on this access issue. Walt Brown couldn't be there but we have addressed this with Don and Don has talked to the state and I'm not sure where that is. According to state I can't apply for it, the County has to.

Craig informed Mr. Strong that was incorrect.

Michael – You have to be authorized but you can apply.

Commissioner McCown – I'm a little cloudy on why the applicant should apply for an access permit when he is accessing County Road 300 as opposed to Hwy. 6 & 24.

Craig – Because he is at the intersection of Hwy. 6 & 24 and CR 300.

Commissioner McCown – It has to exceed 20% in order for it to require an access permit.

Craig – Correct and all we need from Dan Roussin is a statement agreeing with this new report.

Commissioner McCown – And this was generated this morning?

Kay – Yes, he states the County has to apply.

Commissioner McCown – The County is not going to apply for an access permit.

Kay – Felt Dan was lumping Mr. Strong in with everyone else and stating it is 60% in the last year. The 15 vehicles coming off this property is very small number considering what else is going on in the area especially for the gravel pits. It has a much larger impact than we have and we are 250 feet from Hwy. 6 & 24 we do not access Hwy. 6 & 24.

Craig – Felt the traffic reports should demonstrate the number of uses that go in which direction, which day etc. Craig stated that right now we have an opinion letter from him stating this proposed use requires an access permit and I agree the number seemed to me a little skewed in the first traffic analysis. We have to go with what we have in front of us right now – that is the report from Dan Roussin.

Commissioner McCown – Move to close public hearing

Commissioner Hout – Second. In favor: Hout – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the special use permit allowing for a contractors yard with the conditions recommended by staff. I'm really struggling; I think we can scratch no.13; I'll leave no. 5 in there but I'll be quite candid with you I'm struggling with it. He issued this today and had time to view the latest study. What do you think the odds are of a new opinion letter from Dan?

Commissioner Hout – He didn't even answer the questions.

Commissioner McCown – No but you have to remember who we are dealing with.

Commissioner Hout – second

Commissioner McCown – Asked of counsel if we could remove number 5? Do we have the authority to remove number 5 from our conditions of approval and blow the state off and give them access?

Michael – I would advise you against it. The question is and Craig is correct, they do increase the traffic on the state highway however slight. And if the traffic study demonstrated that if it showed it went to each direction it would only include that which went towards Hwy. 6 & 24 and if that was not 20% and it was agreed that it was not 20% we wouldn't have to go through this.

Commissioner McCown – And the study showed it was 12.5%

Michael – Their study showed it was 12.5% and that has to be verified and reviewed and that was received on....he doesn't state by review on that; it doesn't increase it by 20%, he doesn't address....

Commissioner McCown – And that is the point I'm getting to. This is hinging on one persons reading of a traffic study pertaining to this particular operation, he's incorporating other traffic studies into this that are not directly related to this operation.

Michael – It would be my recommendation that a specific finding be made regarding the increase of traffic if that is your preference.

Commissioner McCown – If we support the traffic study as presented showing a 12.5% increase it does not meet the legal requirement of 20% to require a state road access permit.

Michael – It would be a question of fact, you need to decide and you would not be ignoring the state requirement nor our regulations. That would need to be part of your motion.

Commissioner McCown – I would like to amend my motion to strike number 5 based on the evidence as presented by the traffic study done by Drexel Barrel and Company and the evidence showing that the traffic increase of a maximum of 12.5% will be shown and that does not in fact meet the states threshold of 20% to required a state access permit

Craig – Does the new traffic analysis vacate the old traffic analysis that we already have an opinion from Dan Roussin on?

Commissioner McCown – That is my opinion and what I am basing my motion on.

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Commissioner Hought – second. What I’m reading in there is recognition that this one use can’t alone impact it above the 20%. That it is an accumulative impact and for that reason I think CDOT should have planned ahead with access permits. I have to agree with Larry’s approach.

Commissioner McCown – A significant portion of the impact that is facing County Road 300 everyday is outside of the permitting ability of Garfield County. Another state agency CDOT and maybe Mr. Roussin should be referred to and talk with, because we do not have the ability to permit the majority of the activity on that road.

Commissioner Martin – We have an adjustment to number 5.

Commissioner Hought amended her second. In favor: Hought – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT TO ALLOW A PLANT FOR FABRICATION OF GOODS FROM PROCESSED NATURAL RESOURCES – APPLICANT: BLUE OX LOGCRAFTERS, LLC – CRAIG RICHARDSON

William Argross, Attorney and Roger Sherman were present. Bill Argross answered questions.

Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner Craig Richardson submitted the following exhibits: Exhibit A – Proof of Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff Memorandum; Exhibit E – Application; Exhibit F –E-mail from Gale Carmoney, Town of Silt Community Development Director dated October 10, 2007.

Chairman Martin entered Exhibits A – F into the record.

Planner Craig Richardson explained that the Applicant is seeking approval to operate a hand crafted log home business on a property located approximately two (2) miles east of the Town of Silt on the I-70 Frontage Road. The subject property is situated within the Agricultural Industrial Zone (AI) District. Fabrication of Goods Processed from Natural Resources is contemplated as a Special Use Permit in the AI Zone District.

STAFF RECOMMENDATION

Staff recommends approval of the proposed Special Use Permit allowing a “Plant for Fabrication of Goods Processed from Natural Resources” with the twelve (12) conditions. However, the application was submitted to Gale Carmoney, Town of Silt Community Development Director, for review on October 3, 2007. At the direction of Garfield County Attorney’s Office the application was sent directly to the Town Trustees (October 10, 2007) for review to satisfy the intent of Colorado Revised Statutes 30-28-138 and 31-15-507 (1) (D) regarding referrals to municipalities, Staff is recommending a continuance of this public hearing until December 3, 2007.

Discussion:

Craig – There have been issues in this area with other uses in the town of Silt.

Commissioner Martin – You wish to present the information but hold the decision making until the December meeting is what you are asking?

Craig – That would be my recommendation.

Commissioner McCown – The question I have to ask is the notification to the Town of Silt, was that not timely?

Craig – Not necessarily, what the state statute requires is that it goes to the governing body and from reading this letter I did not feel that the Community Development Director presented this item to the governing body, he just reviewed it himself.

Commissioner McCown – How do we ensure it ever gets to the governing body?

Craig – I sent it directly to them. Craig said he saw Commissioner McCown’s point that they might give it directly to the Board and never review it. Don DeFord recommended certified mail receipts. General consensus was to do it this way.

Commissioner McCown – Feels the planning individual doesn’t deem this as a priority and has set it aside. What does this do to applicant?

Bill – We would like to proceed forward today; we did mail public notices to everybody. We feel the only issue that will be on the table is the Town of Silt for this December 3rd hearing. We most certainly don’t want to go forward today and then have them come back and challenge the decision of this Board.

Commissioner McCown – It could be on consent agenda. I think my recommendations are incorrect. It is still dealing with County Road 300, No. 4 for instance.

Craig – You are correct. It will be struck. Craig went ahead with his staff report. Craig received an e-mail from Chris Hill this morning who reviewed the application and he is suggesting a requirement that the ISDS, due to its location and vicinity to the river, be engineered. Dan Roussin sent an e-mail to Craig that was not included in the presentation and asked what was going on with the subject property and was sent a copy of the staff report. Dan stated that the state highway access permit has expired so they will have to redo that application. The application did not include a drainage & erosion plan. Staff suggests that the Board require submittal of this plan for review prior to the issuance of the special use permit. Craig continued through the application that includes a caretakers unit. It is staff’s interpretation that this will be the single family dwelling unit on the property and the special use permit will be tied to that. There will be an office in this unit but is approved as part of the special use permit. Staff is requiring that be limited to an employee of Blue Ox LLC.

Bill – Explained it is a locally owned small business, these homes are hand crafted. He brought pictures and passed these out to the Board. The purpose is to emphasize they are not in the business of cutting down trees, stacking them up on their land waiting for trees to dry and having a visibly huge yard. 99% of their business is done right here between Rifle and Aspen. It is a very hands-on quality crafted log homes. They only produce a few homes a year if that. These logs are hand peeled using draw knives, cut to size and fit tightly and close together. Not the type of operation where you have a mill running all the time or chain saws running. It is a hand method to fit logs together. Blue Ox has been in business for over 12 years. In Silt for over 9 years near the Spruce Meadow Subdivision, which is actually encroaching on the saw mill property where they are leasing now. They purchased this land almost 6-7 years ago and the

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purpose was to have an area to fabricate these log homes and people could see they type of homes and the quality of homes. It is approximately 2 miles east of the Silt exit and we believe it is ideally suited for this low impact type of industrial use. We think they will be good neighbors to the community and we think it is the type of business that should be allowed to proceed along I-70. At this time we are asking for approval of a building envelope; he had a chart of area that showed a larger photo of log yard which is included with application. We did have a driveway permit but it is expired; we will of course renew. Regarding the caretakers unit, Bill explained they were somewhat surprised when asked to have only employees of Blue OX Logcrafters allowed to use that. We don't see an issue really; we think people will be standing in line to be able to have this caretakers unit. In the event something were to happen in the future to the business, I'm not sure whether that type of requirement is absolutely necessary. I would ask you to visit that issue. He believes it will be an employee living there. Along the boundary line we voluntarily put a 15 foot set back and went further to have a 75 foot set-back from the property line and that is all the way around the property. It's not even close to wetlands. The mill is located substantially right in the center of property and will reduce the sound that would occur even greater than we would be allowed permissibly to do. The sound study shows we are meeting all of the criteria for Colorado statutes. In fact we went further, you will find at full load operating conditions the sound of this project will be at the ambient noise levels to the nearest residence. They are not going to hear us. With regard to staff recommendations we really don't have many issues to explore. The stop sign will be gladly put up. We will have the state highway access permit in place. We will draw a site plan according to scale by a surveyor showing the location of the flood plains and the wetlands. The site rehabilitation plan we don't see as an issue. We will follow if necessary but please understand we are not producing a lot of dust, much of anything aside from natural processes which involve saw dust and wood shaving which actually forms a natural mat on the ground. There are no chemicals used in this process. There is almost no waste water used. Don't know why a re-vegetation survey would be appropriate or necessary but in the event the business moves, all that will be left will be natural sawdust or wood mat on the ground. With regard to the well permit and the ISDS we are looking into what the tap fees might be, so that may not be an issue of course if we are going to do an ISDS we understand the necessity for it.

Commissioner McCown – I think you will find out there is nothing available on that particular side. The service line was run east of town to service Coal Ridge High School so to my knowledge there is nothing there unless they bored under the road. They told you it was 3 times the regular amount, Silt did whatever their tap and service fee would be. It is in an e-mail.

Commissioner Martin – Even though you have an easement that allows that water and sewer line to go across that property.

Bill – We are also asking that we be able to begin operations before we construct the single family residence on the property. No utility service is necessary to begin our operations. It is our intention within a year of approval to submit building plans because we do want a representative building on the property as well the necessity for an office. It would be helpful if we would be able to occupy the property, perhaps move some logs onto the property and in that case we would request the temporary use of a port-a-potty until the building plans are approved. Any questions?

Commissioner McCown – Are you going to have a crane on site to pre-erect these log homes as you are building them? Sky crane or tower crane, what are you using and how tall is it?

Roger Sherman – Right now we just have wheel cranes. Longest boom we have is 100 feet. They are stored at night.

Commissioner McCown – Am I understanding today that for all purposes and intent, we will agree on conditions of approval and so read those into the record but not approve this project until December the 3rd?

Michael – You probably have two options. First not to close the meeting and to leave the public hearing open and continue it to a time and date certain in December and you can say this is where we are going and make comments on conditions. You can't set conditions unless you close the hearing and make a ruling. If you choose to close the public hearing we would need to request that the applicant, thinking you may reopen it, then I would suggest that the first is the better of two options.

Commissioner Martin – If we were going to close the public hearing the motion would then be to deny. If you are going to keep it open what you would do is say "if" we were to approve, these would be the conditions etc...and we will reconsider that and close the public hearing on December 3rd.

Michael – At that time you would have to again request public comment, you would have to present information.

Commissioner McCown – Is it appropriate today to make changes that I deem necessary to the conditions of approval or do you want to wait until the 3rd of December?

Commissioner Martin – No let's go ahead and make any changes now so we can consider those and then take them under advisement again.

Commissioner McCown – Knowing in fact it will not be approved today with those conditions. I think number 9 needs to have an addition that states as long as a special use permit is active.

Commissioner Martin – So the proposed caretaker unit shall be occupied by an employee as long as there is a business there.

Commissioner McCown– Yes, as long as the special use permit is active. If that becomes inactive it will be treated as any other single family residence. Everyone agreed. And I would add number 13 that the applicant would be allowed to begin log operations prior to construction of the home office which must occur 1 year from the day of the issuance of the special use permit.

Bill – Within a year or an application presented to the building department.

Commissioner McCown – Built within a year.

Bill – Would we be allowing a port-a-potty?

Commissioner McCown – Yes, until it is built.

Craig – operation can't begin until the SUP has been issued correct?

Commissioner McCown- Right, but we have given the variance that they could begin the log operation prior to construction of the home.

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Bill – One other issue, we haven’t discussed it but the staff finding that the board may require screening of the purposed use is an issue which is especially burdensome for us. Especially considering the agricultural/industrial corridor and the fact that the interstate is substantially higher than this property there is virtually nothing we can do screening wise. We request that screening not be a consideration that the Board would require.

Commissioner McCown – I would concur there is no way to screen this.

Commissioner Houpt – What needs to happen with condition 4?

Craig – Scratch – this is a requirement of CDOT.

Commissioner Martin – Is there a motion to close on finding?

Commissioner Houpt and McCown stated no motion to close.

Commissioner McCown – I did have some questions and I concur with Chris Hale and his opinion on the noise survey but as I look through here I see that the distance 25 feet beyond the property line and any where I read where the studies were conducted they were 100 feet.

Craig – They are representing that all fabrication will be conducted within the little building down below so it basically is a condition of approval because it is a representation by the applicant.

Commissioner McCown – But the sound readings have to be taken 25 foot from the property line and it didn’t indicate in the study that they were. They were taken x number of feet from the source point.

Commissioner Martin – Do we have a motion to continue until the 3rd of December?

Commissioner McCown – 1:15 time. Commissioner Houpt - Second

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT LOCATED NORTH OF THE CITY OF RIFLE AND DESCRIBED AS 758 COUNTY ROAD 296 – APPLICANTS: CARMEN AND LINDA CRONE – DAVID PESNICHAK

Carmen Crone was present and answered all questions.

Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner David Pesnichak submitted the following exhibits: Exhibit A – Proof of Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended and Exhibit D – Staff Memorandum; Exhibit E – Application.

Chairman Martin entered Exhibits A – E into the record.

Planner David Pesnichak explained the applicant requests the Board of County Commissioners grant a Special Use Permit (SUP) for an Accessory Dwelling Unit (ADU) located on a 35.8 Acre parcel, described as 758 County Road 296 and located north of the City of Rifle. The proposed ADU is an existing 1107 square foot stand alone dwelling unit built in 1909. The driveway exists and is located off County Road 296. The Applicant is proposing to gain an Accessory Dwelling Unit permit for the existing home on the property in order to build a new primary dwelling unit on the property in the future.

RECOMMENDATION

Staff recommends **APPROVAL**, with the following conditions:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
2. All lighting associated with the ADU shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
3. The applicant shall obtain any applicable Garfield County building permits, grading permits and access permits.
4. The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended, and shall meet all building code requirements.
5. The gross floor area of the accessory dwelling unit shall not exceed 1,500 square feet.
6. The accessory dwelling unit shall not be conveyed as a separate interest but may be leased.
7. At the time of building permit for the new primary dwelling unit, the Applicant shall obtain an ISDS permit from Garfield County with adequate capacity to provide sewage and wastewater treatment for the new primary dwelling unit. Due to potentially high water tables in the area this ISDS shall be designed by a Colorado registered engineer.
8. Prior to issuance of the Special Use Permit, the Applicant shall provide a letter stamped by a Colorado registered engineer stating that the proposed Accessory Dwelling Unit meets all current Garfield County building codes.

Commissioner Martin – There is a question I have in reference to the preservation code that is recognized by the state of Colorado, is that eligible under this scenario? Preservation code again does not destroy the historic homes etc. or is it a requirement that he needs to register that as a historic home to provide for that?

David – I am not familiar with the preservation code as to where those date breaks are, I don’t believe that it is but I’m not 100% certain.

Commissioner Martin – I know there are several places that have qualified under preservation codes in reference to historic buildings. Something we need to look at into the future.

Commissioner McCown – Number seven, I have a question on the high water table in that area. Did you do a site visit?

David – I did not on this one.

Commissioner McCown stated it is not particularly high. In the hazards map it shows it as a potential high water table area.

Carmen – My wife and I have been married since 1968, we are retiring next year and we want to retire in Colorado. One thing I did receive from the planning commission and just got today was condition number 8 because my idea was to build a home up here. Dealing with a 1909 house I may have to build two homes. I can’t imagine it being up to code that is the current building codes. What we have done over the years is we have upgraded the property; it has been painted as of last summer. We have put a new roof on it, new

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appliances, sanded the floors but we didn’t go in and do new electrical work. Is there no way around that? I am worried about getting the permit. I don’t see how this place could meet current Garfield County building codes.

Commissioner McCown – If it become a hindrance that you can’t do it you could always level it and still continue to build your house you just wouldn’t have a special use permit at an additional dwelling unit. Or if you choose to level it and build a new one at a later time that is your option as well. This one would have to be up to code if that is the one you choose to be your additional dwelling unit.

Commissioner Houpt – I know we have done this in the past, I do not remember this condition, referring to number 8. I have the same questions that John and the applicant had.

David – The primary difference between this one and other applications that we have had in the past is that the other units were new enough where we were able to look up the building permit and say okay that’s adequate to say it is up to code. This one being 1909 there was no permit issued. There was a case out in Carbondale where the gentlemen had, I believe a late 70’s manufactured home and he did receive a letter from an engineer saying that the requirements for the home were up to code. We have required these letters in the past but it’s different because it is a stick build home and it’s very old.

Commissioner McCown – I’d say just the electrical service would be inadequate to what is required today.

Commissioner Martin – I can attest to it, I prefer the older homes, mine is 1888 and it would not meet today’s code. Talked about his electrical work and the preservation code being put into place. If we say it has to meet the International Code which deals with plumbing, etc., it is a hardship.

Carmen – I don’t foresee being able to do that and I understand your position but that doesn’t fit into my financial plans. My question is this; I can not get the special use permit unless I have a stamped letter from a registered engineer telling me what needs to be done?

Commissioner Martin – Unless you’re application changes and the new building is the accessory dwelling unit and the other is your primary residence.

Carmen – If I was to simply go for an exemption of subdivision would I have to do that?

Commissioner McCown – No you could sell this lot off and then this wouldn’t apply.

Carmen – Any possibility of historic preservation, follow that route?

Commissioner Martin – We have not adopted such unless it is state registered historical significance.

Jack Bowles – Owner of bowling alley north of his residence. What is an accessory dwelling?

Commissioner McCown – 2nd home on a lot that is not over 1,500 square feet and cannot be conveyed separately from the original piece of property that it is built on.

Jack – I understand he wants to build an accessory dwelling to live in while he is re-modeling the old home?

Commissioner McCown – No, he is wanting the old home that is there now to become the accessory dwelling and he wants to build a new home to live in and then rent I would assume the old home rented out to help defray the cost and living conditions of the new home. They also talked about splitting up property.

Commissioner Houpt – If he builds onto the existing house; the existing portion has to be upgraded.

Commissioner Martin – Probably the whole house, depends upon the service and what the engineer will tell him; they would meet the building code requirements. I’d say an exemption process is the way you want to go.

Commissioner McCown – Do you wish to withdraw this or do you wish us to move forward and approve this so you have a back-up plan?

Carmen – I think I would like it approved. I will go ahead with the engineer and see what we are talking about.

Commissioner McCown – Move to close public hearing. Commissioner Houpt – second.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the special use permit to allow for an accessory dwelling unit for the property at 758 County Road 296 with the eight conditions of staff.

Commissioner Houpt – second

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING – CODE VIOLATION – NABORS - BOCC TO ACT AS BOARD OF HEALTH – SPECIAL MEETING (CODE VIOLATION) – OCTOBER 18, 2007, RIFLE

Don DeFord – You may need to have a public discussion because earlier we directed our staff to proceed on a code violation issue. The Board of Commissioners will be acting as the Board of Health; it is not on the agenda and we ask that you set a special meeting acting as the Board of Health for Thursday and time you direct for a potential hearing for a cease and desist.

Commissioner McCown – We can do this at 8:30 a.m. on Thursday, October18, 2007.

EXECUTIVE SESSION

Ed Green– Contract negotiations

Commissioner Houpt made a motion to go into an Executive Session. Commissioner McCown seconded.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown moved to come out of executive session. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS
GARFIELD COUNTY, COLORADO
OCTOBER 18, 2007

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The **SPECIAL MEETING** of the Board of County Commissioners began at 1:00 P.M. on Thursday, October 18, 2007 with Commissioners John Martin and Larry McCown present. Also present were County Attorney Don DeFord, County Attorney Michael Howard, County Manger Ed Green, Building and Planning Director Fred Jarman, Building and Planning Chief Building Official Andy Schwaller and Jean Alberico Clerk & Recorder. Jim Rada, Environmental Health Manager was present via telephone conference. Commissioner Houpt joined the meeting later.

AGENDA TOPICS:

BOARD OF HEALTH

PUBLIC HEALTH - CEASE AND DESIST ORDER

STRATEGIC PLANNING

LAND USE PLANNING – SCHEDULE FOR MEETINGS

Commissioner Martin called the meeting to order and made a motion to go into Board of Health.

Commissioner McCown second.

All in favor: Martin – aye; McCown – aye.

Don DeFord informed the Commissioners that this meeting was to consider an emergency situation and possibly to order a Cease and Desist Order at the Nabors Drilling USA man camp due to a health hazard situation..

Michael Howard stated that Jim Rada would be giving testimony to the emergency.

The following individuals were present: Tom Fox, Bryce Paylow, Ethan from Nabors, Stan and Jean Dere.

Jim Rada informed the Board he was notified on October 12th of a possible code violation regarding a complaint about the sewage conditions at a trailer park. This notification via a phone call was an anonymous individual. This person said he had also spoken with Ethan, a representative for Nabors Drilling. Jim spoke with Ethan and indeed it had been a sanitation issue for a few weeks. Attempts were made but failed to get hold of the owner of the property to resolve the situation. However, Jim met with Ethan on October 12th and surveyed the property that was under a lease arrangement.

Michael asked Jim to describe what he saw and the events that led up to this meeting with the Commissioners today.

Jim stated there appeared to be a septic tank on the North side that was overflowing. There was a pump with a hose coming out lying on the ground. There was a large puddle of surface drainage and on the south side of the trailer there was a puddle with obvious sewage, gray in color. They didn't know how the system was designed. There were ponds of water in between the units, across the driveway into an open field and a couple of trenches dug to contain waste. The property address taken from the mailbox at the property was 14350 Hwy 6 & 24. Jim suggested to Ethan that this was a health hazard and to get the sewage off the ground; he also informed Ethan that human waste is a source of pathogens, bacteria, and viruses and directly or indirectly could lead to illness. Jim contacted building and planning and sent a report via email. Later Ethan called and had obtained an address for the owner of the property. Jim received another call from the original anonymous person saying that nothing has been done, so this was forwarded back to building and planning. Jim stated he did receive copies of the design work from the early 1980's where a man camp was approved on this leased property and this was the original septic system. Jim added that he had received another call over the weekend indicating still nothing has been done. Jim stated he went back to the location on October 16th and took photos of the situation. These photos were submitted to the Commissioners and interested parties in the audience. Jim explained the photos as everyone viewed them. He explained he was back at the scene around 1:00 P.M. on the 16th and could hear water running; the sewage was flowing out toward the vehicles and the drainage indicated the pipes were broken; he also talked about the leach fields. Jim stated the sewage appeared to be leaking out of a sewer riser where you would normally connect a motor home; it was an old tank and possibly a septic tank. It appeared to have not been properly installed.

Michael asked Jim to explain any changes between the 12th and 16th of October.

Jim responded that the septic tank containing the waste water discharge had been pumped but apparently that was not the problem. Jim added that he saw some animals drink out of the polluted water which definitely posed health hazards with potential risks of disease. There were also some folks walking across the drainage and that materials could easily get into their homes with the opportunity of moderate risk of someone getting sick.

Michael asked Jim to explain what needed to happen in this situation.

Jim explained that in order to have a proper system based on the use and number of units the operator or owner would have to go thru the State Health Department to put in an acceptable and approved system.

Michael asked if Jim had identified the owners of the property.

Jim stated the information he was given was Stan Dere.

Michael asked why leach fields are elevated.

Jim explained on the original permit design whether it be seasonal or permanent, leach fields require the system to be elevated to create separation from ground water and these are state regulations. If sewage is not flowing through the leach field then it is surfacing on the ground and by state statutes after 1975, the requirement is anything closer to 4 feet is considered a violation. Water systems are designed to percolate the water into the ground and a Certificate of Occupancy has mandatory requirements of 4 feet separation and at any point of discharge is a violation.

The residents at the man camp are employees of Nabors Drilling.

Andy Schwaller, the building official for Garfield County sent an email to Jim Rada that he received on Thursday which he in turn emailed to Ethan and sent by registered mail the notice of violation to the property owners. The notice stated the violation of sewage surfacing above the ground, not having the tanks pumped and they would be responsible to remove any contamination from the surface. Andy said he did not get out of the car and walk around and that he had not returned to the site.

Michael presented a Resolution to the Board for the cease and desist order.

Tom Fox responded that it was not good to have people exposed to health hazards and Nabors have been the ones having the tanks drained. We have paid to date \$312,330.00 since 2000 to the property owner to

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store our trailers, have water and electricity. He reiterated there are not many options for our people to find housing and company policy is not to send employees to places further away. He said they will pay for the septic system and agreed to immediately rectify any health issues.

Ethan stated that at the present time we pump sewage every other day. We have removed people who were living in the trailer and we are adhering to OSHA standards. We have had our trailers at the camp for over 5 years; we met with the Dere's and agree we have to do something different.

Tom said he had met with local consultants and it will take 12 months for a permanent facility in order to do it right and put in an above ground septic system. However, the owner preferred to do it himself.

Bryce Paylow – attorney for the Dere's said he was just brought into this yesterday but clarified that he didn't deny the problem. They also agree it needs to be dealt with. There is a month to month lease with Nabors Drilling and the lease indicates that the landlord is not responsible for the septic system. The Dere's are prepared to step up. The lease was submitted into the record.

Chairman Martin – asked about the system; is it one or more.

Stan Dere stated there are two systems; one for the top row and one for bottom row but he didn't know how many users it was originally designed for.

Tom Fox indicated there were nine housing units each designed for a crew of 10 and the maximum amount of people is 36 folks.

Bryce – stated the original permit he saw indicates the system was able to accommodate 20 trailers.

Commissioner Houpt questioned if the second system that's in place but was not being used could be brought back into use.

Andy said from what Jim said there are only bits and pieces.

Don pointed out from the email response from the state that they did not permit the system that was there and so it requires approval of state. This goes to the cease and desist resolution where we are asking all use of property for human habitation cease due to a health hazards and not resume until this situation is cleaned up and an approved system is in place.

Todd from Nabors – we want to do the right thing and would like the opportunity. We have no place to go; we will be putting our workers 2 to 3 hours away from the work site and therefore he appealed to the Board for time.

Commissioner Houpt – I appreciate your situation but this is an extreme case and suggested they check in Glenwood Springs for closer locations.

Bryce – the resolution makes it clear there is a 24 hour period but it doesn't appear to be a time limit so does it mean it has to be vacated in 24 hours?

Don – the resolution states to immediately vacate the premises.

Michael suggested amending the resolution to say to the Estate of Beverly.

Commissioner McCown – I make a motion we approve the resolution to cease and desist located at 14350 Hwy 6 & 24, property owned by Stan Dere LLC. and that all conditions be applied.

Commissioner Houpt – Second

All in Favor: Martin – aye; McCown – aye; Houpt - aye

Commissioner McCown – moved to come out of the Board of Health.

Commissioner Houpt – Second

All in Favor: Martin – aye; McCown – aye; Houpt – aye

Strategic Planning

Phyllis Lundy facilitated the meeting.

Topics discussed included:

Customer Service

Good customer services means:

Business Hours – this is the true intent of customer service

Exposure of public officials to the public – should be available

Managing to the exception

Streamlining the contracting process

Good information in the data base

Software improvements

Develop Affordable/Attainable Housing with Rifle

Discussion: this is an outward focus and relates to affordable housing. We want to look at and explore public and private partnerships that will encourage development of affordable/attainable housing for our employees and for residents. It was suggested to do an inventory of all possible locations for such projects along both the 82 and I-70 corridor however avoid the ghetto look and at this time not to focus on a dollar amount. School Districts own land and it has not been discussed with them on a public/private partnership.

Xeriscaping County property

Ed suggested by doing this we would be protecting the resources of our County and asked if we could modify our approach and suggested such things as donating statues for the fairgrounds.

Commissioner McCown – I think there is additional discussion needed on that; not sure we can secure those statutes.

Commissioner Houpt – volunteered to be on that team and gave an example of the Moab Center.

Water to the West

Develop Metrics to assess adequacy of fund balance

- Improve ways we operate as a County

- Prioritize spending – how many people will this benefit

- Develop good tracking databases

- Clear cut policies and procedures

- Model RFP's

- From quality control to quality assurance – new contract specialist in January

- Portable Power Points – Video

Acquire land in GWS for New Building – Assessor Treasurer, Clerk and Recorder offices

To plan a building that will accommodate growth

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Develop and follow County calendar

Linda Morcom suggested come up with calendar that affects everyone and this needs to happen prior to the budget process. Linda will talk with the different department heads on timing.

Automate payroll time sheets

This is already on the Intranet system.

Non-native English speaking research & education

John Gorman stated this is a significant population and he hopes we can suggest strategies and activities that can integrate with this population.

Catherine says this goes back to #2

Commissioner Houpt - requires training employees and hiring more bi-lingual staff.

Increase licensed child care capacity

Lynn said the bottom line is that they are barely able to maintain number of slots we have; she is working w/businesses but she can't find quality staff because it is a very low paying job with no benefits. Suggested to look at benefit packages and to work with other businesses to see what the needs are. We do need more child care and housing. The question was asked, does the county have the ability from the zoning aspects to allow up to 5% to be day care providers – such as day care homes.

Form website users group

Phyllis said that Charles was going to be here but he could not attend.

Improve bandwidth/infrastructure between the Courthouse & remote locations.

This is already done.

Explore factors to enhance recruitment/retention

Katherine said this is a big benefit to the county and included: Phyllis is working on updating job descriptions; tool kits for hiring; redraft the policies and procedures; employee handbook; new orientation process;

Develop program for working with Oil & Gas industry

Judy said this is a voluntary program and they are working with the leaders in industry and some change is needed in how it operates; programs we might engage in; pooling resources; code of best practices to sign up for and develop with them.

Commissioner Houpt – this is an industry driven program and she has seen a best practices brochure;

LaPlata County has a map of all the pipelines in their County that can be used for emergency services.

Jesse said we are in the process of building that here through the users group they are putting this together and have been working on it for two years.

Commissioner McCown noted that the Assessor's audit should be beneficial.

Paperless Government

Phyllis – came up external need and suggested the County could be a leader going toward a paperless system.

Jesse – IT was to create a system where documents could be stored outside - Boulder; also a Cyber silo system.

Ed said we didn't have enough resources.

Patsy – can we have at least less paper internally; did we really need to make 90 copies of a document.

Jesse – this is an effort that is going forth nationally.

Jean – met with Gregg Rippey, the Director of the State Information Portal Authority – their mission is to

help set up business by e-commerce; they are paying for everything with this process and it opens the option for credit cards and electronic checks; cost \$1.00. She could have Greg do a presentation as this is a huge project statewide; it would be little or no cost to the county and they would provide the machines.

Jesse – in Montrose we take credit cards and take 3%.

Jean – I think it is something we need to look into as it would benefit customers. Jean will take responsibility to explore options.

It was decided to rank each project that has been mentioned:

Revise Contract Process – Ed Green

Vote – all yes.

Revise Employee Handbook – Human Resources

Vote - all yes

Revise Employee Orientation Process – Katherine Ross

Vote - all yes

Develop Countywide Calendar - Internal

Vote - all yes

Obtain and use videoconference system for internal meetings – Dale Hancock

Vote - all Yes

Mandatory Team Building

Vote - all no

Comments: against mandatory team building; problem on how to be equitable.

Recruit and Retain Employees

Vote - all yes

Ensure Adequate Supply of Water – Ed Green

Vote - all yes

Develop and Implement Comprehensive Recruitment Plan – Katherine Ross

Vote - all yes

Acquire Land in Glenwood for new building – Dale Hancock

Vote - all yes

Install built-in projection system in Rifle Conference Room – Dale Hancock

Vote - all yes

Form Quarterly Users Meeting for IT – Charles Zelenka

Vote - all yes

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The main 2008 Improvement Projects by Team Leaders include:

Project Title	Team Leader	Schedule	Milestones
Streamline Contracting Process options	Ed Green	1-15	Meeting w/team and brainstorm
		4-1	Benchmark w/best in class organizations
		7-1	Develop a new approach to contracting
		9-1	Develop new data base
		11-1	Test new contracting approach
		12-1	Brief department heads and employees
		1-15	Team organization meeting
		2-15	Dev IGA w/Rifle, County, GarCo Housing
		4-1	Obtainment of funding sources
		4-1	Active search for development partner
Develop Affordable/Attainable Housing – Ed Green		5-1	Prepare agreement w/development partner
		12-1	Prepare development & design plans
		3-1-09	City approval of development
		4-1-09	Begin construction
		2-1-2010	First homes available for occupancy
		12-1-2007	Define extent of project
		6-1-2008	Obtain estimate for services
		12-1-2008	Proceed with procurement
		1-1	Identify & Inventory properties in GWS
		3-1	Secure independent appraisal
Videoconferencing System	Dale Hancock	5-1	Conduct cost benefit analysis
		7-1	Conduct facility programming exercise
		9-1	Issue design/build request for proposal
		1-1-2009	Enter contract for project
Acquire Land in Glenwood Springs	Dale Hancock		

Land Use Planning

In 2003 the Board approved a Purchase of Services Agreement with Sullivan Green Seavy, LLC, and the Norris Dullea Company to provide the drafting of the State Model Land Use Code and Landfill Code; this was renewed in 2004, 2005 and 2006. The goals were for the Garfield County Planning Commission, Garfield County staff, and Sullivan Green Seavy to work toward an intense revision to the County’s Zoning and Subdivision regulations. The purpose of this endeavor was to accomplish the following:
Update and refine the regulations to deal with a maturing and more complicated land use climate in Garfield County.
Eliminate antiquated or meaningless language and solve inconsistencies; and
Streamline process where possible making the regulations more practical meaningful and user friendly.
Mark Bean was hired as a Consultant after he retired as the Director of Building and Planning to work closely with Fred Jarman, the newly appointed Director.
The Land Use Code Workbooks were submitted including the full parcel maps.
Phil Vaughan stated the Planning Commission, staff and the legal consultant spent 36 meetings over a period of 2.5 years to accomplish the process.
Fred stated that Section III is the core piece of the code.
Mark Bean and Phil Vaughan made a presentation explaining where the staff and the Planning Commission had differences of opinions.
Don provided a memo to the Planning Commission and addressed things that he saw that were missing or not addressed. There was an extensive discussion on oil and gas regulations but the actual use of oil and gas drilling have not been addressed. This issue was set aside and plans were to come back to it later. Don pointed out that Gunnison County has authority to regulate oil and gas land use applications but Garfield County has not.
The Board of County Commissioners set up a schedule of meetings to review Section by Section of the Code Rewrite.
Don suggested starting with Articles 1, 2 and the Definitions. Other Sections will be schedule in the future.

The Workshop meetings were set as follows:
November 13, 2007 in Glenwood at 6:00 p.m.
November 29, 2007 in Glenwood – 1:00 p.m.
December 4, 2007 in Rifle – 1:00 p.m.
December 18, 2007 in Rifle – 6:00 p.m.

Adjourn

Attest:

Chairman of the Board

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**NOVEMBER 5, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, November 5, 2007 with Chairman John Martin and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder. Commissioners Tresi Houpt was absent.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:

BUILDING AND PLANNING - COMPLAINT - -- FLYING FISHING ROAD - COMMERCIAL OPERATION Brad Favre and John Cannon - Complaint about a neighbor operating what appears to be a Commercial Operation without a permit. Brad and John reside on Flying Fishing Road. Their neighbor purchased adjacent property and there's a lot of activity going on. The owner of the property is Michael Rosenberg and he resides in Mexico. Michael rented a dwelling that appeared to be a nice family and then rented a portion of his property to a logging operation and appears to be commercial. They have brought in fill and this is possibly in the wetlands area of his property. Brad talked to Andy Schwaller of the Building and Planning Department and brought this to his attention. The problem is that this operation is creating a lot of noise and the landlord stated he wasn't aware of what was going on when Brad called Michael to make inquiry. Brad took several photos showing 3 phase power, bobcats, 5th wheel trucks with a lot of activity and there's a ½ dozen people loading items in pick-up trucks. The property is under 5 acres.

Chairman Martin stated the Code Enforcement Department should be notified as well as Building and Planning and they will do an investigation and they will use the proper format to remedy the situation. Photos were submitted to Fred Jarman.

Commissioner McCown said that once our departments have started the investigation then Brad need not do anything else.

John Cannon said they were originally asking for direction and he thought one would have to have a variance in place before the activity started. The landlord and tenant started the commercial activity without permits.

Commissioner McCown said they will have to give the individual 30-days to correct the problem. Andy probably sent out a letter, but they will look into the situation.

Chairman Martin agreed to look into this and see if the 30-days have already started.

COUNTY MANAGER UPDATE: ED GREEN

FAIRBOARD - REVISION OF FAIR BOARD BYLAWS

Jesse Smith submitted the ByLaws for the FairBoard previously discussed. Jesse explained they wanted a quorum of five. Parts of the ByLaws stated four as a quorum and due to the confusion the Board suggested that it be redone and bring back next Monday.

- Approval of application for membership on the Human Services Commission to represent the Red Cross for Mickey Neal
- Approval of application for membership on the Human Services Commission to serve as a citizen rep for Donna Gray

Mickey M. Neal submitted her application for the Human Services Commission to represent the American Red Cross – she is a volunteer and her interests are in Community Emergency Services.

Donna Gray submitted her application for the Human Services Commission to represent the citizens of Garfield County making sure their needs are met.

A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin to approve Mickey Neal and Donna Gray to the Human Services Department.

In favor: Houpt – absent McCown – aye Martin - aye

INFORMATIONAL TECHNOLOGY - CONSIDERATION AND APPROVAL OF THE IGA FOR INFORMATION TECHNOLOGY SERVICES WITH THE DA'S OFFICE – CHARLES ZELENKA

Charles stated that the IGA was submitted to support the District Attorney for an IT Specialist Monday through Thursday and take the lead in coordinating the installation of the Case Management Software system. The District Attorney is willing to provide funding in an amount not to exceed \$40,000 (50%) of the combined wages and benefits compensation package for the position.

A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin to approve the IGA for the District Attorney for IT support not to exceed \$40,000.

In favor: Houpt – absent McCown – aye Martin - aye

COUNTY ATTORNEY UPDATE: DON DEFORD

TRAILS AND TRANSPORTATION - CONSIDERATION/APPROVAL OF CONTRACT AMENDMENT #3 WITH COLORADO DEPARTMENT OF TRANSPORTATION RE: SOUTH CANYON TRAIL

The amendment #3 was submitted between the State of Colorado for the use and benefit of the Colorado Department of Transportation regarding the IGA consisting of preliminary and final design, construction, and construction administration of a separated bike and pedestrian trail near the I-70 and West Glenwood Springs interchange, "South Canyon Trail" project.

The amendment to the existing contract with DCOT includes the current scope of the project. It will reduce the scope of the current project and seek termination of license on the property because the county will not be using that portion of the property.

A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin to approve the contract amendment #3 with Colorado Department of Transportation regarding South Canyon.

In favor: Houpt – absent McCown – aye Martin - aye

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EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Items to be discussed included – Road 162 and the Crouch claims; Fravert Reservoir; Jesse legal advice on a well; and the Vezzoso litigation. Jake and Randy were needed for the session.

A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin to go into an Executive Session.

In favor: Houpt – absent McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin to come out of Executive Session.

In favor: Houpt – absent McCown – aye Martin - aye

Action Taken:

HEARING UNDER COGC RULES – RIFLE VILLAGE SOUTH

Don stated the first item is we need authority for Judy Jordan to request a hearing under the Colorado Oil and Gas Commissioner Rules should any request for an APD be filed within Rifle Village South Subdivision and also for the County to intervene.

Commissioner McCown so moved. Commissioner Chairman Martin seconded.

Judy said the question is this just within the boundaries because so far what I understand there may be some activity adjacent to but not what technically qualifies as Rifle Village South.

Don informed Judy of the plat available at the Planning Department. My understanding is that the Board is concerned actually within the boundaries of the subdivision.

In favor: Houpt – absent McCown – aye Martin - aye

Stirling’s as Developer - position on 162A

Second item is for the authority of the Chair to sign a letter to the Stirling’s as Developers of the Sun Mesa PUD to request that they attend and state their position in regard to the location of CR 162A.

Commissioner McCown so moved; Commissioner Chairman Martin seconded.

In favor: Houpt – absent McCown – aye Martin - aye

The Board noted this would be the first meeting in December, 2007

COMMISSIONER REPORT:

Commissioner Houpt – Absent

Commissioner McCown –Wednesday I have an AGNC meeting in Rifle and then Wednesday evening in Glenwood Springs a RAC working group meeting on the resource management plan for the Glenwood Kremmling Offices; on Friday we have budget hearings with the elected officials starting at 9:00 a.m. Chairman Martin – I have been on the road for a while checking out all the different County Road projects that we’ve had starting from north of Loma working to the east and it seems to me there are quite a bit of roads and projects completed. Very impressed in reference to CR 301 Morrisiana Mesa in reference to the extension of that and thanks to the folks. Did get some complaints two weeks ago, this week I checked again and those complaints have been resolved – thanks to Jeff and the Road and Bridge folks for the good job. We still have an issue on Four Mile in reference to the Axthelm property where is the exact location of the roadway and the property line? Lot No. 13 at the corner is an issue in reference as to where the actually roadway is, some rocks have been placed out there and a fence is being contemplated. We need to make sure we locate it in the proper location. He is trying to sell some property and feels the County Road may be encroaching on him according to Mr. Axthelm and the pins have historically been that way. He wishes to expand it out to his full property line and it’s like 120 feet from the center line of the roadway. We need to look at this. This will involve the Surveyor and Road and Bridge. The location of this property is at dead man’s curve in-between CR116 and Dry Park Road on the south side. Need to get back to Mr. Axthelm. Also NRCS has agreed to go to Sweetwater to look at the issue with the overflow and come up with a resolution with the two property owners. This is in reference to a salinity issue and the closing of an irrigation ditch on the south side and also work with the property owner on the north side in reference to solemnity.

Storey Property

Don stated for the record that we have filed an action against the Storey’s.

CONSENT AGENDA:

- a. Approve Bills
- b. Wire Transfers
- c. Inter-Fund Transfers
- d. Changes to Prior Warrant List
- e. Authorize the Chairman to sign the Final Plat and Subdivision Improvements Agreement for Big R Commercial Park located east of the City of Rifle. Applicant is Big R Enterprises, LLC – David Pesnichak
- f. Authorize the Chairman to sign the corrected Resolution of Approval for Van Devender Exemption from the Definition of Subdivision to create 2 lots located on County Road 151 in Sweetwater. Applicants are Mary Jo Jacobs and Charles Van Devender. – David Pesnichak
- g. Authorize the Chairman to sign the Resolution of Approval for Special Use Permit for an Accessory Dwelling Unit located north of the City of Rifle and described as 758 County Road 296. Applicant is Carmen Crone – David Pesnichak
- h. Authorize the Chairman to sign the Resolution of Approval for a Special Use Permit for 2 “Temporary Employee Housing” facilities located within the North Parachute Ranch north of the Town of Parachute. Applicant is EnCana Oil and Gas (USA), Inc. – David Pesnichak
- i. Authorize the Chairman to sign the Acknowledgement of Fifth Partial Satisfaction of Subdivision Improvements Agreement for the Callicotte Ranch Subdivision. Applicant is Callicotte Ranch, LLC. – Fred Jarman
- j. Authorize the Chairman to sign the Amended Plat for Lots 2, 3 and 4, Block 6, Unit One of the Elk Creek. Applicants are Pam Ruzicka, Daniel Niedbalski, Kenneth and Cynthia Speedy – Craig Richardson
- k. Liquor License Renewal for Sunlight Inc., Sunlight Mountain Resort – Jean Alberico
- l. Authorize the County Treasurer to release funding to RFTA in the amount of \$1,500.00

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m. Authorize the County Treasurer to release all moneys paid to the Garfield County Commissioners in lieu of school site dedication for RE-1 School District in the amount of \$320,189.51 plus interest earned for October, 2007 – Georgia Chamberlain
A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin to approve the Consent Agenda items a – m.
In favor: Houpt – absent McCown – aye Martin - aye

TREASURER - APPROVAL OF BANKING AGREEMENT – GEORGIA CHAMBERLAIN

Georgia Chamberlain submitted the Banking Agreement with Alpine Bank.

With Don’s help and Alpine Bank the banking agreement was put together. Georgia is looking for approval.

Commissioner McCown stated that Alpine Bank has been a good neighbor and we haven’t had any problems, they are very active in the community.

A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin to approve the banking agreement with Alpine Bank

In favor: Houpt – absent McCown – aye Martin - aye

It was necessary to have an amended motion to include all documents necessary to implement the banking agreement.

Commissioner McCown amended his motion; Chairman Martin – amended second.

In favor: Houpt – absent McCown – aye Martin - aye

OIL AND GAS - WILLIAMS PRODUCTION OPERATIONS UPDATE – ROB VINCENT AND DAVE CESARK

Rob Vincent, Donna Gray and Dave Cesark provided the Board with an update on Williams Production Operations.

A Power Point Presentation was given explaining the plans for Cluster Planning and Development to reduce time, reduce cost, and reduce impact

This is an informational session and provides best management practices with new technology that will reduce truck traffic. Hoping this best management practice will be used in the County. They want the BOCC to realize they can do the cluster planning due to being here for over 20 years.

Rob – engineering manager in Parachute provided the information related to the power point. Now that we have new technology, we wanted to implement best practices to do it quicker and with less impact. He submitted a list of new technologies/best practices and process coordination.

Understanding the Reservoir – a lot of money is spent determining the subsurface. Most is between West Rifle and Parachute. They can invest a lot of money before they start drilling.

New rigs are adapting offshore technology applied to onshore. They see results in 20-30% greater efficiency in spud-to-spud time. They have 14 new rigs in operation for Williams in Piceance Basin.

New Technology – directional drilling. As many as 22 wells can be drilled from the same surface location. This reduces the surface usage for wells by 70%. They have been able to reach 2600 feet horizontally from the surface.

Hydraulic Fracturing – Williams is in a position to use recycled water in all their fracing.

New Technology – Remote Fracturing Operations – they can fracture and simulate multiple sites from one location and eliminates over 22,000 truck trips in this area.

Best Practices – Simultaneous Operations (SIMOPS) – Wells can be drilled next to wells that are being completed which are next to wells being produced on the same pad at the same time. This is a tremendous asset. All the gas being produced is not being flared which is less impact to the environment.

Best Practices – Completion Fluid Facility – 6 well pads, 75 total wells and requires 90 million gallons of completion fluid recycled and reused which will require 26,000 truck trips but these are eliminated due to water being delivered via pipe line. Water trucks are reduced by 30%.

They are drilling up to 500 wells per year.

The goal is to reduce the time and impacts due to better planning. Development can occur sooner. They can use smaller well pads when remote completions are done. It also provides better and more thorough information supplied to the Regulatory Agencies to assist in their approval process.

Commissioner McCown inquired as to where the production water is processed.

Rob said it is done at the well site and all the hydrocarbons are taken out. This takes the place of holding ponds.

Mike McKibbin from the Grand Junction Daily Sentinel asked how long this process of cluster planning has been in place.

Rob – over the past two years and this is mostly what they do. When a site is completed, it is reclaimed.

Dave said it started as an experimental process and now it’s a goal of Williams.

Fred asked where does the sand come in – is it being piped in.

Rob – the sand is added into the water at the frac tank. It will still have to be trucked in. Commissioner McCown asked with what percent can they use this process?

Rob – these are the areas they are working on mostly property that Williams owned and it is planned for the same process. These about 3-years down the road.

Fred asked if they would like to take this to the EAB.

Rob – this process has been given to the Chamber of Commerce in Grand Junction. It is available for others to see.

Mike asked if they could put a dollar figure on the new process put in place.

Rob – didn’t have a figure handy but yes they have saved a lot of money.

BUILDING AND PLANNING - TOWN OF SILT COMP PLAN AMENDMENTS – GALE CARMONEY

Gale Carmoney from the Town of Silt has been with the Community Development Department for just over two months. Previously from Florida.

Fred Jarman submitted a Memorandum regarding the Seventh Amendment to their Comprehensive Plan for consideration into the records of Garfield County according to 30-23-208 C. R.S. The Town requests the

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Board of County Commissioners approve this amendment within 30 days (October 2, 2007) or the Town will record the Resolution 43-2007 memorializing the Town Trustee's action regardless of the Board's position.

Fred stated that the Town intends to annex the property, which is the subject of the Amendment to the Comprehensive Plan and as a result, the property will no longer be in the jurisdiction of the County. Further, the Town is currently contemplating the development scheme for the property that will not impact the County. To this end, a representative from the Town of Silt has been invited to visit with the BOCC to discuss the letter and the requested action to approve the amendment and have it subsequently recorded. Fred stated there wasn't an original document approved for Silt or for any other municipalities Comp Plan. Reference was made for Painted Pastures where there weren't any negative impacts to the County. How do we treat Silt or any other municipality?

Don – look at the whole statute that's involved; it seems to me if this is a municipal town statute and it talks about the Commission being the town planning commission adopting a plan and then at the end it talks about a Resolution of that Commission that is then forwarded to the governing body of the territory affected. It seems to me honestly the intent of this statute is that the municipality planning commission certifies a copy of the Comprehensive Plan to the Town Trustees, the Town governing the incorporated municipality – that's the area affected and then the Town can approve it and have it recorded to the extent that the Comprehensive Plan affects territory within the Town. It does not seem to me that the intent of this statute is that it comes to the County because really the Comprehensive Plan does not affect the County. We have our own Comp Plan for the unincorporated area of the County so I don't think this statute anticipates that the Town Trustees will send you a Resolution and ask you to approve it and have it recorded because you do not control an area affected by the Comprehensive Plan.

Chairman Martin – other than our mutual agreement to respond to and from on the changes.

Don – that's a different statute.

Commissioner McCown – The pre-annexation agreements in the County that we spoke of earlier that involves an area that is well remote from their town's city limits and it's clearly in the County but its in an overlying zoning text area – water constrained. That Comp Plan being out that far could definitely impact Garfield County. That city's Comp Plan and it could change Garfield County's Comp Plan significantly.

Don – you can change it only if the County elects to have it do that and in some cases through our own Comp Plan recognizes that we should at least consider town Comprehensive Plans but does not mean that we approve them or reject them for that matter, we simply don't control the adoption of their Comprehensive Plan and their Comprehensive Plan has only the legal affect on our territory that we chose to give them. We are here because Silt submitted it to us for your approval. So we brought it to the Board as per their request.

Commissioner McCown – there is nothing in the statutes that directly refers this to the Board of County Commissioners?

Don – no, the statute is like Fred has given it to you.

Gale reiterated how this came about saying he was asked by the Silt's clerk to prepare a letter of request to the County to see the Comp Plan Amendments for this approval. My impression is that this has been done before, Gale is new and wasn't aware of how things were handled in this area. .

Don stated Silt's Comp Plan does not affect Garfield County. We are under the IGA regarding land use but this statute does not apply to that. If this was binding on the unincorporated County, it would need to come before the Board.

Chairman Martin – one of the things could be the fire district or school district.

Fred referenced Painted Pastures and the density involved in Painted Pastures.

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

CROUCH PROPERTY – MISSOURI HEIGHTS

Adrienne Crouch wanted to know the update on her issues.

Chairman Martin informed her the Board took action earlier today to have the developers of Stirling Ranch come to the first meeting in December.

Adrienne commented that she also wanted to celebrate the 4th year anniversary since this is the date that she presented information that the survey on her property was not correct. She asked for clarification on the exemption notification for an adjacent property owner.

Commissioner McCown said 200 feet within the boundary of that parcel.

Adrienne mentioned that no notice has been given to the Rosseins and Nazzores or her or other neighbors in a planning process before the Planning Commission. She would like a resolution as quickly as possible on the issues she has brought up.

Chairman Martin informed Adrienne that she will receive notification as to the action taken earlier today.

BUILDING AND PLANNING - CONSIDER A PLAT AMENDMENT FOR LOTS 2 AND 3 T.O. RANCH SUBDIVISION. APPLICANT IS JRP, LLC – CRAIG RICHARDSON

Craig Richardson, Michael Howard and Jim Pitts were present.

The following Exhibits were submitted for the record: Exhibit A – Garfield County Subdivision Regulations of 1984 as amended; Exhibit B – Application; and Exhibit C – Staff Report.

Chairman Martin entered Exhibits A – C into the record.

Craig stated this is a request to amend the Final Plat for T.O. Ranch Subdivision, Lots 2 and 3. The owner of the parcels would like to increase the size of Lot 3 from 4.10 acres to 4.926 acres and decrease Lot 2 from 6.95 acres to 6.115 acres. The request complies with all applicable Garfield County Zoning and Subdivision Regulations. This will create a more desirable lot configuration.

Staff Recommendation:

Staff is in support of this amendment. Planning Staff therefore recommends that the Board of County Commissioner approve the request to amend the Final Plat of T.O. Ranch Lots 2 and 3 with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.

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2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County surveyor and shall include, at a minimum, the information outlined in Section 5.22 of the Garfield County Subdivision Regulations.

Applicant: Jim Pitts stated that Craig summed it up and he didn't have anything to add.

Commissioner McCown asked why 1/10's of an acre would be a difference.

Jim stated it's for more for aesthetics than anything.

A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin to approve the lot amendments for T.O. Ranch with the 2 recommendations from staff.

In favor: Hought – absent McCown – aye Martin - aye

BUILDING AND PLANNING – VERIZON WIRELESS

CONSIDER A SPECIAL USE PERMIT FOR A COMMUNICATIONS FACILITY LOCATED AT 2550 HIGHWAY 82. APPLICANT IS GLENWOOD COMMERCIAL LLC, DAVID HICKS – CHRISTINA MONTALVO

Fred Jarman sitting in for Christina Montalvo, Michael Howard and Ann Closser were present.

Ann Closser, 4305 Darley Avenue, Boulder answered the notification request. She is the spokesman for Verizon Wireless.

Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Commissioner Chairman Martin accepted the notification.

Chairman Martin swore in the speakers.

Fred submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff Report; Exhibit E – Application; Exhibit F –Email from the applicant with site plan attachment dated 10-13-07; Exhibit G – Email from the applicant addressing Sections 3.08.08 and 5.03.13 dated 10-15-07; Exhibit H – Email from the applicant addressing height dated 10-17-07; Exhibit I – Email from the applicant with “natural grade” attachment dated 10-19-07; Exhibit J – Email the applicant with attachment showing building appearance of antennas dated 10-25-07; Exhibit K – Email from the applicant with attachment showing site plan with topographic lines dated 10-24-07; Exhibit L – Email from the applicant with attachment illustrating appearance of antennas dated 10-25-07; Exhibit M – Email from the applicant with attachments: survey, disturbance plan, and site slope plan dated 10-30-07 and Exhibit N – a new elevation showing the grade deferential signed and sampled by a surveyor David W. Canfield, a licensed surveyor dated 11-02-07.

Chairman Martin entered Exhibits A – N into the record.

REQUEST

Fred - Verizon Wireless requests that the Board of County Commissioners (the BOCC) approve a Special Use Permit (SUP) to allow a “Communications Facility” on a property located on 2550 Highway 82. The Applicant proposes to build a new communications facility for voice and data transfer and will be built on the roof of the 4th building away from the highway. And Mr. Chairman for the record this is defined in the Resolution of 1978 as amended as the following: “A non-inhabitable structure supporting antennas and microwave dishes that sends in or receives radio frequency signals including television data pulsing through space by means of electromagnetic waves. Communications facilities include structures or towers, accessory building not included personal direct to home satellite services.” So that's the definition that's being requested, more specifically this is Verizon Wireless is requesting to erect eight (8) antennas, two(2) sets of four (4) – these would be about a foot across and then 4 feet tall in nature supported by pipe on basically the ends of a commercial yet to be built structure. The property owner in this case is David Hicks, this is the Glenwood Commercial Project in south Glenwood Springs right on the right as it slopes up the hill. The first couple buildings are built. You may recall that Verizon Wireless visited with you a couple of years ago, in fact in July two thousand five 2005, asking for the same set of antennas on the Colorado West Upholstery Building – that item was denied. The request before you today is the same, appears to be the same set of antennas, on this structure which would be much further to the east and way up the hill effectively. In the staff report, page 3, it gives you the map of the tax assessor showing you the parcels that are in that area, that shows you where the Colorado West Upholstery structure was and if you look at the Glenwood Commercial Property, this building would be towards the rear of that parcel up the hill as you notice the major slope behind that property. Also gives you the properties to the west and then bordered by State Hwy 82 directly to the south and Bureau of Land Management (BLM) to the rear. The antennas themselves would be on the east and west end of the structure, one on top of the gable, on top of the roof, the other more or less on the side of the end of the gable and that elevation. I have a rendering in the application that points that out. Other than that there is the support structure on top of the roof to help that stay where it is and then you've got the internal machine that helps it run the equipment that would be located within the building itself and then they are proposing a diesel generator on the side of the building that's for power backup in case you have a power failure. This is to be run once a week for 30 minutes to keep that in good maintenance. On the following page you've got a visibility profile and if you look to the far left there is a point on 82 with arrows moving up through the building to the top so if you're standing in the middle of 82 it looks like you'd be able to see the very tippy top of the antennas as they sit on top of the gable. That is the end closest to the up valley - let's call it and then the other end of the gable would be the other four set of antenna which would be slightly below that – the pitch – and so that maybe, can't testify to it but it may be visible as you approach that from town. I know that there are some developments that may be in the way of that but I can't speak to that specifically.

We did refer this to the City of Glenwood Springs and they provided comments to you specifically talking about the request that these be enclosed or screened in some way from view perhaps even incorporated in to the design of the structure itself as it's not built yet.

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With the review standards, the more general standard, there are utilities adequate to provide water and waste water – this use doesn’t require water or waste water. The road infrastructure is in place adequate to serve trips that would be generated by this facility, we’d say that’s certainly true as we generate virtually no transportation impacts and finally the design of the proposed use is organized to minimize impact on it from adjacent uses of land through installation of screen fences or landscape materials on the property upper lot by the location of intensively utilized areas, access points, lighting, signs in such a manner as to protect established neighborhood character. This is commercial general property – the building height here is thirty five (35) feet. When I get to the height in a second, but this is in a literal read of the code is less than thirty five (35) feet. I’ll share with you the building height definition however. These are relatively small in nature, they are about four hundred (450) feet above the highway up against the hillside and probably not going to ridge line that hill; they will most likely blend in particularly if you gave them a color that made sense – I don’t see these as being a visually impacting use, however, in saying that there are ways to minimize what impact there is. There is a way to do that and we’ll approach that later. What is not being proposed is mitigation presently. You’ll recall from the Colby application upholstery building they had proposed a set of screening boxes over those antennas, that is not what is being proposed here but that may be a way to do it. On to the more specific criteria, Section 5.03.13 for broadcasting studio and or communication facilities, there is a very specific set of criteria here, one “all facilities shall comply with the radio frequency emission requirements of the Federal Communication Commission (Federal Communication Commission (FCC) and any facility in compliance cannot be denied”. In this case the applicant is putting their application to you that they maintain a universal licensing system so that they can put these structures throughout the state of Colorado is my understanding of this. What I don’t have and not sure we’d ever get is a license specifically from the Federal Communication Commission (FCC) but it’s a question for the applicant.

Second, the co-location of telecommunication facilities on the site is encouraged and the denial of a landowner or lesser of the co-location of a site shall be based on technical reasons not on competitive interests. It is the County’s policy to minimize the number of communication facilities by the encouragement of co-locations and the response here was provided here was that, according to the applicant, the property owner would not have any interest in preventing other wireless carriers in locating at the site. So we may say locating on the structure, the structure is the building in this case.

Three – “a free standing telecommunication facility including its tenants shall not exceed the maximum structure height in the applicable zone district unless an exception is approved by the Board of County Commissioners based on the applicant’s demonstrating the following things”. Now, to this end, if you look at Exhibit N, that was just passed out, this site is an interesting site. This site has been graded extensively and the grade that is up there now is not the natural grade, in fact the grade now is a lot lower than the natural grade was and it’s been this way for a while. In any event, this is important, so because we have an artificial grade now but I want to read to you the building height definition. So this is distance measured vertically from the undisturbed or natural ground surface at the mid-point between the front rear walls and building to the top, in this case to the midpoint between the lower eave and the pitch. That can’t be taller than thirty five (35) feet according to your land use code. So let’s come back to Exhibit N, this will show you the structure itself and then slightly above the base grade there is a dash line and that represents what the old grade was. And so in this case the literal definition of the building height, you only have to measure from that natural grade and that gives you twenty seven (27) feet to top of the antenna. Now if you do not do that and go to the bottom of the ground, you’re up to thirty nine (39) feet just for what it’s worth. It’s an interesting factor – if you use the natural grade as to what it was they are well within thirty five (35) feet but if you use the way it would be built on the ground, then you’re almost forty (40) feet.

Again in this case you are back four hundred twenty (420) feet from Highway 82 and then there are a few residential structures around this but they are in the commercial/general zone district. They also enjoy the same height limits. So in this case we had originally recommended denial of this application because you didn’t have anything that legitimized the grades that were put on there. So they have sent, on Friday, an email, Exhibit N, that shows you the signed and stamped survey of this grade. By literally reading this meets within the height of the commercial/general zone district. That being said, staff will change its recommendation from denial to approval, so not to be different from our proposal last go round in two thousand five (2005), I want to pass around the same conditions of approval that we talked about then and I’ll read these for the record.

Suggested Conditions of approval submitted on 11-05-07

1. That all representations made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
2. The applicant shall obtain the appropriate building permits from the County Building and Planning Department.
3. All facilities shall comply with the radio frequency emission requirements of the Federal Communications Commission (FCC)).
4. The applicant shall paint the proposed fiberglass screening surrounding the antennas to match the color of the proportion of the building on which they are located. In addition, the applicant shall install a roof feature at the same color as the screen to cover the antennas that has a roof pitch to match that of the building.

(This is the design you all remember seeing from the Upholstery Building – now that building was already constructed, that was already there, these are boxes put on top, the idea is to blend then with the structure – in this case you have four (4) antenna on the up valley end on top of the pitch and then you have the other four (4) on the down valley end that is lower than the pitch – you will see in their application. So Number four (4) was to get and minimize the impact now – those antennas located on Highway 82 was more visible, these are a lot further away at least from the 82 prespective – that’s one thing I’m talking about – there are other houses that don’t share the same perspective so I should be careful there). And then the issue was of the generator at that point,

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5. The proposed generator to be housed in this case would be outside the existing building on the southwest end to comply with the state statute regarding emission of noise.

So these could be applicable, these are suggested to you as conditions if you choose to move this forward and then as you will, I have the application here that was held in two thousand five (2005), the Colby application, and there was a lot of testimony if you remember for reasons of impact to health, people who live around those antennas came in and it was continued, I know it was continued at least once. So a lot of the neighbors that came were concerned with the visual impacts, the height of the one on 82 and the health impacts – those were the primary reasons that the public had issue with. So with that I'll answer any questions.

Commissioner McCown – I guess on this type of land use application, Fred or Michael, could answer this, is health a consideration to be taken into this, possible health injury, possibly one of the consideration that we're given the luxury to look at?

Michael Howard – well, from as I believe everyone is aware of the Federal Communication Commission (FCC) is taking over this area and our own Code says it cannot be denied if it is in compliance with their regulations and so it is not allowed for health wise to deny based upon the way the regulation is written. Chairman Martin – that's a federal regulation. We'll turn to the applicant so you can give us information about the application and your request.

Applicant:

Ann Closser, yes sir I believe the gentlemen has described the proposal effectively and accurately and I support everything he said. I would like to talk about one of the conditions, also one of the suggested conditions, in addition, Item number three (3) of the suggested conditions sort of dovetail back to some of the comments made by the County Attorney that it is upon the applicant to demonstrate that we meet the Federal Communication Commission (FCC) standard and that's articulated in Condition Number three (3) and I have with me today, for the record a copy of a spread sheet in which the engineer and he is with me today, a frequency engineer Kenneth Varelas, he's the optimization engineer for this project so if this raises any additional questions, he is here to respond. In any event for the record, I have a chart which actually illustrates the number of antennas, the power levels, the height, relative to the standard established by the Federal Communication Commission (FCC). And this is a standard throughout the industry that the engineer use as a predictive tool to indicate what the radio frequency emissions will be relative to the standards set by the Federal Communication Commission (FCC) and the stadostrade said at no point does the anticipated emissions exceed two percent (2%) of the standard. I would like to submit this to the record in satisfaction of Condition number three (3).

This as an Exhibit O.

Fred entered the suggested list of conditions as Exhibit P.

Chairman Martin entered Exhibit O and Exhibit P into the record.

Ann Closser – in addition to that I would like to comment on the suggested condition number four (4) – I think Mr. Jarman, stated this was sort of pulled from another application in two thousand five (2005) application which was physically a different set of circumstances and in this instance what we're proposing is two sets of external antennas, one set which will actually be on the west gable actually mounted flush to the gable and the other set is east which is the up valley set which is upon the roof and we've discussed an elevation for that. We did initially propose in the application antennas actually on the roof and we proposed to have them both in a dormer type structure which is architecturally compatible with this proposed building, and because of the need to have separation between the antennas, the actual footprint of the dormer was ten (10) feet by ten (10) feet and the architectural landowner, Mr. Hicks, said we don't like the way that looks, it's too big and feel that these will blend in, they are far enough from the highway, these will blend in the background more than having ten (10) foot by ten (10) foot, it actually had a nice pitched roof and I can show you one of those earlier drawings which was not approved by the landowner so we didn't come forward to this Planning Department with that application for that reason. And so I would really encourage this Board to relax that condition amend it perhaps, we'll be happy to paint the antennas any suitable color and we can provide paint samples and have the Planning Department give us direction, given the build-in environment, this building is not yet constructed but given the materials and the hillside behind, we'll be happy to paint them a rust color or whatever is appropriate to maximize the extend to which they blend in – the antennas on the gable on the west side of the building certainly we will paint them to match the gable to which they are attached. And that is all that I have to add.

Chairman Martin – questions of the applicant?

Commissioner McCown – reading your chart and maybe you'd like your engineer to answer this, the percent of revised Federal Communication Commission (FCC)/ANSI that is the percent of actual emission of the maximum allowed by the Federal Communication Commission (FCC)? You'll need to introduce yourself.

Ken Varelas – and my business address is thirty one (31) South Bond Way in Aurora, Colorado 80014. And yes sir these are the emission levels of specs as specified by the Federal Communication Commission (FCC) as it states here it's five hundred eighty (580) microwatts per square centimeter and we're well below two (2%) percent of that level. And one other thing to keep in mind with this, to arrive at these numbers we would have to have every single channel in use at the facility which rarely happens unless there's some kind of a catastrophic event.

Commissioner McCown – It looks like at nineteen (19) and twenty (20) feet and then again at three hundred foot (300) is the highest percentage obtainable.

Ken Varelas – yes sir, that is due to the radiation pattern of the antennas. They tend to project outward.

Commissioner McCown – that's all I have.

Chairman Martin – all right. As I recall in the previous application there was another co-location that was suggested, does that still exist?

Ann Closser – I'm sorry I don't understand the question.

Chairman Martin – there was another, the other application had another location, this was a secondary request. There was a present day location that had already been approved and this is a new one and we were looking at co-location and trying to keep everything in co-location spots instead of spreading them out

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everywhere and this one was on South Grand Avenue, which is directly across the road from here and I was just wondering if that is still available and if you still own that site.

Ann Closser – I'm, Mr. Varelas would have to respond, I mean as far as Verizon Wireless installations in this area, I have a map which shows the two closest approximate sites, one's in Red Canyon and the other one is actually – where is this one?

Ken Varelas – it's actually up on the hill, I'm not sure the exact address, it's upon the mountain top here.

Chairman Martin – Lookout Mountain. This one was right in, right next to Berthod Motors; there was a site that was approved by the City of Glenwood Springs for that location for that application previously that was one of the considerations that we had because there was a present day location and we encourage co-locations – that's what we were looking at. And I didn't know if you had utilized that on this application as well as part of your direction of signal.

Ann Closser – to be honest with you Mr. Martin I'm not aware of this location you're talking about. I know there twelve (12) different locations which were considered and I can tell you which each one of those was and why they were not pursued, but I'm not familiar with this particular one. I apologize.

Chairman Martin – that's all right. I'm just following up because we want to follow again what our Code says that we want to co-locate as much as possible and not have a plethora of locations for single applications that's all. So I'm asking that. All right, thank you. Those that took the oath and they will tell the truth and nothing but the truth, we'll go ahead and identify themselves and give their testimony. The applicant has the right to go ahead and respond to those after we've finished public information gathering and respond to those if they choose to. All right.

Public Comment:

I'm Ingrid Hawkins and I manage the Glenwood Self Storage Center and I did have some questions on the generator, it says it will run once a week for thirty (30) minutes – uh, what are the hours that that's going to happen, is that going to be business hours or two (2), three (3) four (4) o'clock in the morning or?

Chairman Martin – and we'll have an answer from the applicant when we finish public testimony. Thank you very much, and those are the questions you are posing.

Ingrid Hawkins – okay, the other is the lighting on these antennas, I mean will there be any lighting? And my third (3rd) question is how will it uh affect the satellite TV, landline phones, cell phones that we use in our yard, etc. The interference with our own electrical facilities that we have.

Chairman Martin – that's it, thank you. All right we'll get back to you with those answers. Jamie, give your name.

Jamie Campa and I live at two thousand five hundred fifty four (2554) Highway 82. I don't really have any questions, I just want to say thank you for taking the time to listen to our concerns again. I agree with all the concerns of my neighbors and my parents as far as property value, ours is just as important to us as it is to Mr. Hicks and Verizon is to them. Our neighborhood is zoned commercial residential as far as I know. And I feel you should take just as much into consideration for the residential zoning as the commercial.

With the towers on Mr. Hick's building, electronics will be shooting across my house and through my house, I'm assuming twenty-four (24) hours a day which could greatly decrease the property value. Uh, back to where you were asking about the sign being posted, everyday I go through there at least twice a day and I never saw a sign posted. I saw the commercial thing you know for rental and things like that but I never saw a sign posted for you know the hearing or anything like that. Uh, I just wanted to say, uh I think it should be taken into consideration uh, my property value like I said, is just as important as theirs and especially if its going to be shooting through my house and not just a few feet away from my door. I'm just sad that Mr. Hicks and Verizon didn't call a meeting to get the input of the people in the neighborhood you know before they decided to do this; I felt that being included would have made a difference by that I would have a better understanding of what he's trying to do. Thank you.

Chairman Martin – all right, thank you. Questions of Jamie?

My name is Chris Lynch and we own the property at two thousand five hundred fifty four (2554) Highway 82 and on July two thousand five (2005) - we were here for the hearing with Verizon for a special permit to be, to put the antennas in our neighborhood and that was on a building right next to our home. Many of our residents were present at this hearing and voiced their concern as to why they strongly objected having the antennas in our neighborhood. We are also very grateful that you took time to listen to us and our sincere concerns as to why we did not want this in our neighborhood. We thank you that your decision was to turn down this permit. Now Verizon is back and wanted to put antennas on a building just a few doors up from the location that you turned down. At this location I feel that this will even affect our neighborhood even more. We know that, or feel that this project will certainly bring down the value of our properties, uh as it has in other cities in other neighborhoods, uh if you do research on that you will see definitely that it has brought down the value of the properties. Sharon Stephenson who manages our rental property there wrote you a letter at the last hearing and I think you probably still have a copy of that letter stating that it would affect the value of our property. And the problem with trying to rent it. I know that you cannot turn down this permit because of health reasons however it does concern me personally because I do have; I am very sensitive to electromagnetic. I think that we may be; the Federal Communication Commission (FCC) says that you cannot turn this down because of health reasons but I think that we really do not know the affect it may have on resident's health in the future. A lot of times things are approved and further down the line they realize what, how it does affect the people. We, I think where the antennas are being placed on the buildings now, the emissions from the antennas will actually uh be covering our entire neighborhood, before when it was next to our home, where they were thinking about putting it on Mr. Colby's building, they had said the type of antennas they were putting up, and I think these are the same antenna they their planning on Mr. Hicks' building, that is wouldn't affect us that much because the rays would be going out like a flashlight opening up and we are more at the side of the building. These antennas will now be higher, a little higher up and it will be covering our entire neighborhood. I know that uh we don't have a lot of homes up there but there are some of the property owners there that I think plan on developing their properties. I feel that our neighborhood is growing and that we will have more people there rather than the neighborhood going down; and they're bull dozing everything down. Mr. Hicks' building plan on building

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four (4) buildings there, and there will be a lot of businesses there, and there will be, as I understand it, some apartments in there too, and I think these antennas will have an impact on a lot of people in that area. I feel that there is land, uh, open land upon the mountain sides maybe upon the west side of the Roaring Fork River where antennas could be put there. It maybe would be more serviceable and we're hoping that you will take into consideration our concerns again and think of what we have to say and that you will not approve the decision for these antennas. Thank you very much for taking the time.

Chairman Martin – questions of Ms. Lynch. Don,

My name is Don Lynch and I'm the husband of Chris Lynch who just spoke and you know I have the same concerns as she does wife, my daughter does and all our neighbors do on the hill. They did move the antennas a little bit further up but now they're going to shoot directly into us instead of by the side. And uh our property values, you can say it's not going to make any difference to the property values but I'll tell you Sharon Stephenson thinks so and she has rentals and I think she knows what she's talking about. And she says it's going to be harder to rent our property which we rent and she said our rental property is going to go down; we won't be able to get the same rents that we're making and my wife and I, we live off of our social security and the income from our rental property. And you take away part of our livelihood and it's going to greatly affect us – I'm seventy nine (79) and my wife is seventy four (74), hate to admit that but Chairman Martin – you should never tell them that Don. Just tell us you married a younger woman.

Chris Lynch – thank you.

Don Lynch – anyway, I really thanked you all very much two (2) years ago when you turned it down and I think the reasons that you turned it down before are still there ever present and I'm just wondering why when we have a lot of mountain tops around town, we've got a lot of open space over there on the west side of the river and they say well we've got to have this spot, well, Mr. Hicks is all for it because you know its going to be a lot of money in his pocket and I can understand. Why, he doesn't live there, he rents there, he rents his businesses and he'll, as far as he's concerned that's not his problem, it's our problem and now he's got, talking about apartments up there and he rents these businesses to people and I don't think they'll want to look out their doors and windows and see all those antennas and stuff on his building up there and I just hope you all turn this one down too and tell him to go put his antennas over there where they are not in somebody's back yard shooting their beams on twenty-four (24) hours a day. So I just, that's about all I have to say but I sure hope you all sure take some consideration all of the things that you did before when you tuned it down. Thank you very much.

Chairman Martin Don – thank you very much.

My name is Margarita Chavez and I live on two thousand five hundred sixty six (2566) Highway 82 and my house is right in front of this new building that they proposing to build and considering the decrease in the value of my house, I'm concerned and I came to see what I can do to see if you can, you know, deal with my concerns, so its all that I have to say, the rest they've said it already and I'm with the rest of the people.

Chairman Martin – okay thank you Mr. Chavez. Anyone else?

My name is John Horch, I live two thousand five hundred sixty two (2562) Highway 82 and I'm another concerned resident here. In the past, I've just came into this neighborhood, in the past they turned this down and I don't see any reason why there's any difference about what's going on three hundred (300) or four hundred (400) yards up the hill, it still has the same impact and the same effect on everybody, just hope you take our concerns and considerations and do the right thing. But that's all I have to say.

Chairman Martin – All right sir, any question. Is that all, Ms. Lynch you had another comment.

Chris Lynch – there were some other concerned citizens that had told me they would come today and I had explained to them last time that the meeting ran about two (2) hours and so they said they would try to come a little later so I'm sorry that I misinformed them and I'm happy the meeting hadn't lasted that long, but they wee planning to come. Mr. Colby was one that he had objected to the antennas being up there and some other people, but, so that's why they're not here, thank you.

Chairman Martin – anything from staff at this moment.

Fred Jarman – none for us.

Commissioner McCown – I guess I have a question of staff and those comments made that is was zoned commercial residential, I think this is commercial limited isn't it?

Fred Jarman – it's actually commercial general.

Commissioner McCown – okay commercial general, can you read the allowed uses in commercial general.

Fred Jarman – I'm happy to it's a very long list.

Commissioner McCown – that's fine, we've got all afternoon.

Fred Jarman – so commercial general is any use by right – I'll do the uses by right first – CL zone district.

Commissioner McCown – that's what's I'm looking for – uses by right that occur there without any hearing of any kind.

Fred Jarman – sure, “lumber yard, motor freight depot storage, single family, two family, multi-family dwelling, accessory buildings including buildings for shelter and enclosure of animals or property accessory to use of the that for residential purpose and fences, hedges, gardens, walls and similar landscape features; park; boarding house; hotel, motel lode; Church, community building, day nursery and school; auditorium, public building for administration, fraternal lodge art gallery, museum, library; hospital, clinic nursing or convalescent home; group hoe for the elderly. Office for conduct of business or profession, studio for conduct of arts and crafts, provided all active is conducted within a building, a real long list of commercial establishments, wholesale and retail establishment including sale of food, beverages, dry goods, furniture, appliances, automotive and vehicular equipment, hardware, clothing, mobile homes, building materials feed, garden supply and plant materials. Personal service establishment, including bank, barber or beauty shop; Laundromat laundry or dry-cleaning plat serving individuals only; miniature golf course and accessory facilities, mortuary, photo studio, shoe repair, tailor shop restaurant, reading room, private club, theater and indoor recreation. General service establishment, including repair and service of automotive and vehicular equipment, vehicular rental, service and repair of appliance, shop for blacksmith, cabinetry, glazing, machining, min-storage units, printing, publishing , plumbing, sheet metal and contractor's yard, pipelines”. Those are the uses by right.

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Commissioner McCown – particularly that’s what I was wanting to hear because those are all things that could take place without the hearing like this occurring and any public comment taken, any of those uses and if I could of the applicant, a lot has been asserted today that these beams shooting through your house and things of this nature cause a depreciation in property value – do you have any historical data that might allude to this and I guess of the engineer, if you could show us or if you have a presentation somewhere that could show us the patterns of emission from those antennas, if that would maybe give the public a little more comfort in what’s going on here today and if you could also tell us why this particular area first down lower on Highway 82 and now further up on the hill is a chosen area specifically for the location of these towers to better service the users of Verizon as opposed to across the river, across 6 & 24, across Grand Avenue up on the hill.

Ann Closser – If I might – I didn’t write them down.

Chairman Martin – that’s a long list plus you can respond to any public comment.

Ann Closser – Well, if I take the first item, property values and do I have any historical information or data about that, and actually I do, it is quite dated, I don’t have anything more current than this but I do have studies done by licensed real estate appraisers and I don’t have multiple copies but I can submit them for the record. What I do have and in these instances the proximity of a tower actually and some a hundred (100) foot tower in a neighborhood where there are their residences being sold and they did all kinds of comparables and re-did the conclusions, and I can’t give you each of the studies but I can will submit for the record these studies by licensed real estate appraisers and if you read, this was a report done in El Paso County, Colorado and after studying homes, this is relative to a steel milfoil one hundred (100) feet in height. This is another question that you had about other locations but this gentlemen concluded based on a study using studies in the Craig more area in Colorado Springs where sales of single family homes with milfoil towers were compared to sales without use of milfoil towers, it was concluded that properties with tower views had no discernable negative or position influence on their value to the view of the towers. And I’ve got three separate reports and three geographic locations, one is in Arizona, one I believe, it’s been a long time since I’ve looked at this, is in Edmonds, Washington, the state of Washington and I can certainly read these but I guess the point is I want to make these are studies done by professionals, factually either very different situations than really the primary visual component of this installation of this installation is the up valley set of antennas. Uh, the down valley set of antennas is going to be mounted to the gable and it will not be discernable. I can show you an aerial photograph of this property and these four buildings relative to some of these other properties that people have concern but if you just look at the proximity of where this building is relatively to the topography and where they were, the only really visual concern would be this one up valley set of antennas, I think it’s up valley I get confused. In any event I’ll submit these for the record; I can certainly read more of the conclusion. Here’s one sentence from the report in the Edmonds, Washington area and they again studied the effects of a cellular facility, again it was a hundred (100) foot milfoil and utility shed on the undeveloped corner of an existing church site in a residential neighborhood and this gentleman concluded from this data “it is apparent that there is no measurable sale pieces leading to the concluding that the proximity of a typical single family residence for a medium sized cellular transmission tower does not appear to have a positive or a negative influence on value”, so I suggest the thought that these four (4) antennas will have a negative effect on property values in a commercial general zone district is further attenuated by the fact that the nature of this area and also the fact that we are talking about four (4) roof mounted antennas as opposed to a stand alone structure and I’ll let my assistant ...

Chairman Martin – remember all those questions Larry asked?

Ann Closser – okay and the question, another question that you had sir was why not on the hill and I heard some of the members of the public why not across the valley, across the river and why not somewhere else. Just in a general concept and we can talk about some of the other locations that were considered, in a general concept if you’re going on undeveloped ground, then you will have to build a tower, you will, because you can’t run antennas to a tree and in some urban environments. Xcel used to let you mount them on light poles but you have to have some vertical element in the sky and so it’s always preferable, any jurisdiction around the state of Colorado and even Wyoming, if you go in and say we want to put in a new tower just with antennas, then they go eek, we don’t want any more towers but if you’ve got an existing building and you can mount the antennas on the building that’s far preferable, so I think its compatible with the existing and proposed development in the area, finding an established building is always optimal as opposed to building a new tower. And then when you build on raw ground like that you’ve got access issues, I mean I’ve developed sites in rural Grand County and other places where you’ve got to cut an access road and then not only concern the impact of the visual tower but if there’s no established access you’re going to be cutting an access road and you’ll be having a much bigger impact on the land than if you put your antennas on an existing building with parking, access and all of the infrastructure established. And we did, there was a tower being considered uh or proposed, there’s a water tank that was considered, uh there’s different locations where they are others – like I said there are twelve (12) locations where were considered, one of which was of course the upholstery shop which was denied in July of two thousand five (2005), there was a location near the Airport that was selected and uh the problem there was its proximity to the airport. And to get the flight traffic and things like that – it was not able to develop a tower there, so and I don’t want to take your time going through all these different scenarios but I think you understand the general concept that mounting antennas to existing buildings with existing access and utilities is preferable for a lot of reasons. I think another one is that – one of the questions by Ms. Hawkins was what would be the hours for that generator. And we can actually set that up at a time that’s agreeable to the community. If the community wants that to be run at noon on a Tuesday every week for 30 minutes when the potential for disruption to the neighbors is the best time, we can certainly set that up. We are totally open to when the generator would be tested and yes in compliance with the last condition of the proposed condition number five (5); we can produce evidence to demonstrate that the generator, any noise generated from the generator will be compliance with state standards. The self contained generator, the actual containment unit, has certain sound attenuated features developed as part of it and in addition to that it will be inside a CME wall, and uh which is consistent with other retaining wall that are to be constructed, so visually it will be

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screened very well and well within state standards and I can submit for the record, I don't have it with me, but I can submit documentation to that effect. So I guess it's up to the community to say when they would like the generator tested. And when it's remote it means that it is on remotely when someone flips a switch and they are going to run it for 20 minutes, it's generally 20 minutes and the reason for the generator I might add if there's a failure of commercial power in the area, let's say there's a flood or a terrible ice storm or something and Holy Cross Electric can't keep up with the demands, and so are a lot of people are out, the land lines are down, power lines are down, then there will actually be a mechanism of communicating and this mechanism will be kept viable by the generator, uh and so it's actually only the after the power is out for an attenuated amount of time that the generator would run continuously.

Lighting, Ms. Hawkins had a question about lighting and no the roof top antennas will not be lit in a fashion. Uh, her third (3rd) question was how will this affect other electronics like cell phones, cordless phones, satellite TV and thinks like that. And it's a condition of the Federal Communication Commission (FCC) license that Verizon wireless not violate, that if the transmissions intercept a signal it must not interfere with any other user of the electromagnetic. Ms. Campa, Jamie Campa, I 'm sorry, she had a question about property values and hopefully we have addressed that. I don't really know, I think the other concerns were issues that I've already addressed but if I've missed something let me know.

Chairman Martin – I'm writing as fast as I can – you've got a lot of them questioning, I'm waiting for the applicant to finish. Have you finished?

Ann Closser – I believe so, okay, very good.

Commissioner Chairman Martin - Now, Jamie, be sure you state your name again.

Jamie Campa – two thousand five hundred fifty four (2554) Highway 82, uh, so the application, I was wanting to know, you were saying over by the airport you tried to get property there but it wasn't feasible. You couldn't get property there.

Chairman Martin – she testified to that other than they had looked ---

Jamie Campa – it wasn't acceptable,

Chairman Martin – I don't know.

Jamie Campa – Well, I'm trying to figure this out because the way I understood it they tried to get property there but it wasn't acceptable because of interference, well if there's interference and it's shooting across there anyway, there's still going to be interference. So I don't know, I could hear but I can't hear very well because of her back is me, so I might have misunderstood anyway. But I also want to say that we also have right across from me, Mountain Valley which is a home for the disabled, and the man from Verizon was talking about hospitals and you know all the zoning and all of this kind of stuff and everything, well Mountain Valley is a home for disabled people and to me that's like a nursing home and if it's like a nursing home type deal, I mean I would think that would be in consideration too also if it should be put up near a hospital or a nursing home or something like that. It's funded by the State so I would just want that considered. Oh, and Mr. Colby is here.

Chairman Martin – and he wishes to go ahead and raise his hand and say he promises to tell the truth, the whole truth and nothing but the truth.

John Colby – yes.

Chairman Martin – thank you. Now make sure you state your whole name.

My name is John Colby and my address is two thousand five hundred fifty two (2552) State Highway 82.

My concern is about valuation of property. After listening to her examples, I'm not sold on that one bit.

You're not going to sell me on properties in Garfield County that's not going to be affected, if someone wants to stick this sort of a facility like this next to them. I know I couldn't talk someone into buying my home if I spelled that out by being next door. So I just don't believe that at all and I've read articles in the Denver Post about neighborhood, the commission voting down on a cell tower because it was in a neighborhood and the concerns were the evaluation of property and she sited some place in El Paso County, that's not Garfield County.

Chairman Martin – okay, thank you. Anyone else that I might have missed? All right, applicant. Thank you.

Ann Closser – Uh, I was not the real estate person for Verizon Wireless; in conjunction with the July two thousand five (2005) application on the upholstery shop, but correct me if I'm wrong Mr. Colby had you entered into a lease agreement with Verizon Wireless at that time?

Mr. Colby – no – inaudible.

Chairman Martin – I need John to have a microphone if he's going to respond.

My name is John Colby and my property is at two thousand five hundred fifty two (2552) State Highway 82

Chairman Martin – and the question was did you have a lease agreement in place with Verizon in two thousand five (2005)?

John Colby – they wanted to sign one with me, I wanted to sign it however it wasn't even close to final. I never really knew; I was kind of in the background the whole time it all went on. Two (2) years went by and I never knew what was going on.

Chairman Martin – to the applicant again, another question.

Ann Closser – yes, if I could respond please to Jamie Campa as to interference. The reason that the location was not identified, it was actually at the Rodeo grounds and in close proximity to the airport. And it was because of the height, flight path, not interference; it was because of airplanes coming in landing and taking off at the airport that Verizon was not able to secure that location because it couldn't get the elevation at the airport so it didn't have to do with interference. And then in terms of the home for the disabled that is apparently in close proximity, Verizon wireless has antennas on hospitals all over, as a matter of fact it is common and I do a lot of installations in medical centers and we actually beef up the signal in our complexes and hospitals, medical centers, I mean it's really common not only for me to have adjacent cell I mean one that's in close proximity, antennas similar to what we have here but also to put one on the hospital itself because doctors and medical personnel use cell phones all of the time and these are experts in the field and they want these kinds of installations on hospitals so is there any risk associated with the adjacent home for the disabled persons, my answer to that is no.

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Chairman Martin – all right – any other questions, Ms. Lynch.

Chris Lynch, thank you

Chairman Martin – identify yourself again.

May name is Christine Lynch and I own property at two thousand five hundred fifty four (2554) Highway 82 and you were asking if she had any documents saying that the property values do not go down. I have information here myself, it says what other towns are doing and it's a lot of different towns listed here and when they've been trying to put up antennas why the towns have turned it down and I have all this information I can give to you and you can see.

Chairman Martin – what is that you are reading?

Chris Lynch – the last time we had the hearing here it was Cedar Rose in Carbondale; she has gotten all this information together and it is in a report on electromactic radiation, microwave frequency and cellular transmission towers but it's just a variety of information, it names the towns, it talks about the cellular towers that were trying to be put up and why the towns turn it down. The Commissioners tells you one town in Wisconsin, they were inappropriate for residential neighborhood is why the Commissioners turned it down. It would be not be pleasing for the towers, it would have an effect on the value of the properties in the neighborhood and the presence and use of the tower may create a health hazard and could pose uncertain health risk in the future. That is what they turned it down for. I have a lot of different information on what the towns are doing and then there's also here about property values and it says, and there's more on that, it says "lawsuits are surfacing which allow property owners to sue for lost property value because they believe their property values are hurt by the fear of EM fields and radiation, regardless of whether the scientific information proves cause for that fear. Much of this focus has been involving major electrical transmission lines but currently the concern of EM radiation from cellular towers or of transmitters and so forth are impacting the real estate market." I can give you copies of these if you'd like to have those.

Chairman Martin – I think a copy of the Cedar Rose was submitted to us on the last year.

Chris Lynch – yes. And there's quite a bit of pages of this, but I will give those to you.

Chairman Martin – thank you.

Chris Lynch – thank you.

My name is John Horch, two thousand five hundred sixty three (2563) Highway 82 and you're speaking about the flight path of airports and anyway you want to look at it, depending upon which way the air is the wind blowing I believe it's depending upon which way they take off and they either land or take off and they are within a hundred (100) feet of my house anyways so as to the interference with airplanes, I don't see where that would come into play really other than we have the same issues they do.

Chairman Martin – I think they were talking towers and the height of towers not the risk. I hope I'm correct on that. Anything in conclusion to the applicant.

Ann Closser – I have nothing further.

Chairman Martin – Staff?

Fred Jarman – Mr. Chairman, I just had one point or order, the application that I brought down with me was for the former version that you all looked at before; there was a question regarding Mr. Colby on his knowledge of his application and what I have and I can pass that around to you, its a letter between Verizon and Mr. Colby, actually it's the letter of authorization dated March 22, 20005 basically says Mr. Colby, says, Brad Johnson of Rutherford Enterprises has my consent to submit an application to Garfield County Planning and Zoning Department on behalf of Verizon Wireless for the proposed telecommunication facility to be located at two thousand five hundred fifty two (2552) Highway 82, signed by John Colby on March 30, 2005 and tested and notarized by Beverly Zancanella.

Chairman Martin – thank you very much. Anything councilor?

Michael Howard – I'm available for questions but I have nothing at this time.

Chairman Martin – thank you very much. If there are no other items then do we have a motion to close the public hearing?

Commissioner McCown – so moved. Chairman Martin – second.

All those in favor. McCown – aye Martin - aye

Commissioner McCown – I make a motion to approve the special use permit for a communications facility with conditions from staff deleting Condition No. four (4) and to emphasis and question No. five (5) by including run times will be conductive to area setting and that the generator will be outside, it will not be in an existing building but it will be in a concrete wall structure to also impede the sound and I believe that was testified to by the applicant.

Chairman Martin – all right we have a motion, I'll second the motion and we'll have a discussion and go from there.

Discussion:

Chairman Martin – any words of wisdom.

Commissioner McCown – they answered pretty well all of my questions; all have been answered by the applicant, I know there's a lot of concerns by the citizens, I don't think that, well I know for a fact that this is not something you have to acknowledge to a person, its not something you have to tell someone that if you're selling the property that there is some type of a communication facility within x number of feet of your parcel and I guess the way the real estate market is in this area, I can't even envision that something as iniquitous as what's proposed here today would have any adverse effect four hundred and twenty (420) feet away from Highway 82 and barely visible and that's why I chose to remove the structure. I think the structures surrounding the antenna would have been more obnoxious than just the basic four (4) antennae that's proposed, I don't think you'll see the ones on the other end at all. But I cannot believe that it would hurt the sale of homes, if it were a large steel tower proposed with a flashing light on it because of the airport maybe, I don't know, but this one I don't think the average person would be able to find it if you were asked to locate it. That's why I made the motion to approve.

Chairman Martin – and I seconded the motion. I find other issues that are there and that happens to be the number one (1); we've always encouraged to make sure that we brought telecommunications and towers and I think we were the first one in the area to go ahead and have rules and regulations in reference to that back in ninety six ('96) ninety seven ('97); we also encourage extremely hard that we do co-locations and

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there are numerous areas that have co-locations and that’s one of the reasons is because it’s not acceptable in a lot of neighborhoods. We’ve done everything we could in reference to view shed, location to the neighbors, in and under federal regulations you can’t deny because of health issues, uh but uh it’s not acceptable in the neighborhood, it may not be in the best interest of the neighborhood and those that live there and uh the building is not even built yet so its not an existing site, so it will be a new site. With all that I’ll have to make a decision in the next thirty (30) seconds and we call for the question. All those in favor?

In favor: McCown – aye Opposed: Martin – aye; Houpt – absent
Chairman Martin - I opposed simply because I think it is new and we do have existing sites that are more acceptable to the neighborhoods because they are there and can be used by Verizon which they are using in other sites. I just want to see that we maximize our sites as we did in Carbondale and New Castle and in Rifle – I’ll like to see that happen. I find it is a tied vote, at that point it is not a positive vote, and that it dies.
Michael Howard – correct. Therefore we need a motion in the negative.
Chairman Martin – all right. You are correct on that one. And I’ll probably get the same issue and that is I’ll make a motion to deny because it is not in the best area, it is not a co-location site but it is a new site, that other sites are available within the area that would fit the use and that this site itself is not crucial to the operation of Verizon, that it still can function, it only is an enhancement to their service and therefore I say please use existing sites in the motion.
Commissioner McCown – I will second for discussion.
Chairman Martin – I knew you would.
Commissioner McCown - and merely state that if the first tower was never allowed in Garfield County, there would never be co-locations and this is a tower and the facility owner has already said he would have no problem with co-locations so maybe it would only enhance future co-locations in the area as opposed to not allowing to exist anyway.
Chairman Martin – in agreement I think Verizon is a company we all use; I have nothing against them I just think the location is a new site and we promised our citizens that we would limit those sites and use co-location sites and we try to encourage that and I’ve not heard any evidence saying that it is absolutely crucial that the service would end if this site was not approved. So therefore I say it is just an enhancement to the existing site and call for the question, all those in favor?
In favor: Martin – aye Opposed: McCown – aye; Houpt - absent
ADJOURNMENT

FINANCE - We do have a noticed hearing for the **BUDGET WORKSESSION ON FRIDAY NOVEMBER 9, 2007.**

Attest: Chairman of the Board

NOVEMBER 9, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The **WORKSHOP** of the Board of County Commissioners began at 9:00 A.M. on Friday, November 9, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Finance – Patsy Hernandez; Jean Alberico County Clerk and Marian Clayton Deputy Clerk & Recorder.

BUDGET HEARINGS
9:00 a.m. – Operations – Dale Hancock
9:30 a.m. – Human Resources – Katherine Ross
10:00 a.m. –Clerk and Recorder – Jean Alberico
10:30 a.m. – Information Technology – Charles Zelenka
11:00 a.m. – Airport – Brian Condie
11:30 a.m. – Road and Bridge – Marvin Stephens
Budget Hearings continued
11-14-2007

Chairman Martin and Commissioner Houpt as well as Patsy Hernandez, Ed Green and Jean Alberico were present.

9:00 a.m. – Sheriff – Lou Vallario
10:00 a.m. - Capital Issues – Ed Green, Patsy Hernandez and Bob Prendergast
10:00 a.m. – Public Health – Mary Meisner

At the Budget Hearings, the department heads and elected officials provided the justification for their requests for additional personnel and capital improvements.
The Board will make the final decisions by December 3rd in a regular meeting and the adoption of the Budget will be made by December 10th, however some modifications can be made as late as December 14th.

Attest: Chairman of the Board

NOVEMBER 13, 2007

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**PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, November 13, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

COUNTY MANAGER UPDATE – ED GREEN

BUDGET - Ed stated he will reserve his comments until the Budget hearings have been completed. There is a second public hearing scheduled for Wednesday, November 14th.

COUNTY ATTORNEY UPDATE – DON DEFORD

CONSIDERATION/APPROVAL OF IGA WITH CITY OF GLENWOOD SPRINGS RE: JOINT FUNDING OF ENVIRONMENTAL ASSESSMENT, THE SOUTH BRIDGE CROSSING, AND THE INTERSECTION AT STATE HIGHWAY 82.

The IGA was submitted concerning the joint funding for an EA for the bridge crossing the Roaring Fork River and its connection to the State, County, and City transportation system between the Board and the City of Glenwood Springs.

Don explained that the changes have been made according to the Board's requests. Don requested authority of the Chair to sign the IGA with the City of Glenwood Springs for the South Bridge Crossing and the Intersection at State Highway 82.

Commissioner McCown voiced a concern about Roman Number II but realized it was not going to occur until next May so he was okay with the IGA.

Commissioner Houpt – so moved; Commissioner McCown seconded.

In favor: Houpt – aye McCown – aye Martin - aye

TRAILS AND TRANSPORTATION - CONSIDERATION/TERMINATION FOR SOUTH CANYON TRAIL LICENSE

Don submitted a draft termination of contract with the CDOT regarding the South Canyon Trail Bike/Pedestrian License signed February 12, 2007.

The text is identical and Don stated we do not want control over property we have no control over. CDOT and Garfield County are currently working on amending the South Canyon Trail Inter-governmental Agreement to define the new scope of work.

Don requested approval for the Chair to sign the November 5, 2007 agreement to terminate the South Canyon Trail license.

Commissioner McCown so moved; Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin - aye

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE – CURRENT APD'S ON THE COLBURN PROPERTY IN RIFLE VILLAGE SOUTH; ADVICE ON THE TOWN OF SILT; INPUT FROM COMMUNICATION FROM ADRIENNE CROUCH; CONVEYANCE OF PROPERTY NEAR THE AIRPORT; LAND USE CONCERNING VERIZON; LEGAL ADVICE ON SPRING VALLEY; LEGAL ADVICE ON A PUBLIC RECORDS REQUEST; AND LAND USE ISSUES ON THE BAIR CHASE PROPERTY.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried.

Public Action Taken:

None

COMMISSIONER REPORT

Commissioner Houpt – Last Monday I missed the BOCC meeting to attend the Oil and Gas Commission hearing; the hearings will now be held on Tuesdays for 2008; went to the Toga Annual Meeting and I-70 Ex Board meeting; attended the I-70 Collaborative process and will email the minutes to the other Commissioners; established parameters and the outcome will be a preferred alternative. Russ George was present. Budget meetings on Friday and one more on Wednesday. Tonight is the workshop with the Planning Commission at 6 p.m. and Rural Resort on Thursday.

Commissioner McCown – Same as Tresi – AGNC meeting last Wednesday and Wednesday evening the RAC working group on Resource Management at the Glenwood Spring office met to take specific input to the RAC and cooperating agencies where the overall example of Red Hill. Rep. on the Red Hill and this is a legally formed subgroup and will be looking for a Resource Management Plan. Dave Cesark and Larry McCown are the ones appointed to look at the alternatives. Wed. AGNC and the 5 counties took position on proposed legislation under it's present form; they were asking us to give up things we already have and they are regrouping – one more piece of legislation and they will be looking at tomorrow – the ones presented had no fiscal impacts, a lot of was transferring money, capping the funds to a \$1 million per company and they didn't feel comfortable.

Commissioner Houpt – Gale Schwartz was not in favor.

Commissioner McCown – Schwartz is under the impression that we are getting the legislative committee asking for more time to come up with legislation and see this as a unification of the legislatures. With the unification of the western slope, hope it will slave off the eastern slope. Hopefully we can get them some draft numbers by spring.

Jesse - the regional steering committee met last week and they are not in favor of voting until they have the study.

Commissioner McCown – this will not stop Boulder legislators from coming after our money. He feels there is western slope unification on the impacted area. They are talking about removing the \$1 million cap

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and Garfield County is producing 85% of the minerals – support for legislation for severance tax - the removal of that cap looks favorable.

Chairman Martin – \$241 million collected, \$6.5 came back to those counties – we got 41%.

NRCS - Sweetwater – no resolution; met with the press in reference to the future. Community Corrections meeting on Thursday and discussed the success rates; met with Exxon and Rio Blanco; NRCS; Budget on Friday; Veterans Day was held on the proper day 11-11 Sunday and had a big turnout at the Elks Club; planning session at 6:00 p.m. tonight.

CONSENT AGENDA

- j. Approve Bills
- k. Changes to Prior Warrant List
- l. Authorize the Chairman to sign the Amended Plat for Lots 1S 1 and 1S 2 of Aspen Glen PUD. Filing 2. Applicants: Connie and Paul Warnick – David Pesnichak
- m. Authorize the Chairman to sign the Resolution memorializing the revocation of the Sanders Ranch Planned Unit Development and approval of a zone district amendment rezoning the Sanders Ranch Planned Unit Development (PUD) to Residential General Urban Density (RGUD). Applicant – Board of County Commissioners – Fred Jarman
- n. Authorize the Chairman to sign a Resolution of Approval for a Conditional Use Permit allowing storage. Applicant: Puckett Land Company
- o. Approval of BOCC Minutes – June 11 and 18; July 2, 9, and 10; August 6, 13 and 20 – Jean Alberico
- p. Approval of Fair Board ByLaws – Jesse Smith

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Consent Agenda Items a – g omitting d for discussion; carried.

Bair Chase Development

d. This item was requested to be removed from the Consent Agenda for public discussion.

Jim Lochhead, Attorney for the Development and Calvin Lee, Attorney representing a group of concerned citizens were present.

Calvin Lee – became aware that Cattle Creek Crossing was coming for a submittal and contacted the County Attorney regarding the notice prior to April. His concern is publication and notice to adjacent landowners within 200 feet since they have proposed amendments. He maintained that the Commissioner could be inviting a potential lawsuit in connection with the prior notification of the April meeting pertaining only to planned action the commissioners might take because an existing planned unit development approval for the 282 acre property was lapsing. Calvin said the notification didn't indicate Commissioners might change the underlying zoning. Calvin urged the Commissioners to hold another hearing on the matter with proper notification.

Jim Lochhead stated that proper notification was given before the April decision. The possibility of rezoning the property was implied when the Commissioners reviewed the question of whether to revoke the PUD.

Chairman Martin agreed with Jim Lochhead and added to do away with a PUD; you have to have something in place in terms of zoning. The zoning density is consistent with the County's Comprehensive Zoning plan and this is also a way to address the local housing shortage.

Jim Lochhead – River Bend LLC. owner of the Bair Chase. Our position is that a vote was made on the rezoning and this matter is closed.

Public comment:

Connie White raised the concern of the high density of the zoning. Two projects have been approved with major impacts to the land and suggested before approval the Commissioners need to do an impact study on vegetation, police and fire, and staff. She referenced the Highway 82 impacts and traffic signals are committed; people will be working in Aspen and this will increase construction traffic. This is a diverse project and plans for lighting pollution, making reviews and monitor the plan should be mentioned in the reports.

Commissioner Houpt reminded Connie that the Board was not looking at the application today, only the underlying zoning in place and they will be looking at those items she mentioned during a public hearing.

Jennifer Vanian had a concern about the Elk migration in this area.

Chairman Martin responded that this is an underlying concern and they will have to mitigate these impacts.

What we are trying to do today is determine if the zoning is correct, was the notice correct – that's all it is.

Jennifer stated the zoning is too high for this area.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Resoluition as presented on the Consent Agenda Item d and authorize the Chair to sign. In favor: Houpt – aye McCown – aye Martin - aye

OIL AND GAS - RIFLE VILLAGE SOUTH – Jim Golden

The property of approximately 28 acres is owned by Harry Colburn and Larime Energy LLC owes the mineral rights. This is located at the base of the Taughenbaugh Mesa and within 800 feet of 96 residents in an existing subdivision.

Jim Golden submitted exhibits showing the potential well pad location. He stated that the dust and smell would tend to drift toward the west directly over the Rifle Village South residential development. He is also concerned about the noise as noise tends to bounce off the Taughenbaugh Mesa at the present time. His request before the Board is to allow residents additional time to be notified of a hearing regarding this gas development. Many residents were unaware of this and he feels many residents would attend a hearing if it is made available.

His list of concerns included location saying it is not in the subdivision, but it might as well be. He showed a map where the location of the proposed pad is located.

Chairman Martin - The physical location has not yet been determined.

Jim reiterated his concern as it will affect the subdivision on a number of occasions: property values, wants this commission to be willing to admit the possibility of health issues; another issue is an accident of egress and ingress during the time if there is an accident as well as noise, lights, dust, EOC emissions, and the

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issue of, can this property in Rifle Village South be accessed better by the old Petrogulf site which is 200 feet within the drilling range. The best estimate would be that the rig can drill under half of Rifle Village South without impacting the subdivision. He stated the prevailing winds are light moving east to west and a reversal of the wind going to the other way would affect a predominant portion of the subdivision. He stated this is too close in proximity to the 96 homes and one church. It is also within 600 – 800 feet where they may be putting the pad and this is where children congregate; so when the air is cold the children breathe the highest concentrates possible. He would like the BOCC to admit the health concerns. Other points of interest he quoted were the regulations at the State level saying they must be at least 650 feet from homes. It's ironic for special consideration for churches and less for residents. This is a migratory route for Elk on Grass Mesa. What is a subdivision if not a migration for business, homes, schools, churches. The residents of Garfield County have to have a legal reason to intervene. Asking the Commission to find those legal reasons and request a hearing of the COGGC and find a reason, please draw the line and hit a homerun for the team in Garfield County.

Chairman Martin – we have discussed this and the direction is intervening with the property owner and Larime Energy. We will have some more information next week after executive session – December 3rd. Commissioner Houpt – extension request for the application was received by our staff.

Chairman Martin – this is for any area in Garfield County – we have intervened in the past. We are also looking to keep the public informed on the application to drill and intervene.

Don – the Colburn Well Site will be agended.

PARKS - WHITEWATER PARK GROUP TO DISCUSS THE TRANSFER OF \$100,000 – JOE MOLLIKA

Joe Mollica, Glenwood Springs River Commission and Chair of the White Water Park and Jason Carry – River Restoration, the engineer on this project as well as citizens in Garfield County for Glenwood Springs were present.

Thanks for allocating the \$100,000 and today we are asking for more for next year. He gave a rationalization as to why that is. As part of building the Whitewater Park, we're also interested in keeping the option open of putting water rights on the park, a recreational diversion water right. The last ruling from the Supreme Court of Colorado is residents are just a valued as any other water rights but it follows all the rules of water rights and they go senior water rights, etc. What happened was we had it all worked in our budget and you guys put money in, the city put money in and private folks, ect. and they were going to get \$200,000 from GoCo. Great Outdoors Colorado came back to us saying we want you to sign a letter that states you will not pursue a water right in order for us to give you the grant. At first this sounded reasonable; and then after thinking it didn't sound right for them to require us not to put a water right on the park that we're building. We decided we'd do our best to build the park without GoCo's funds leaving us an option open to put a water right on this park in the future. Therefore we are back asking this Board for next year an additional \$100,000 to help us complete the first phase of the park.

Jason submitted the budget sheet showing the expenses for the park for 2008 to justify the request of the additional \$100,000. We have a meeting set with the City who will act as owner of the project and meet the condition to finalize the contract and try to fund the outstanding balance of the funds; there is a short time frame and we have from December 1, 2007 to March 15, 2008 to complete the in stream project so we need to close the deal and get this approved by Thursday. There is a time issue on this budget request.

Commissioner Houpt – this was starting in 07, do the funds need to be carried over or do you need to receive the funds in 07.

Jason - December 1, 2007 we can expend the funds and then also the project extending to April 2008 and spend 2008 funds.

Commissioner Houpt – were we going to give the money to Glenwood?

Don – we need a contract with the City and this has never been presented.

Commissioner McCown – we need a contract to transfer the funds in order to have a paper trail.

Don added that unless we have a contract by tomorrow, November 14th, the IGA won't happen until December 3, 2007.

Chairman Martin – the water right issue goes to Congress on the redefinition of water in the US. This is a huge issue.

Commissioner McCown –there is a tremendous swell of dissention for recreation; we are drying up agricultural land and this is what GoCo is trying to divert because it would affect the entire State.

Commissioner Houpt – you need \$275,000 to complete this and you anticipate the \$200,000 as lack of GoCo's participation. I would like to support this as I believe it is an important project for this community and appreciate keeping the control locally. We could find the money in the 2008 budget.

Chairman Martin reminded Joe that the Commissioners are having a budget meeting Wednesday and it is possible to preserve the \$100,000 however, we need the IGA to get it in front of us and allow the transfer. Carolyn said we have drafts on the IGA and Jan Shute, City Attorney for Glenwood and I will have it to you by December 3.

Commissioner Houpt – that is the 2007 money and we'll meet and ask staff to find money in the 2008 budget and put on the agenda for tomorrow.

Ed stated that all \$200,000 will be coming out of the 2008 budget. The first draw is out of the Conservation Trust Funds.

Carolyn has different information from two different sources.

Joe Mollica – amazing we have gotten this far; everything is in order; we just need a water right.

HUMAN SERVICES - REQUEST FOR PROCLAMATION TO ADOPT NOVEMBER 2007 AS ADOPTION AWARENESS MONTH – SUSAN YOBB

Several staff were present representing Human Services and Susan submitted the Proclamation to support Rural Adoption Cooperation that has been working the past three years through a federal grant funded program to recruit and support adoptive families for children waiting in the foster care system.

Providing permanent homes for children that are unable to live with their natural parents is a wonderful program.

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Goals are to work with the programs already in place and be a helping hand. Have done public media, advertising at the Farmer's Market and Human Services have made strides in getting the word out to the public. Provide education –

Commissioner McCown asked what is the local inventory of children needing to be adopted.

Families run into wanting young children and we have older children with special needs.

Susan – a misunderstanding of adopting out of Country; this way the children are not aware of their birth parents. Colorado has 700 children waiting to be adopted. The need for foster families is also of great important and need.

Jean – as a parent who did adopt 3 children 14 years ago, one is a challenge and we have had great opportunities for training and support. It was not a bureaucratic problem and she encourages people to adopt.

A motion was made by Commissioner McCown and seconded by Commissioner Houtp to adopt the Proclamation as Adoption Awareness month and authorize all three Commissioners to sign.

In favor: Houtp – aye McCown – aye Martin - aye

BUILDING AND PLANNING - REVIEW OF RESOLUTION 2006-92 “CAMPER PARKS FOR THE PURPOSE OF PROVIDING TEMPORARY QUARTERS TO EMPLOYEES AND CONTRACTORS IN THE ENERGY INDUSTRIES”, APPROVED OCTOBER 2ND 2006 AND LOCATED ON A 10,068 ACRE PARCEL 9 TO 15 MILES NORTH OF THE TOWN OF DEBEQUE, CO. APPLICANT: OXY USA WTP LP – DAVID PESNICHAK

David Pesnichak, and Daniel Padilla from Oxy, Regulatory Coordinator were present.

David submitted the following exhibits: Exhibit A – Staff Memorandum; Exhibit B – Special Use Permit and Resolution No. 2006-92; Exhibit C – Correspondence Chain for Environmental Health Complaint/Concern Report for Oxy Camper Parks approved under Resolution No. 2006-92.

The is the required Annual Review of Resolution 2006-92 Approved July 10th, 2006: “A Resolution Concerned With The Approval Of A Special Use Permit For “Camper Parks For The Purpose Of Providing Temporary Quarters To Employees And Contractors Of The Energy Extraction Industries” For Oxy USA WTP LP.”

Oxy USA WTP LP was approved for a “Camper Parks For The Purpose Of Providing Temporary Quarters to Employees and Contractors of the Energy Extraction Industries” on July 10th, 2006 and memorialized by Resolution 2006-92. The location of the proposed 8-10 Camper Parks are within a 10,068 acre property 9 to 15 miles north of the De Beque, CO. and is zoned Resource Lands (R/L) Plateau. Per condition of approval eleven for this Special Use Permit, “One year from the date of the issuance of the Special Use Permit, the applicant will schedule a public meeting with the Board of County Commissioners to review the operation of the camper parks on the site during the last year.” This review is the purpose of the public meeting scheduled for November 13, 2007.

Based on a review of this application which was originally processed by Mark Bean, former Building and Planning Director for Garfield County, there are several points worth noting:

1. It is Staff's understanding from a conversation with Daniel Padilla, Oxy Regulatory Coordinator, that Oxy is no longer operating any of the Camper Parks permitted under Resolution 2006-92 (See Exhibit B). Staff is not clear when the use of these Camper Parks was discontinued.
 2. Following a visit by Jim Rada to the permitted Camper Parks in September 2006, a letter of “Violation of conditions of approval for a Special Use Permit for a Camper Park” was issued on September 20, 2006 by Mark Bean (See Exhibit C). This violation letter was followed up by a report filed by Craig Meis, P.E. of Cordilleran Compliance Services, Inc. The follow-up reports were given to Jim Rada of the Garfield County Public Health Department and Staff understands that by mid-November of 2006 all of the issues were satisfactorily resolved.
 3. Per condition of approval five for this Special Use Permit (See Exhibit B), “The issuance of the SUP shall be subject to the monitoring on a monthly basis by the applicant, the number of occupants of each camper park site, the amount of domestic water used at each park and the amount of sewage effluent pumped from vaults at each park. Monthly reports of this information shall include receipts provided to the applicant from sewage haulers verifying that all sewage pumped from holding tanks on the sites has been disposed of at a legal disposal site in the same amounts pumped. Those monthly reports shall be provided to the Building and Planning Department. If it is determined by the Building and Planning Department that the amount of water used exceeds the projected amounts in the application, the applicant shall provide plans for review by the Health Department and, if necessary the State Health Department to bring the water system and ISDS into compliance with the County and State regulations for public water and ISDS.” Staff is not aware that any of these reports have been submitted to Garfield County.
- Condition NO. 5 required monthly reports that were never received.

Daniel Padilla, regulatory Coordinator located out of Grand Junction – is the new coordinator and he handles OXY in Western Colorado. He provided an update authorized under the Resolution. Daniel provided a Power Point going over the Resolution 2006-92 highlighting the facilities and the general map where the locations of the camper parks were permitted. OXY activated two camps in August 2006 to December 2006 at Dalbo Camp and the JC Excavating was in operation from August 1 to September 2006. A second follow up letter was submitted for the files. The benefits of OXY's camper parks are that it has increased safety from reduced road traffic; reduced costs and efficiency from eliminating commute time for

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work crews and allowing for more rest time. They learned they needed some type of oversight for these camper parks and have implemented two positions to handle these concerns.

Carolyn inquired if will they no longer use these types of camper parks due to the lack of need or due to the problems.

Daniel said they've had a lot of problems and need a lot of oversight by the contractors and engineering the projects with two water pipes to reduce truck traffic. Other benefits would be warehousing of equipment to reduce traffic that would normally haul equipment to the Mesa, but we are reluctant to close it out and would like to keep it open.

Carolyn – what has the experience of using RV's been versus more permanent modular's.

Daniel said that bears have been breaking into the trailers and the cost involved in getting the trailer replaced is a big concern. In general no more trailers; they've been going through a rigorous process to get the modulars approved. They consider the modular units easier to manage. They are entertaining a person who will manage these modular units and hopefully stay in compliance.

Carolyn invited Mr. Padilla to come forward next week to give input to the BOCC when they are considering temporary units.

David commented the Building and Planning would need these monthly reports.

Carolyn added that at least 20 days per the Resolution is required; she quoted directly from the Resolution for safety requirements.

Daniel – reports should have been supplied, all personnel stated that the data was collected but not forwarded.

David would like this provided to the Building and Planning Department.

Daniel - requirements in the monthly reports would have to be provided to him and he can forward.

November 19th – 1:15 p.m. was set for the purpose of adoption of new temporary housing units. Mr. Padilla was invited to return and provide comments.

Fred – these are the regulations initiated by Commisisoner McCown over a year ago and this is what is coming to the Board. It might supplant these regulations in this Resolution being discussed today. OXY was the only permit under the old regulations.

AIRPORT - CONSIDERATION/APPROVAL OF AMENDMENT TO PURCHASE AGREEMENT – PUBLIC SERVICE CO – CAROLYN DAHLGREN AND BRIAN CONDIE

Carolyn requested this be continued. Carolyn submitted the first amendment signed by Jay Herrmann, VP Customer and Community Services of Public Service Company of Colorado.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to continue this until the November 19th meeting.

In favor: Houpt – aye McCown – aye Martin – aye

BUDGET - CONSIDER PUBLIC COMMENT FOR ADOPTION OF THE 2008 PROPOSED BUDGET

Pasty Hernandez was present. The actual publication was provided and the public hearing was opened.

No testimony was taken. The process is still on-going.

A motion was made by Commissioner McCown to close the public hearing without testimony.

Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING CONSIDER PUBLIC A REQUEST FOR AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION FOR THE CREATION OF A 4.305 ACRE PARCEL AND A 55.188 ACRE PARCEL. APPLICANTS: GARFIELD COUNTY REGIONAL AIRPORT AND PUBLIC SERVICE COMPANY OF COLORADO – FRED JARMAN AND BRIAN CONDIE

Fred Jarman, Brian Condie and Carolyn Dahlgren were present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were not accurate. She advised the Board they were not entitled to proceed.

The Public Hearing was not opened.

AFFORDABLE HOUSING - CONSIDER AN ESCROW AGREEMENT REGARDING IRONBRIDGE PUD AFFORDABLE HOUSING REQUIREMENTS. L.B. ROSE RANCH, LLC – CRAIG RICHARDSON

Craig Richardson, Tim Thulson, David Joseph, Geneva Powell from the Housing Authority and Susan Shirley from Regional Housing Development were present.

Resolution No. 2004-20 identifies the affordable housing requirements of Ironbridge PUD (the development). The development is required to provide a total of thirty (30) deed restricted affordable housing units, 24 on-site within Phases I, II and III and 6 off-site, at all times the total of affordable dwelling units shall be equal to 10% of the total number of unrestricted dwelling units that have been sold or made available for sale. At this time the development is not in compliance with the conditions of approval regulating the construction of deed restricted units. Four (4) building permits for affordable units were issued on August 8th, 2007, within Phase II. No affordable housing units have been made available by L.B. Rose Ranch LLC (the Developer) to date.

Resolution No. 2004-20

The terms of the Resolution are in dispute. Staff interprets the total number of deficient deed restricted units at this time to be eighteen (18) (180 lots sold x 10%). The Developer's interpretation of this condition would only include unrestricted units that have a Certificate of Occupancy (C.O.). As of November 6th, 2007 a total of 110 C.O.'s have been issued within Ironbridge PUD (The Affordable Housing Executive Summary states that 101 units have received a C.O., Building and Planning Staff reviewed the Building Permit Database and has determined 110 units within the development have received C.O.'s, *Exhibit A*). Using the Developer's interpretation of this requirement, Ironbridge PUD is deficient a total of 11 affordable dwelling units (110 C.O.'s issued x 10%).

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In order to bring the development into compliance the Developer is required to place “\$150,000 into an escrow account in favor of the Board of County Commissioners (the Board) or to provide such other security that may be acceptable to the Board, which funds or security the Board will **then** apply toward the construction of the affordable dwelling unit”.

When presenting the proposed Ironbridge, Phase III Preliminary Plan application to Garfield County Planning Commission, Staff identified this concern. The Planning Commission discussed the issue of affordable housing calculation for this development. The Planning Commission agreed with the Developer finding that an unrestricted unit is not “available” until a C.O. has been issued. The Developer has stated when an unrestricted lot is sold within the development; the closing price includes the construction of dwelling unit (IBH Freedom Program – one time close on the lot and home). Staff finds that an unrestricted unit is “available” once the lot has been sold.

The Developers proposed escrow agreement raises several issues with staff:

- 1) It does not include a timeframe requiring the Developer to complete the required deed restricted units bringing the development into compliance. Staff has discussed this issue and recommends that the Board require completion of affordable dwelling units in a number equal to 10% of the total unrestricted sold under IBH’s Freedom Program which is a one time closing for both a lot and dwelling unit within one (1) year;
- 2) It holds the Board to the same partial release restriction as the developer contradicting the intent of the resolution to apply the amount immediately to the construction of the dwelling units;
- 3) Fails to allow for further cash input into the escrow account for additional dwelling units if the Developer continues to not meet its 10% affordable dwelling unit requirement;
- 4) Fails to address the County’s receipt of interest from the escrow account should the Developer fail to complete the thirty (30) affordable housing units;

Applicant: Tim Thulson addressed the four concerns listed above saying we were in violation of a yearly report outlining where they were going. No deed restricted lots in place but have 24 lots set aside and those lots are platted, four lots have started the process. Conditions two and four in the latest draft and disbursements were added with a clause rather than the previous language, changed the SIA violation and written violation that they will disburse the remaining funds with interest. With regard to Condition One time frame the direction today is we would be committed to the 10% by 2008 and will recognize this in 2008. With regard to Condition three – that only helps the developer but will work with staff for appropriate language. Only real issue is the manner in which we are counting the units; they believe the Certificate of Occupancy (CO) is the key and until the people are moving into the unit, the purchaser has ways to get out of the contract.

Carolyn – a question for Tim on the redraft, one thing not discussed was the language on page 2 of the escrow agreement. This needs to be redone. It is different than what is in the packet. The BOCC can hold a building permit and action across the street confirming that Rose Ranch in default.

Tim – this is tied to the SIA giving the client notice.

Carolyn – the factual dispute is the issue of how far behind you are; we need to tweak the SIA.

A motion was made by Commissioner McCown that the number of housing based on time of CO and give them until December 31, 2008 to come into compliance with those units.

Commissioner Houpt seconded. Under the argument she agrees with staff. One set of closing those units and construction of the homes for the building is available and agrees with staff’s recommendation as to the number.

In favor: McCown – aye Martin – aye Opposed: Houpt – aye

Chairman Martin – this was a unique situation and originally proposed by Tim Thulson, let’s get it up to date.

BUILDING AND PLANNING - CONSIDER A REFERRAL FOR A SPECIAL USE PERMIT FOR EXTRACTION AND PROCESSING LOCATED SECTION, T6S, 5 97W. APPLICANT:

MARATHON OIL COMPANY – FRED JARMAN

Fred Jarman presented.

This is a request for a Conditional Use Permit application for extraction and processing comprised of a quarry site for Marathon Oil Company located 9 miles up Garden Gulch Road off of CR 215. The Town of Parachute is located 10 miles southeast. The owner of the property is Berry Petroleum. They request the CUP to accommodate the Circle Dot Quarry construction material mine site in the Resource Lands – Plateau zone district. The proposed facility is estimate to encompass 10 acres pf the 334 acre parcel. The facility is proposed to accommodate 1 – 2 operators, around 6 dump trucks per day and be in lifespan dependent on mineral resource requirements of the new property owner.

Staff Recommendation:

Staff finds that due 1) the limited nature of potential impacts to surrounding properties due to the topography, 2) the fairly remove location of the facility, 3) materials produced from the mine will be transported on private roads, and will have minimal impact on the County Road system, staff recommends the Board direct staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to request staff to schedule this before the Board of County Commissioners.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER A PRELIMINARY PLAN FOR A SUBDIVISION (THE FAIRWAYS) LOCAED WITHIN BATTLEMENT MESA PUD, EAST OF THE CITY OF PARACHUTE. APPLICANT – BATTLEMENT MESA PARTNERS, LLC. – CHRISTINA MONTALVO

Carolyn Dahlgren, Christina Montalvo, Debbie Dulley from SGM, Chris Coyle from Balcomb and Green and a Chris Hale for Battlement Mesa partners were present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

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Christina submitted the following exhibits for the record: Exhibit A – Proof of Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Comprehensive Plan of 2000; Exhibit E – Staff Report; Exhibit F – Mountain Cross Engineering response dated 9-11-07; Exhibit G - Roy McClung, Town of Parachute Mayor response dated 9-5-07; Exhibit H – Office of the State Engineer, Division of Water Resources response dated 5-18-07; Exhibit I – Department of the Army Corps of Engineers Response dated 5-19-08; Exhibit J – Colorado Geological survey response dated 9-13-07; Exhibit L – Road and Bridge response dated 8 -25-08; Exhibit M – Colorado Department of Public Health and Environment 8-23-07; Exhibit N – Email from applicant confirming ownership of water system dated 8-30-07; Exhibit O – Aerial of Proposed Subdivision; Exhibit – P – Email from Steve Anthony, Director of County Vegetation Management dated 9-26-07; Exhibit Q – application.; Exhibit R – letter – consolidated Metro District; Exhibit S – Phasing plan for the subdivision – response from Chris Hale.

Chairman Martin entered Exhibits A – S into the record.

The subject property is located within the Battlement Mesa PUD on the east side of West Battlement Parkway in Section 7, Township 7 South, and Range 95 West.

Physically, the property has a moderate grade slope of six (6) to eight (8) percent, and drains into a free-flowing drainage channel which trends south to north across the middle of the site. Vegetation on the property is primarily composed of sage brush and native grasses with some juniper trees near the drainage. The proposed subdivision is comprised of 4 Phases with Phase 1 starting at the southwest end of the parcel and ending with Phase 4 at the northeast end. The Final Plat for Phase 1 of The Fairways was originally approved in 1998. Phase 1, with a total of 18 lots, currently has a total of 8 single family homes built on the property.

STAFF RECOMENDATION

Staff recommends that the Planning Commission recommend approval to the Board of County Commissioners, with the following conditions:

1. That all representations made by the Applicant in the Application, and at the public hearing before the Board of County Commissioners and Planning Commission, shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
2. The Applicant shall place the following plat notes on the final plat and in protective covenants:
 - a. “Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. All must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the Application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.”
 - b. “No open hearth solid-fuel fireplaces will be allowed anywhere within the subdivision. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. seq., and the regulations promulgated there under, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.”
 - c. "All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.”
 - d. “All exterior lighting will be the minimum amount necessary and all exterior lighting will be directed inward and downward towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.”
 - e. “One (1) dog will be allowed for each residential unit and the dog shall be required to be confined within the owner’s property boundaries.”
 - f. “All owners are responsible for weed management of their individual parcel.”
 - g. “Structures on the subdivision property shall not exceed the maximum allowed height of thirty-six feet (36’).”
 - h. “Fence heights within or surrounding the subdivision shall not exceed 42” to allow for natural movement of Mule Deer.”
 - i. “Natural characteristics within open space areas, such as vegetation and geographic values, shall be maintained”
3. Existing fill and topsoil piles on the site shall be removed prior to construction of Phase Two (2). Fill can be used in structural areas if it could meet compaction requirements.

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4. Natural characteristics within open space areas, such as vegetation and geographic values, shall be maintained.
5. The existing noxious weed, Common Teasel, a Colorado List B species, is eradicated within two years of the date of Final Plat approval. The applicant shall meet with the Director of County Vegetation to determine how the county shall be assured that the above task is completed.
6. Weed Management
 1. Treatment shall begin immediately including a noxious weed treatment to be applied fall of 2007 with proof of treatment furnished to the Department of Weed Management and a copy provided to Building & Planning.
 2. Weed management will be written into the Subdivision Improvements Agreement guaranteeing that weed management will occur on undeveloped lots and on open space areas at least twice per year: once in the spring/early summer and once in the late summer/early fall.
 3. The Applicant shall meet with Steve Anthony prior to Final Plat approval to secure a Bond Agreement where the County shall hold \$16,000 of the developer's funds to assure proper weed management over the first 4 years after Final Plat approval. This meeting and agreement shall be part of the Final Plat application. Vegetation manager has the option to extend the bond for 4 more years upon final review of the subdivision site.
 4. The Applicant shall quantify the surface area to be disturbed by new roads and utilities. This information will be provided to the Department of Vegetation Management including a copy to be sent to the Department of Building & Planning so that a revegetation security can be determined. This shall be accomplished prior to Application for Final Plat approval. The security shall be held by Garfield County until vegetation has been successfully reestablished according to the Garfield County Weed Management Plan Reclamation Standards.
 5. All mulch or erosion control bales used in the project shall be either weed free straw bales or weed free hay bales.
7. The Applicant shall pay the applicable traffic impact fee as calculated at the time of Final Plat.
8. In accordance with The Revegetation Guidelines, the Applicant shall provide a Soil Management Plan that includes a provision for salvaging on-site topsoil; a timetable for elimination of topsoil and/or aggregate piles; and a plan that provides for soil cover if any disturbances or stockpiles will sit exposed for a period of 90 days or more. (At present time there are existing topsoil piles on site that appear to have been there longer than 90 days). This shall be accomplished prior to Application for Final Plat approval.
9. The internal road shall be dedicated as a public right-of-way and maintained by the homeowners association (HOA) at the time of final platting. A plat note using the standard dedication certificate language as set for by Garfield County shall be used.
10. The following recommendations from the County Road & Bridge Department shall be incorporated into any conditions of approval made by the Board of County Commissioners, which include:
 - a. The Applicant shall apply for a driveway access permit issued by Garfield County Road & Bridge Department with conditions specific to the driveway access location.
 - b. The driveway access will be approved by a representative of Garfield County Road & Bridge Department prior to any Certificates of Occupation being issued for the first new residence.
 - c. The driveway access shall have a stop sign placed at the entrance to West Battlement Parkway. The stop sign and installation shall be as required in the Manual on Uniform Traffic Control Devices (MUTCD).
 - d. A white stop bar will be painted at the entrance to West Battlement Parkway. The installation of the stop bar shall be as required in the MUTCD.
 - e. Intersections sign shall be place don the uphill lane and downhill late on West Battlement Parkway alerting uphill and downhill traffic of the intersection. The signs and installation shall be as required in the MUTCD.
 - f. All vehicles hauling equipment and materials for the building of the project shall abide by Garfield County's oversize/overweight permit system and abide by legal posted weight limits.
 - g. West Battlement Parkway shall be kept clean of debris at all times. Debris on West Battlement Parkway, including mud shall be cleaned up immediately.
 - h. A certified traffic control plan shall be submitted to Garfield County Road & Bridge Department for approval before any work is performed on the driveway access and the improvements to West Battlement Parkway.
 - i. No work being performed on West Battlement Parkway shall impede any emergency vehicle responding to an incident.
11. The Applicant shall delineate, legally describe, and convey all easements shown on the plat to the Homeowners Association or to the appropriate entity. This dedication needs to be in a form acceptable to the County Attorneys Office and transfer shall occur at the time of recording the final plat. These easements shall include, but are not limited to all drainage easements, shared water system easements (domestic wells and water storage tank), storm-water drainage easements, all internal roads (which will be dedicated to the public on the face of the final plat) and any access and maintenance easements that need to be provided for in the common open space.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown to approve the preliminary plan with the phasing plans 2, 3, 4 and including the recommendation, striking 2h fence height; going to weed management, 6c strike bond and put in financial security agreement allowing for any type and adding condition number 12 – a fire plan approved by Grand Valley Fire and all testimony by the applicant including Chris Hale and etc. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

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BUILDING AND PLANNING - CONSIDER A PRELIMINAY PLAN APPLICATION AND A PLANNED UNIT DEVELOPMENT AMENDMENT FOR THE SPRING VALLEY RANCH PUD. APPLICANT IS SPRING VALLEY HOLDINGS, LLC. – FRED JARMAN

Fred Jarman, Jim Lochhead, Mr. Tom Gray, GM for Spring Valley Holdings, Rick Kelley from Gamba and Associates and Carolyn Dahlgren were present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin stated he needs more time to review the application and submittals and would like to request the Board postpone this until the 6th of December and put this in the form of a motion.

Applicant Tom Gray – no objections – did provide a lot of information and went back to ground zero and this is different from the prior approval.

Chairman Martin showed the four (4) notebooks full of information.

Commissioner Houpt seconded the motion.

Applicant is willing to postpone.

A date of December 7th – 9:00 a.m. was agreed to by the Commissioners and the applicant. Chairman Martin and Commissioner amended first and second.

In favor: Houpt – aye; McCown – aye; Martin – aye

This is a continued meeting.

The Board requested the Clerk put something in the paper and the applicant should contact all of the neighbors that it would be continued.

They will send notices to the neighbors of the date certain.

Rick – as you review this, if you have questions, please pass those on the Fred and he will pass them onto Rick.

RECESS for the Workshop with Building and Planning at 6:00 p.m.

Notice – this was not held because it was not properly noticed.

Attest:

Chairman of the Board

**NOVEMBER 19, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, November 19, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

OIL AND GAS – RIFLE VILLAGE SOUTH

Marsha Golden – Lives in Rifle Village South and asked to comment on the proposed Laramie gas proposal on the Colburn Property adjacent to Rifle Village South. I understand natural gas development is important to the County however I strongly feel there is significant issue in locating wells in such close proximity to Rifle Village South and the Seventh Day Adventist Church. I do not believe anywhere else in the County wells are located so closely to a sub-division with this density. The exposure 24 hours a day, seven days a week with impact of noise, dust, fumes, lights, truck traffic and exposure to possible industrial accidents is shared by everyone in the close vicinity of any drilling activity is multiplied many times by the number of families affected by this location adjacent to the 90 homes in Rifle Village South. This location also raises several concerns unique to this location. The pad’s proximity to the Church, which is used by two separate congregations as well as a weekday food bank and at times as a school, and the relative topography of the land would funnel fumes to the area of the subdivision is too close. The unstable nature of the soil in nearby areas raises concerns of heavy industrial use. The pad’s access from County Road 320 is dangerous. It is compromised by limited visibility due to the nearby curves. An accident on this section of County Road 320 would isolate Rifle Village South from the most direct access of emergency services.

We have lived in this subdivision for over 20 years as have many of our neighbors. We are working families and this is about our homes, our neighborhood, and our quality of life. We have seen the impacts of gas drilling across the County and this will heavily impact our family and the other 90 families in Rifle Village South. So we are asking you to use your influence to prevent drilling on this site.

Commissioner Martin – You realize we make no decision in reference to yes and no?

Marsha understood.

Commissioner Martin explained they could act as liaison and put the concerns forward but they do not control the permitting process. He didn’t want anyone to be misinformed on this issue.

Thomas Fisher – Lives in Rifle Village South concerns the same as Miss Golden. I have some safety issues; I work in the industry and I’d like to bring up some safety issues concerning the same energy proposal. This is a one way in and out as far as it being more or less a large cul-de-sac and where they want to put this proposed well I would think we need another access for fire and rescue to get in and out.

It’s something I think should be brought up as far as questions. How many wells were proposed to be put on this well pad? How many condensate tanks, which are very flammable? We have had a few issues in Parachute; a lot of people are probably not aware of, but me being in the industry I’ve seen and heard about them and it’s not a good thing. I realize this is the boom right now. It’s a really good thing for the County and the state but it’s a residential area and getting pretty close to homes. I’d like to see who we can contact or speak with concerning these issues.

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Commissioner Martin – So everyone knows we have asked our oil & gas liaison, Judy Jordon to contact the industry and they are setting up a discussion in front of this Board on December 3rd in reference to those issues. This is not the only neighborhood or the only residents that have had these particular issues. We have heard these issues before.

Commissioner Houpt – The next step would be to determine whether we intervene on this application or not and I am assuming since that will be on the agenda on the third that would be the day we would make that determination.

Marvin Stephens – I’ve met with the industry over there in regards to the access permit on that well. We discussed accessing off of County Road 320 with excel/decel lanes rather than going into the village and through the church. It hasn’t happened yet.

Jim Golden – Resident of Rifle Village South. You heard me talk last week, I’ll keep it brief. I just wanted to submit some visual aids to the Commissioners (photos & packet passed out to the Board). He showed where the proposed well pad is going. I have a request, a pamphlet produced by the Energy Advisory Board and it looks like a retirement community. I would like this pamphlet to some how reflect Garfield County.

Commissioner Martin – Again on this issue of Rifle Village South, we will have a discussion December 3rd.

Marsha Golden – Just to be clear that no recommendations will come forth from the Commissioners as to whether or not to ask for a review from the Colorado Oil and Gas Commission until that date correct?

Commissioner Martin – That is correct because we have asked for an extension so we can gather facts and make a decision to intervene or not. It will also be televised and will be a public discussion.

COUNTY MANAGER UPDATE – ED GREEN

LANDFILL - RENEW PROFESSIONAL SERVICE CONTRACT FOR PROVIDING ENGINEERING AND ENVIRONMENTAL SERVICES AT THE WEST GARFIELD COUNTY LANDFILL – MARVIN STEPHENS – TIM ARNETT

Robert J. Peterson, President of Northwest Consultants, Inc. is requesting a 3% increase for 2008.

Staff recommends renewing this agreement for a not to exceed price of \$40,000.00

Commissioner Houpt – I have a comment on the scope of work. Senate Bill 5141 - the purpose of that bill was to enhance recycling of those materials and I don’t know if that is being emphasized at our landfill.

The scope of work sounded like an after thought, the recycling of those materials is going to be addressed. I think it is important that we recognize that senate bill is geared around the importance of recycling those materials.

Ed Green – We do that already.

Marvin – We recycle batteries, we have a place for them and they are picked up. We recycle all metals. We don’t take waste oil.

Commissioner McCown – I make a motion we renew the Professional Services Contract for providing engineering and environmental services at the West Garfield County Landfill with Northwest Consultants Inc. in an amount not to exceed \$40,000.00

Commissioner Houpt - Second

In favor: Houpt – aye McCown – aye Martin - aye

ROAD AND BRIDGE - RENEWAL OF PURCHASE OF SERVICES AGREEMENT FOR PROVIDING BULK FUEL – MARVIN STEPHENS

Western Petroleum is not requesting an increase from 2008. County staff recommends renewing this agreement for another year for the not-to-exceed prices of \$350,000.00

Rack Price for Diesel August 1 Rifle Shop	\$.05566

Rack Price for Diesel August 1 Cattle Creek Shop	\$.06234

Rack Price for Unleaded August 1 Rifle Shop	\$.05566

Marvin – We may exceed that or I may be coming back in front of you asking for more money the way fuel prices are going. Hopefully this will take care of it.

Commissioner McCown – Did we only have the one company bid?

Tim – This is a renewal. We had two last year. This company had the best rack price.

Commissioner McCown – I make a motion we approve the bid with Western Petroleum for our fuel supply with the amount not to exceed \$350,000.00 without an amendment to the budget.

Commissioner Houpt - Second. In favor: Houpt – aye McCown – aye Martin - aye

ROAD AND BRIDGE - BATTLEMENT MESA DRAINAGE IMPROVEMENTS – MARVIN STEPHENS

Garfield County solicited bids for construction of the Battlement Projects. This bid was inclusive of (5) construction projects, two of which were Ponderosa and Juniper drainage. There were no bids submitted. Due to the problems of the existing drainage, Garfield County Engineering felt it was necessary to enter into negotiations with Kiewit Western Company to complete necessary drainage improvements within the 2007 calendar year. Mark Miller will be the project manager from Kiewit. It will have to be paved by December 22nd with work allowable from 7 to 5 and Saturdays 9 to 5.

Garfield County Road & Bridge Department recommends awarding a contract to Kiewit Western Co. for a not to exceed price of \$212,144.00

Tim Arnett– We have been trying to do this for three years and we have had no luck at all.

Commissioner Martin asked if it was in the budget.

Marvin explained they may be a little short but he could move some money around within his budget.

Jeff Nelson – We are trying to get accomplished this winter. Key issue, we are going to pave this no matter what and Kiewit said they would do so and in saying that we may not be to specifications because of winter conditions. Worse case scenario in 2008 we’ll repave. Marvin stated it will be temporarily paving.

Commissioner McCown – Asked if it would be at our expense and they stated yes.

Commissioner Houpt – Asked what the surface would be for the first part and they stated asphalt.

Jeff Nelson – Best case, we’ll core in 2008 and find out we have the strengths or close to the strengths that we wanted, then we’ll leave it. If we don’t you typically go in and mill out and then re-pave an inch and a half. He didn’t want it to be a surprise if the Commissioners received calls next year. The reason we are

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doing this is because we have a contractor willing to take this on and the way prices are escalating now, I'm not sure it won't just be a wash anyway as opposed to re-bidding this next year. They would start ASAP. Don – For Kiewit will this be an amendment to an existing contract or are we going to do a new AIAA construction contract.

Tim – New

Commissioner McCown – I make a motion we award the upgrade to storm drainage at Juniper Lane in Ponderosa Circle to Kiewit Western Company in an amount not to exceed \$212,144.00.

Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

WEED MANAGEMENT - RENEWAL OF INTEGRATED MOSQUITO SERVICES FOR 2008 – STEVE ANTHONY

This renewal will be for one year beginning January 1, 2008 and running through December 31, 2008.

Michael McGinnis, President of Colorado Mosquito Control, Inc. has asked for a cost increase of 3% as per his enclosed letter dated August 9, 2007.

Staff recommends renewal of contract to Colorado Mosquito Control, Inc. for a not to exceed price of \$115,102.50.

Commissioner McCown – Are we getting any local support or is this all a County program now?

Steve – No it's like it has been through the municipalities, they all contribute; roughly we are 2/3 they are 1/3.

Commissioner McCown I make a motion we renew the contract to Colorado Mosquito Control in an amount not to exceed \$115,102.50. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin - aye

ADMINISTRATION - RENEW PROFESSIONAL SERVICES AGREEMENT TO SANDY'S OFFICE SUPPLY TO SUPPLY AND DELIVER VARIOUS OFFICE SUPPLIES ON AN AS NEEDED BASIS FOR 2008 – TIM ARNETT

This renewal will be for one year beginning January 1, 2008 and running through December 31, 2008.

Michael A. Husaluk of Sandy's Office Supply has asked that the contract price of \$200,000 remain the same for 2008.

County staff recommends renewing this agreement for another year for the not to exceed price of \$200,000.00.

Commissioner Houpt – Why is there a set bid at this level? Did we just go in and add up all the budget line items of the departments and determine what the projected need was?

Ed – Yes and it is working very well

Commissioner McCown – I make a motion we renew the professional services contract to Sandy's Office Supply in an amount not to exceed \$200,000.00.

Commissioner Houpt - Second

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - RENEWAL OF AN AS NEEDED ARCHITECTURAL SERVICES CONTRACT – TIM ARNETT

This renewal will be for one year beginning on January 1, 2008 through December 31, 2008. Contract price will remain the same as 2007.

County staff recommends renewing this agreement at a not to exceed cost of \$73,500.00.

Rate Breakdown:

Principal \$100.00/hr

Draftsman \$ 68.00/hr

Clerical \$ 37.00/hr

Commissioner McCown – I make a motion we renew the contract with Sopris Architecture in an amount not to exceed \$73,500.00. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin - aye

ADMINISTRATION - RENEW PROFESSIONAL SERVICES CONTRACT FOR COUNTYWIDE TRASH REMOVAL AND RECYCLING SERVICES – TIM ARNETT

Mike Andruzak, Territory Manager for Waste Manager is requesting a 5% increase for 2008 due to the cost of fuel and increase in the cost of living expenses.

County Staff recommends awarding the bid to Waste Management for 2009 trash and recycling services for a not to exceed price of \$26,932.44.

Commissioner McCown – I make a motion we approve the renewal of the service agreement to Waste Management in an amount not to exceed \$26,932.44. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin - aye

SHERIFF - RENEW PROFESSIONAL SERVICES CONTRACT FOR PROVIDING MEDICAL, DENTAL AND MENTAL HEALTH SERVICES AT THE DETENTION CENTER – LOU VALLARIO

This renewal will be for one year beginning on January 1, 2008 and run through December 31, 2008.

Cristina Capoot, President of Correctional Healthcare Management has asked for an 8% increase (as per enclosed justification letter) in the not to exceed cost of \$839,324.50.

County staff recommends renewing this agreement for another year.

Don – I would like to defer discussion until after executive session. Lou had no notice and I need to provide the Board with an update on some contract negotiations with Correctional Health before we move forward.

MAINTENANCE - RENEWAL OF COUNTY WIDE CUSTODIAL SERVICES – RICHARD ALARY

This renewal will start January 1, 2008 and run through December 31, 2008. Dan Moriarty, owner of Cardiff Cleaning Services is requesting a 5 ½% increase for cost of cleaning twelve (12) County Buildings. The rate request is due to increases in vehicle fuel costs and salary increases. Staff recommends renewing this agreement for a not to exceed price of \$305,820.00.

Tim Arnett explained it was a challenge for them on the outside at the Fairgrounds.

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Commissioner McCown – I make a motion we approve the cleaning contract with Cardiff Cleaning Service in an amount not to exceed \$305,820.00 annually. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin - aye

MAINTENANCE - RENEWAL OF PROFESSIONAL SERVICES CONTRACT FOR PROVIDING HEATING & COOLING MAINTENANCE – RICHARD ALARY

This renewal will start January 1, 2008 and run through December 31, 2008. Chris Allen, Service Manager of Climate Control Company has asked for the rate increase due to increases in vehicle fuel costs and filter increase.

Staff recommends renewing this agreement for a not to exceed price of \$59,940.00.

Commissioner McCown – I make a motion we approve the contract with Climate Control Company in the amount not to exceed \$59,940.00. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

MAINTENANCE - SECURITY REMODEL OF THE COURTHOUSE – RICHARD ALARY AND TIM ARNETT

Through administration, Facilities Management was directed to do some preliminary review to assess costs associated with allowing the general public to conduct business with elected County officials without passing through current courthouse security.

The following is a break down of cost:

Cameras & recorders	\$21,523.00
Card access	\$13,732.00
Wall on 3 rd floor (plan included)	\$22,000.00
Door Locks	\$ 4,000.00
Miscellaneous	\$ 5,000.00
Estimated Total	\$66,255.00

If the above price is acceptable, this project will be bid out in late November, with bids due in December. Work will not begin until 2008.

Tim Arnett– This is just for your information; we are asking how to proceed.

Commissioner Houpt – I haven’t seen a presentation that would indicate that \$66,000 expenditure is conducive with the future use of this building. We are talking about plans to be an actual courthouse in a couple of years and this isn’t a quick fix, its \$66,000.00 and there haven’t been any plans with the exception of this. I don’t know whether it flows with what will happen in a couple of years or whether it is conducive to the work being conducted in the building right now.

Commissioner Martin – In reference to an actual quick fix, it will continue the security with our cameras which we are putting in for added future court security etc. It also secures escape routes as well as entrance routes in reference to the card readers, employee access etc. That will remain there and continue to do that. The only question would be do you wish to have the wall that is constructed just as a security issue for the back door of the third floor courtroom because of visibility. That is really what it amounts to if that is an entire court facility that wall can go out, but if it is not it can remain there and give the judicial system the security and the comfort they were looking for then \$66,000 is not a bad investment to make it functional, back to the public as well as the court and the District Attorney.

Commissioner Houpt – We’ll still have a need for security, there will still be people who need to go through security so we will have that cost along with this.

Commissioner Martin – That will always be there with that building. Also in the capital projects you will need another elevator and that shaft is in place. They will still have to go through security

Richard – Strictly so people can access the 2nd floor so County offices would not have to go through the metal detector.

Don – Question about the elevator regarding ADA access, do you intend to secure the elevator on the second floor?

Commissioner Martin – Elevators will be side by side of the existing elevator which is used on the general public and you have one shaft which is right next door (4 feet away).... No matter how you use the elevators you have to go through security to get to the elevators.

Don – that was my question are you going to provide security on the second floor for people getting on the elevator on the second floor.

Richard – You can’t get on the elevator on the second floor

Don – How do disabled individuals get to the second floor?

Richard – They would have to go through the metal detector and be brought up by one of the guards.

Commissioner Martin – what it amounts to if you put a second elevator in 2008 that could be designated as the second floor elevator alone and still go through security. You can’t go from the second floor up; you still have to come down to the first floor.

Commissioner Houpt – So we are not looking at a \$66,000 fix, we’re looking at a need to also add an additional elevator.

A discussion was held on the additional elevator and how some people can not utilize the stairs.

Lou – Feels it is a good plan and it reduces the back log at the front door, probably 50% of the people coming in go to the second floor. The elevator issue, we do need another one but we can work with it. Just trying to avoid when anyone gets to the second floor they can’t get into the elevator to go to the third or fourth floor. The elevator will be available at the second floor however it will have to be keyed by security. We are going to encourage the use of the stairs. It is a good fix until ultimately the building becomes an entire courthouse. There will be some need to have to escort people up and down. Right now it is the best option until another elevator is in place.

Commissioner Martin – Has had conversations and received suggestions from the other elected officials in the building including the District Attorney and the DA has helped in reference to his bullet proof security in his office and feels he really doesn’t need that if security is designed the way we have it.

Jean – Feels the Commissioners need to sit down with Georgia, John and myself because this is the first time I’ve seen this and there have been a lot of other discussions but we have not been included yet and I know we all agree something has to be done because we are the ones who hear about security.

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Commissioner Houpt – Feels the need to make sure all elected officials have been brought into the discussion.

Commissioner McCown – the primary gripe is having to go through security so if we can eliminate that and not cause any hardship, no loss no fowl. Feels they can talk about it but it's going to have to happen.

Commissioner Martin – Wants to move forward as fast as possible and talked about having identifying funds in 2007 that aren't obligated yet on projects. Within that capital improvements project on the courthouse is \$167,174.00 un-obligated today. He would like to put it out to bid before December.

Richard – Doesn't feel we can do it in 2007. Our hands are tied. We have to put out to bid, do walk through. Anyway we can carry over to 2008?

Everyone agreed it could go over to 2008.

Jean – My main concern is not so much design. How do we handle people with disabilities? If the elevator is keyed, who's going to be keying? Is it a staff person from our office who has to walk out and let them down? What is the process?

Lou – I can't answer that, I assume security personnel will be doing that. How they get back down, put an intercom in there and say send the elevator up. We will have to work on that.

Jean – I think we all agree, we are hearing from our customers; they want the convenience of the south door being open again. I even have staff members who need to use the elevators.

Commissioner Houpt – We need to solidify what the plan is going to be and how people are going to key in and out of the elevators so it doesn't fall on the Clerk's staff or the Assessors or the Treasurers to do that.

Tim – Going to get a scope of work together.

Commissioner McCown – It will be after the first of the year before you're ready to go to bid.

Ed Mulhall said the public has lost the public portion of courthouse due to security. I don't know what the risks are but it seems to me somebody that has been wandering in and out of the courthouse for more than 40 years and participating in the court system over there that it is a little more severe than perhaps what the risks are. Granted the judges make unpopular decisions but let me submit that you all do the same thing and there are no guards or fortresses in front of this building. The court system has inconvenienced everyone except themselves. If they need to be barricaded off then that's probably what needs to be done. There are some ugly expanding metal gates that can be installed to keep people out of portions of the building and these could be labeled with a sign. It's an extreme example but getting in and out of the courthouse is an extreme experience and going through it several times a day is a real pain. I'm glad you are trying to focus on the thing and if I could suggest, keep it simple. Give us back the public portion.

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don – Would like to start with items for public discussion. I need to provide you with some advice concerning legal discussions and positions regarding the contract with Correction Health Management, provide an update on the Silt litigation and Ed and I need to receive direction on contract negotiations and I anticipate public action on those items.

Carolyn – In regards to contract negotiation I would like to talk about the airport purchase agreement, the proposed amendment with a public service company in preparation and I hope for some public action. The request for an easement is a public item.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt go into an Executive Session; motion carried.

A motion was made by Commissioner Houpt and seconded by Commissioner to come out of Executive Session; motion carried.

Action Taken:

COMMUNITY CORRECTIONS - CORRECTIONAL HEALTH MAINTENANCE AGREEMENT

- I would ask that the Board move forward and authorize the Chair to sign the agreement with CHM.

Commissioner Houpt – So moved. Commissioner McCown – Second.

Commissioner Houpt – Not to exceed \$839,324.50. In favor: Houpt – aye McCown – aye Martin – aye
AIRPORT - REQUEST FOR EASEMENT (PROPOSED UTILITY PAD ON 9FL) – HOLY CROSS EASEMENT

Letter submitted from Ken Mullins, Chief Pilot, Skye Gryphon, LLC stating they are in agreement and approve Holy Cross Energy right of way easement as it pertains to their lease-hold (9FL).

Carolyn – this is for the purpose of providing electricity to one of the new hangars and it will go on County land and across County land over which there is a lease. We are asking for authority for the Chair to sign. I have been over the language with Mr. Quaco.

Commissioner McCown – I make a motion the Chair be authorized to sign the right of way easement with Holy Cross Energy. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
AIRPORT - UPDATE AIRPORT PURCHASE AGREEMENT AMENDMENT, PUBLIC SERVICE CO. (CONTINUED FROM NOVEMBER 13TH)

Carolyn – Asking for authority for you to sign the amendment to the purchase agreement with Public Service at the same price but with the language added to both the contract to purchase and the proposed deed clarifying surface and subsurface use.

Commissioner Houpt – So moved. Commissioner McCown – Second.

In favor: Houpt – aye McCown – aye Martin – aye

ADMINISTRATION - DIRECTION/DISCUSSION REGARDING EMPLOYMENT CONTRACTS FOR COUNTY MANAGER AND COUNTY ATTORNEY

Don – I would like to move to the contracts or agreement letter with first myself as County Attorney as it affects 2008. I presented the Board with a proposed form of agreement and we have had a chance to discuss it and I ask the Board to go forward and approve that agreement in the form presented.

Commissioner McCown – I make a motion we approve the employment engagement with the County Attorney as presented and that the Chair be authorized to sign. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

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Don - Ed Green has presented his agreement to Board and you have had a chance to review the form of agreement and at this point I'd ask you to go forward and authorize the Chair to sign the letter of agreement in the form presented if you have no changes.

Commissioner McCown – I make a motion we approve Mr. Greens employment contract and that the Chair be authorized to sign.

Commissioner Houpt – Second. I never agreed with the severance package on this contract.

In favor: McCown – aye Martin – aye Houpt - opposed

COMMISSIONER REPORT

Commissioner Houpt – Clear week

Commissioner McCown – Tomorrow we have the second round of Human Services grant requests for the overflow amount.

Chairman Martin – Want to make sure we confirm our building and planning workshop on December 4 in Rifle and November 29th.

Don – Could the Board approve as special meetings and then we know what format they are in and have them posted, because they are still public meetings.

Commissioner McCown – They were identified as workshops when we initially started this process.

Don – They could still be listed on agenda as workshop to discuss new code but we know they are on the agenda and the public knows they can attend and participate or at least listen.

Commissioner Martin – Let's identify and have them posted 24 hours or more and that will be November 29th, in Glenwood Springs, 1:00 p.m. to 5:00 p.m. and then on December 4th from 1:00 to 5:00 at the Human Services Building and then in Rifle on December 18th from 6:00 p.m. until we finish at the Human Services Building. Make sure they are posted and Linda has to publish.

Commissioner McCown reminded everyone that is one meeting short as one meeting was missed.

Don suggested they discuss this on the 29th as Fred Jarman will need to be present.

Commissioner McCown – Asked if the meeting is with the Planning Commission.

Don – Good question, the Board needs to give direction because Fred will need to advise, this meeting was not planned for them.

Commissioner McCown – I would prefer the last meeting held would be with the Planning Commission.

He would like to work through the document, see if any issues or suggestions for change then at the end of the day we go back and meet with the Planning Commission.

Commissioner Martin – What is the pleasure of the Board?

Commissioner Houpt – Definitely keep a record and we may need a couple of meetings with the Planning Commission but the staff was there the whole time.

Don – If it is the consensus of the Board that you would like to go through it first and then meet with the Planning Commission, I think Fred should convey that to them.

Commissioner McCown – The Planning Commission can be there if they choose and they may be able to answer some questions.

Commissioner Houpt – As far as I'm concerned it would be very advantageous to have them there but they have already committed so much time to this I would hate to require them to be at every meeting.

Don – As I'm listening maybe the approach would be to say to the Planning Commission "you are certainly invited to attend but we definitely want the Planning Commission to attend as a Commission on the last meeting".

They all decided to wait on a fourth meeting and also the Planning Commission is welcome to come to any meeting.

Commissioner Martin – Next Monday, Tuesday and Wednesday we will have CCI conference.

CONSENT AGENDA

- a. Approve Bill
- b. Inter-fund Transfers
- c. Changes to Prior Warrant Lists
- d. Authorize the Chairman to Sign the Special Use Permit and Resolution of Approval Allowing Deviation from the Maximum Height Requirement Within the Drinking Water Constraint Zone – Applicant; Union Pacific – Craig Richardson
- e. Authorize the Chairman to Sign the Resolution of Approval for a Special Use Permit to Allow a contractors Yard Within the Agricultural Residential Rural Density Zone District – Applicant; George Strong – Craig Richardson
- f. 3.2% Beer Retail Liquor License Renewal for City Market #28 in Parachute – Jean Alberico
- g. Authorize the County Treasurer's Office to release \$3,750 to RFTA for use in bus stop Improvements near the turn off to CMC from Highway 82

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Consent Agenda Items a - g; carried.

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES COMMISSION:

GROWTH IN GARFIELD COUNTY PRESENTATION/DISCUSSION

Kay Vasilakis– Garfield Human Services Commission – Garfield Humanitarian Services Awards dinner is going to be held January 28th at the Hotel Colorado. Got plates for a reasonable prices however we have other expenses and last year you gave us \$2,000 and we are asking for \$3,000.00 this year.

Commissioner Houpt – I make motion to give we give the Human Service Commission \$3,000.00.

Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin – aye

Sandy – Reporting on the Garfield County Child Health Taskforce which you had authorized back in August. We had a dinner for the State Managed Care Network which is Anthem & Rocky Mountain Health Plans and was attended by 15 additional people maybe 20 and it was successful. Both Anthem and Rocky Mountain HMO were able to talk about the child health plan and Garfield County is 50% enrolled, which is really good compared to Pitkin County which is 16% enrolled. What we need to do to increase enrollment; if you remember the child health plan is for working parents so in order to increase that

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enrollment we need providers. It doesn't help the parents to enroll in medical plan that no one will take.

That was our goal in having this meeting with the medical providers. We had Castle Valley, Children's Clinic, Mountain Family Health, Mountain Radiology, Valley View Hospital all its affiliates, Eagle, Roaring Fork Hospice, Silt Medical Center etc. were all there and she mentioned many more.

Commissioner Houpt asked about Glenwood Medical and Sandy said they couldn't come but they are interested. The next step is that contracts have to be negotiated on an individual basis. We are hopeful that the contracts, that each physician we would ask them to sign up and talk to the various providers and groups and that each of them spend a little time finding out more and whether or not they would be willing to sign on for the contract. Anthem is the states network that manages the CHIP Program and like Grand Junction which is 99% enrolled has Rocky Mountain HMO and they are able to spread the number of children out to all the various practices. That is our goal; we would like to get up there. The task force is going to continue to meet and keep board informed.

Commissioner McCown – Excuse me if I missed it but who is the provider? The insurance?

Sandy – It's the Child Health Plan which is the S-CHIP, it is the state program (CHP+). Parents pay \$25.00/year to enroll children and then they pay a co-pay. She feels it's a wonderful program.

Commissioner Houpt – Who can participate? Tresi wants more people to be aware of what they need to do.

Sandy – Any parent who meets the income criteria. If a parent is interested they can personally call me @ 945-1234 Ext. 23. They can call and get their specific situation, how many children in family and what their income is.

Commissioner McCown – Listening to the list you read off how many medical folks are on board with this? Are all of the doctors and the hospitals in the area willing to accept this program?

Sandy – We don't know yet.

Commissioner McCown – Without that I'm having trouble finding out where this program is going to go. To me that would have been the cornerstone of the building to know that you were able to go to certain physicians and get medical attention.

Sandy – What we have is a commitment of the majority of those people to meet with the two providers, the state managed care network which is run out of Anthem and Rocky Mountain Health Plans. CHIP is the insurance plan. It's managed in Colorado by five different organizations. Two of them are willing to come over to the Western Slope. And those two are Anthem and Rocky Mountain HMO. Physicians in the community have to sit down meet individually with Anthem and Rocky Mountain HMO and come to a decision. We are going to be following up with practices to see if they are willing to sign on.

Commissioner McCown – And that would be establishing reasonable and customary costs?

Sandy – Yes, whatever their negotiated rate is. That's why more doctors who sign on, more mental health providers that sign on the better we are in terms of the cost.

Commissioner McCown – do you anticipate a different rate for this entity than other insurances and other agencies in the area?

Sandy – Yes, there is a very set rate for the Child Health Plan and I don't know what those reimbursements are because that is like triple secret. That is only discussed between the physician and the insurance carrier. Anthem is currently in the valley and we do have some like Orthopedic Associates for instances takes Child Health Plan and they have had a contract for years. Mountain Family Health and Castle Valley Children's Clinic are all providers now. We are trying to expand the number of providers. The other thing I sent you is the Garfield County Human Service Commission is going to be starting to talk about growth and how it impacts us. One of the things is birth and death statistics I sent you. In the past 10 years Garfield County has experienced a 56% increase in the number of births. She talked about the States statistics, who's receiving dental care etc. What we are seeing in Garfield County we still continue to have the number of very young children having babies. They would like to see that number at zero. It ended up over 3.3% of the population having babies so that to us is an issue. We are seeing almost 37% having late prenatal care. There are a lot of issues on that which relates to the State of Colorado. They used to have assistance for pre-natal care for women who could not afford it. That is no longer in existence. We are seeing more and more people who can't come up with the \$750.00 for pre-natal care. That is about the cheapest we can get in the County unless they are on Medicaid. CHIP plan also covers pregnant woman. The other thing that is still a problem for a lot of moms deals with less than a high school education and not married. They have a tendency to have greater difficulty in finding personal assets and financial assets to raise that baby.

BOARD OF HUMAN SERVICES:

APPROVAL OF EBT/EFT DISBURSEMENTS FOR OCTOBER 2007 – LYNN RENICK

For the month of October 2007, client and provider disbursements for allocated programs, totaled \$246,822.63. Client benefits for Food Assistance totaled \$135,049.70. Total EFT/EBT disbursements for October equaled \$381,872.33.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the disbursements as presented for the month of October in the amount of \$381,872.33.

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES - APPROVAL OF COLORADO WORKS POLICIES/PLAN – LYNN RENICK

The department is requesting approval and signature on revised Colorado Works policies, which replaces the Annual State plan that has been submitted in past years. The Self-Sufficiency Manager has been working with State staff to finalize the policies to assure that the individual policies reflect current regulations and practices. This year the Colorado Works Program is requiring Board signature on each of the individual policies.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Colorado Works Policies/Plan and authorize the Chair to sign.

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES - CONSIDERATION AND APPROVAL OF OUT-OF-HOME PLACEMENT AND SUBSIDIZED ADOPTION CONTRACTS – LYNN RENICK

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The department is requesting consideration and approval of the following out-of-home placement contracts and one subsidized adoption contract:

1. State ID Y948589 – Special Needs Subsidized Adoption in the not-to-exceed amount of \$14,760.00.
2. Contract 531 – CSA – El Pueblo boys’ & Girls’ Ranch in the not-to-exceed amount of \$55,411.02
3. Contract 532 – CSA – Tennyson Center in the not-to-exceed amount of \$18,000.00
4. State ID G050383 El Pueblo Boys’ & Girls’ Ranch in the not-to-exceed amount of \$41,848.00

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the out of home placement: State ID Y948589 – Special Needs Subsidized Adoption in the not-to-exceed amount of \$14,760.00; Contract 531 – CSA – El Pueblo boys’ & Girls’ Ranch in the not-to-exceed amount of \$55,411.02; Contract 532 – CSA – Tennyson Center in the not-to-exceed amount of \$18,000.00; and State ID G050383 El Pueblo Boys’ & Girls’ Ranch in the not-to-exceed amount of \$41,848.00

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES - PROGRAM UPDATES

- o Joy Davis has been asked by the State Child Support Program Director to participate in a Rural Initiative which is being hosted by the Federal Office of child support enforcement. This initiative involves a series of phone conferences focusing on information sharing and generation of new and improved service delivery practices. Garfield County was approached due to its tremendous growth.
- o A chart was provided showing Child Welfare Historical Data Comparing Counties with a higher increase in child population between 2003 and 2007 in the areas of referrals and completed assessments.

SPECIAL DISTRICTS - BATTLEMENT MESA SERVICE ORGANIZATION AGREEMENT – BOB JASPER

Fred Endman, Chairman of the Consolidated Metro-District Battlement Mesa, Frank Lancaster, Bob Jasper were present

Fred – Purpose is to provide you with information and introduce a scenario we hope would bring both Garfield County and Battlement Mesa into a closer and mutually beneficial relationship. Consolidated Metro District has the operational responsibility for the water and sewer plants and the Community Activity Center as such CMD is authorized by state statute and by it’s service plan which is approved by Garfield County to provide various services which includes parks, bike paths, open space recreation facility, sanitary and water treatment. Flood irrigation facilities, paving, street maintenance and lighting, that’s in the service plan that is not what we do now. We’re aware that the future of our area is changing and with the plans that have been presented before the County Planning Commission will change even more. As you know the original developer had their plans that provide these services necessary to build into a city. But that has changed and so has the opportunity to incorporate. We are also aware that the County would like to rid itself of Battlement Mesa street maintenance. Commissioner Houpt interjected that she had heard that but not from this County. Fred replied we have gotten that indication. Battlement Mesa partners has announced and they are working to extract itself from the development side and has their plan to sell real estate to other developers, most likely smaller and really not interested in the support role of community. Assuming they are successful we’re faced with the doubling of population from the current estimated 45,500 people. CMD working with Battlement Mesa Service Association who provides much of the over site of the community including open space maintenance, trash pick-up, trails and fence maintenance, architecture and covenant control we’re trying to invent perhaps a hybrid method of government that will address the eventual departure of the current services provided in part by Battlement Mesa Partners. Within that scope CMD is proposing that they take over initially the street sweeping activity to start and then move further into road, storm sewer maintenance. As a side note we would open dialogue with the Town of Parachute regarding annexation which would resolve some of the issues with which the County is no doubt concerned. In the meantime we do feel a responsibility to provide this community with a certain future as it relates to the public works response. With regard to the proposal, both County and District staff are aware of some drainage issues that need to be corrected and part of the proposal is to repair these prior to any transition of responsibilities. Since our discussion with the County staff we have hired a consulting firm of Rolland Engineering to do an evaluation of all sixteen miles of Battlement Mesa residential streets. Though the through streets are in reasonable condition there are many cul-de-sacs that do need repair and/or replacement. We have no cost data at present but if it’s in the opinion of the Commissioners this proposal has merit, we will then engage Rolland Engineering to prepare a proper cost estimate for the restoration of these areas to full integrity. With your help in taking these first steps towards self sufficiency we believe we can make the transition to self sustaining density.

Bob – As Fred mentioned we have embarked on a couple of efforts in strategic planning. Battlement Mesa is organized quite differently. I think you all know under state tax law, cities and towns live mostly on sales tax. We have a City Market and a couple of Kum-N-Go and that is about it for sales tax generation. Under the Gallagher amendment you really don’t get much property tax. What has been done in the past is the developer; Battlement Mesa Partners has set up these Homeowners Associations. They use homeowners assessments, some cases are pretty good size. Through this strategic planning process one of the things we are working with Parachute on is should we annex. Parachute at this point said they are interested. We have done a couple of studies; we just don’t have tax resources. Where does that leave us? It has us working with the Battlement Mesa Service Association. You know the history of where we started with Exxon. At that time the County picked up all the collector and residential streets. Sometime in the 90’s you all made a policy decision not to pave residential streets. We talked about this responsibility moving into sub-association. When the Consolidated District was formed we took responsibility for the storm drains but only the ones under County streets. From our view if you’re trying to do the storm drains, sweeping streets and if you do a good job you make the roads last longer. So we have three different entities involved in the same streets plus we’ve got 5 new sub-associations responsible for their streets. We offered these sub-associates neighbors to do their drains too. Point being, many people are involved in the

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roads and we are a little different than the average County roads. We have curbs, gutters, parking on the streets etc. Battlement Mesa Company is now in the proposal at the re-zoning stage and they could be adding as many as 10,000 new people. In working with your staff our original concept was that we would take over the residential streets. There were a few existing drainage problems.

Commissioner Martin – It wasn't that we neglected to do it we couldn't get anyone to do it.

Bob – Stated he was aware of that and should have mentioned it. If this proposal or something close to it happens we are going to be in the same dilemma. On the GARCO conditions, subdivision approvals, we are allowed by Title 32 to set up sub-districts. What we are proposing in essence is that you make that as a condition of approval for new subdivisions that they petition to be a sub-district. Really there are two parts of this to make it work. One is re-payment by the County for the existing roads you now maintain and the second is set up sub-districts. He went around and viewed the cul-de-sacs and established problems with those roads.

Carolyn – Are you talking about the cul-de-sacs that are the responsibility of the subdivision's HOA's and he stated no. You're talking about cul-de-sacs that are on county roads that we are presently maintaining?

Bob – No, this discussion is just on the 16 miles of residential streets the County now maintains. The \$200,000.00 we are talking about is for just the 16 miles of the County streets. I'm not trying to be critical. You're not necessarily used to going in and maintaining those kinds of roads. Cul-de-sacs are harder to maintain than roads.

Commissioner McCown – What I'm hearing is that you want all the roads rebuilt that are in poor condition and then \$200,000.00 per year and you would consider taking over the roads.

Frank – yes, but mainly the cul-de-sacs. We went through with Roland Engineering and there were 44 in bad shape that are on the County map.

Carolyn – Have you created a list of those, does our Road and Bridge have it?

Fred – There is about 55 on the list but only 44 we thought really needed some major work.

Bob – We have a copy of the mileage.

Commissioner Martin – Would like to see the names of the roads and is very surprised.

Carolyn – And these are County roads, County maintained rather than public roads, HOA maintained?

Bob stated yes.

Frank provided a list to the Attorney and Carolyn

Ed Green– I asked Mike Vander Pol to give me an estimate of what we paid on an annual basis to maintain these roads and it came out to a little over \$176,000.00. This is for removal of snow, occasional gravel sweeping.

Bob – We don't anticipate that we come out of this where you cut us a check to fix all the cul-de-sacs. I'd be glad to work with Ed and your staff and we are saying is if we take over this we still need to find a way jointly to deal with the cul-de-sacs and that may take a few years to get them out of that shape.

Commissioner Hought – If you take these roads over is that going to create an additional assessment for people who already own property in Battlement Mesa who purchased believing that the County would take care of these roads and they wouldn't have that road assessment? Are they going to be faced with an additional assessment?

Bob – What we are proposing is that you pay for the roads you now already maintain. So no there would be no homeowner's assessment levy for that. We don't have the ability on our own to levy homeowners associations. On the five existing neighborhoods that are on private roads we would approach them and say if you agree to be included in the district and pay a property tax, but they would have to agree to that particularly under TABOR; on the other hand in that case we would say part of that deal would be you would reduce those HOA assessments that you are now paying. That's the concept. Then all the new neighborhoods would have a property tax. He continued to talk about taxes and how the assessments are done. We would not force anyone who lives there now to pay a higher assessment or new subdivisions would have to pay property tax but a lower assessment and it would equalize the assessment situation. He told how it is causing problems with people paying differently. Feels the County and Battlement Mesa are in this together.

Carolyn – I want to be careful about the language we use on private and public roads because it affects the County's ability to get federal money for maintenance. You mentioned the five existing neighborhoods have private roads, are they private or are they public roads that are maintained privately?

Bob – The latter. They are showing on your County road maps so that would tell me, let's re-phrase - it's a public right-of-way.

Carolyn – I need to check out this list against our highway user tax fund records to make sure these cul-de-sacs are actually on the County maintained lists. Have you had the opportunity to do that?

Commissioner Martin – Other than just looking at the County map itself because all right-of-ways are usually on the County road map for public access.

Bob – It is our understanding that certainly all those are County roads, not just public right-of-way.

Commissioner McCown – Discussed cars being able to park on the streets. I'm going to need further explanation from Road & Bridge.

Bob – Battlement Mesa is changing radically and the seniors are beginning to leave and you drive up there now and there are five pick-ups at one manufactured house.

Carolyn – Have you prepared a map or would it be easy for you to show County staff where these are with the subdivision names?

Commissioner Martin stated Road and Bridge already has that.

Commissioner Hought – I don't want anyone to have the impression that we want to off load these roads. We have never had that discussion.

Fred – Shall we prepare cost estimates for the work?

Commissioner McCown – We would have to do it again anyway. I recommend you save your money

Commissioner Martin – We'll be taking a road tour and we will continue to talk. Wait to hear from us through Mr. Green.

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AFFORDABLE HOUSING - REQUEST FOR GARFIELD COUNTY SPONSORSHIP OF A GRANT TO DOLA HERITAGE PLANNING GRANT FOR A REGIONAL HOUSING STRATEGY PLAN – GENEVA POWELL AND SUSAN SHIRLEY

Mountain Regional Housing Corporation and Garfield County Housing Authority are requesting Garfield County's endorsement for two grant applications. One is to the Division of Local Government-Office of Smart Growth and the other is to the Colorado Division of Housing's Special Housing Needs Assessments. The Boards endorsement would require a letter of support and a willingness to help with the process by participating in focus groups relating to Carbondale's housing issues. The scope of work proposed covers the following main areas:

- ❖ Research land inventory and existing land use plans
- ❖ Identify housing assets and project housing units needed
- ❖ Identify specific housing needs by each town and county
- ❖ Identify common ground between communities
- ❖ Recommend overall housing strategy for the region including housing responsibilities, regulations, funding options and current land use
- ❖ Set housing goals within each jurisdiction

Geneva Powell – May not go after the heritage grant and may go for DOLA instead. Not asking for any dollars, just a request for sponsorship.

Commissioner McCown – In looking at Colin's letter I see a distinct absence of the towns in the County and most of those I would view as the receivers of this housing and I don't see them as participants.

Colin – Only because they haven't made final decisions yet. But Carbondale, Glenwood Springs, New Castle, Silt have all been approached.

Susan Shirley – We simply need endorsement of the application to DOLA Division of Housing.

Commissioner Hought – Do you need this today or are we going to be working on this?

Susan – DOLA covers both of these grants. We do need a formal letter and secondarily we would like to have participation from planning or other entities in the County to help in focus groups.

Carolyn – Are these going to result in two different DOLA contracts for which the Commissioners will be the fiscal agent?

Susan – No

Commissioner Martin – What we are doing is lending support to one.

Commissioner Hought – I make a motion we authorize John to sign a letter of support for the Regional Housing Strategy Plan.

McCown – Second for discussion; it would help me to know how much we are going to be asking for.

Susan – About in the \$50,000.00 range.

Commissioner McCown – And this is redundant on anything we have already done? It seems like we have housing studies semi-annually.

Susan – We are trying to set goals so that we can be measurable on results we have.

Commissioner McCown – We can study it to death and say we need 150 rental units in Carbondale and if Carbondale says no we don't want any rental units we want all private ownership, what does that do to your study?

Susan – The strategy to this study is that Carbondale be in the discussion groups so that we identify what they want and need.

Commissioner McCown – But if they set the course and say in this discussion group, we don't want any rental units in Carbondale that's going to double the impact on Glenwood or triple it on New Castle etc.

In favor: Hought – aye McCown – aye Martin – aye

SMART GROWTH - REQUEST LOCAL MATCH FOR REGIONAL SMART GROWTH GRANT – COLIN LAIRD

Project Partners:

Requesting \$50,000 from the office of Smart Growth. Local match secures so far are-

\$7,000.00 from Pitkin County

\$15,000 from the Renewal Energy Mitigation Program

\$15,000 from the Roaring Fork Transportation Authority

Other commitments are pending. Asking Garfield County Commissioners to consider a matching amount of \$15,000.00.

Project will accomplish the following:

- ✓ Menu of model policies, codes and tools for creating affordable, energy smart communities. Topics covered will be affordable housing, energy efficient building techniques and tools to encourage efficient community design and transit oriented development.
- ✓ Regional financing strategy to facilitate affordable housing
- ✓ Technical assistance for implementation and adoption of codes and policies among communities throughout our region
- ✓ Training academy for citizens and professionals to increase skills and knowledge for creating affordable, energy smart communities

Colin – Local governments are very interested in having these discussions jointly not as separate independent municipalities. Discussions we have had over the last year or so have raised a lot of common themes from Rifle to Carbondale to Basalt to DeBeque. This is an opportunity for us to really think how we are going to finance and have a discussion on where to go. Most of the local governments don't have the dedicated revenue sources to contribute. Many cases there is some public land they would like to develop. One of the challenges we are facing is that the whole west end doesn't have housing policies, there are no requirements. So how are we going to find ways to encourage affordable housing?

Commissioner McCown – They have always been the affordable housing, they haven't needed and they still are if you look at the pricing in the County.

Colin – Good, buy it. All the issues you see in the Roaring Fork Valley are just going to keep moving in terms of affordable housing.

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Chairman Martin – Let me just play devils advocate. What if we don't approve anything? What if we just say no to everything? We can solve the problem we have now but we create other problems. When we say yes to development what are we creating? Growth, what are you trying to counter? Growth issues. It never ends.

Colin – I would say to counter that would be we are trying to shape it in a way that it meets some of our local needs. It's all on the upper end and there is a lot of incentive for that to happen. It is going to be really hard to meet the needs of middle income families and one of the big challenges for all the communities is how are you going to finance it?

Commissioner Houpt – I do think that this is a regional discussion because whatever one community does or whatever one county does it impacts the rest of the municipalities and the county's that are neighboring that so I think it's really going to be effective if we can get everyone at the table. And if we can't then there will be some huge holes and I don't know how you address that. So does this mean we will be at the table with the municipalities? I'm going to put a motion on the table then we can discuss. That we approve the requested match of \$15,000 for the Heritage Planning Grant as requested for The Affordable Energy Smart Communities Plan.

Commissioner McCown – Second

Commissioner Martin – One of the issues I have in reference to all this development and the growth and actually social engineering is where we are going to put things and a class system which is filtering down. It is a cascade from Eagle, Vail and Aspen and it is filtering to Grand Junction. Now Grand Junction is filtering it back up and we're just hitting this back and forth. The other one is in three-quarters of the state there are too many houses and not enough people. This region is the exception. So where is everybody moving to? They are moving out of this region because there is no housing. They stay for a short period of time and then they move out. It's never going to be stabilized. It's either feast or famine. And that is what your study is going to show.

Commissioner Martin stated it was studied for three years and it comes up with the same outcome.

Colin – I agree we will come up with the same findings and what I think we are hoping to do is come up with different solutions and different actions we can all take jointly.

ASSESSOR - ABATEMENTS FOR ROARING FORK ANGLERS SCHEDULE NO. P005024, \$1,553.64 AND MISSOURI

Lisa Warder and Bruce Stolbach was present from Roaring Fork Anglers

Lisa – This is the result in a clerical error. The actual assets are under \$2,500.00 and are exempt from taxation.

Commissioner McCown – I make a motion we approve the abatement recommended by the Assessors Office in an amount of \$1,553.64 regarding abatement number 08-065.

Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

ASSESSOR - ABATEMENT - HEIGHTS COMMUNITY LEAGUE

Schedule No. R011579, \$1,657.72 – Lisa Warder

Lisa – We were notified by the Division of Property Tax that this property is being granted tax exemption as of January 1, 2006.

Commissioner McCown – I make a motion we approve the abatement in the amount of \$1,657.72 regarding abatement number 08052.

Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

FINANCE - DISCUSSION OF THE 7TH SUPPLEMENT TO THE 2007 APPROVED BUDGET AND THE 7TH AMENDED APPROPRIATION OF FUNDS – CATHLEEN VAN ROEKEL

Don DeFord– Notice by publication is required and we have been provided with the actual copy of the notice as published. It is adequate.

Cathleen – Exhibit A does not contain any increases or decreases but it does contain a contingency transfer request.

Commissioner McCown – Move to close public hearing. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the Resolution concerning the 7th Amendment to the 2007 Budget and the 7th Amendment Appropriation of Funds and the Chair be authorized to sign.

Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

COMMENTS FROM CITIZENS NOT ON THE AGENDA

OIL AND GAS - RIFLE VILLAGE SOUTH– Commissioner Martin explained there would be a meeting on December 3rd.

David Crabtree asked the Board why Laramie didn't notify the residents of the subdivision.

Commissioner Martin explained they can't say yes or no up to oil & gas commission. They make the determination. He did explain however that if this is justified, the County can intervene.

The audience voiced a big concern as for as the residents citing property values, fumes and having an operation in their backyard.

Jennifer Door – presented various material to the Chair.

John Fagan wanted to be noted for the record that he was present.

Chairman Martin again expressed this is what the meeting on Dec. 3 is for; at that time we will determine if we are going to intervene.

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT RENEWAL FOR RESOLUTION 2006-115 WHICH WAS APPROVED ON DECEMBER 4, 2006 FOR TEMPORARY EMPLOYEE HOUSING AND OPERATED BY WILLIAMS PRODUCTION RMT COMPANY – APPLICANT: CHEVRON USA, INC – DAVID PESNICHAK

David Pesnichak, Tracy Opp and Dave Cesar were present.

Planner David Pesnichak submitted the following exhibits: Exhibit A –Garfield County Zoning Regulations of 1978, as amended (the Zoning code); Exhibit B – Staff Memorandum dated November 13, 2007; Exhibit C – Special Use Permit for Temporary Employee Housing on land owned by Chevron USA, Inc.

(Reception Number 715231); Exhibit D – Resolution Number 2006-115 (Reception Number 713754);

Exhibit E – Staff Report dated December 4, 2006 for Temporary Employee Housing in Section 3,

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Township 5S, Range 97W, 6th P.M.; Exhibit F – Individual Sewage Disposal Permit (ISDS) Number 4233; Exhibit G – Letter from Tracy Opp of Williams Production RMT, Co. to David Pesnichak of Garfield County Dated October 10, 2007 and Exhibit H – Letter from Andrew Schwaller, Garfield County Chief Building Official to Tracy Opp of Williams Production RMT, Co.
Chairman Martin entered Exhibits A – H into the record.

David explained that based on a review of this application, the following points are worth noting:

1. The Application was approved on December 4th, 2006 while the SUP was signed by the Chairman of the BOCC on January 15th, 2007.
2. Individual Sewage Disposal Permit (ISDS) Number 4233 was issued on October 10, 2006.
3. Staff understands that this facility has been in operation since the issuance of the SUP on January 15th, 2007.
4. Following discussions with Williams Production RMT representatives and a review of County Building Permit records, it is evident that a Building Permit for this facility has not been issued.
5. On November 2nd, 2007, Andy Schwaller, Garfield County Chief Building Official issued a notice of violation to Williams Production RMT for operating the above identified facility in violation of Section 105 of the 2003 IBC (International Building Code) enabled by Colorado Revised Statutes 30-28-124 & 124.5.

Since the Applicant has not obtained the appropriate Building Permit for the above identified facility and has not submitted verification that the site was installed in accordance with all applicable regulations, permits and conditions, the Applicant is currently out of compliance with the following Conditions of Approval as identified within Resolution 2006-115:

Condition #2 - That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.

Condition #7 - All Special Use Permits for Temporary Employee Housing is subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.

Condition #17 - If a Special Use Permit for Temporary Employee Housing is granted, the applicant shall notify the County when site development begins. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.

To this end, as “annual renewal review shall be based on the standards herein as well as all conditions of the permit”, Staff has found that the Applicant is not in conformance with the conditions of the SUP and is hence not eligible for renewal of Resolution 2006-115.

Thus, Staff recommends that Resolution 2006-115 not be granted renewal and that use of the facility be halted immediately.

David – One year renewal is the purpose of the meeting today. No building permits have been issued for this facility. The notice of violation was given. In the violation there were three conditions and David explained those as (no.2, no. 7 and 17). Based on these violations staff is not recommending renewal.

Tracy – On the time line Williams asked for a recommendation to extend the special use permit with conditions of approval. The submitted a copy of the ISDS and coverall structure. The special use permit was approved December, 2006 have ISDS. The building permit facility was installed but not occupied; application was made to the state on 7/23/07 and revised drawings were received 9/6/07. Plans were approved 10/23/07. Williams asks to extend this with conditions of approval.

Commissioner Houpt – I would like to have staff respond, if you don’t mind.

David – It was our understanding that the facility was occupied, constructed and occupied which is the basis for our recommendation.

Commissioner Martin – Again that question to you as the applicant, it says that it is built but not occupied is that so?

Tracy – At the present time it is not occupied and it has been occupied in the past but is not currently.

Commissioner Houpt – Did people move out when you received your notice of violation?

Commissioner McCown – There was no one from our department that did a physical inspection of this; we accepted a signed off licensed engineers report that everything was installed correctly?

David – We haven’t received anything to date as far as installation goes. The only thing that is permitted out there is the coverall building and the ISDS.

Commissioner McCown – We don’t normally inspect ISDS if we get an engineer to sign off on them?

David – Not if an engineer signs off on them.

Commissioner Houpt – So to date there has been a permit application submitted but there hasn’t been any physical inspection or we don’t know whether they are in compliance at this point?

David – Only the coverall building has been inspected.

Commissioner McCown – By whom?

David – By Garfield County building inspector

Commissioner McCown – And we didn’t notice at that time there wasn’t a building permit in the file?

David – At that time the housing was not constructed and the housing was to come in later so that the coverall building was while the SUP was going through the process and then we were still waiting for building permit on the housing facility.

Commissioner McCown – So were the drawings for the coverall building inspected or the building itself?

David – The building itself was inspected on location.

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Commissioner McCown – At what point in time before the coverall building was inspected should they have gotten their building permit or at what in point in time are we saying they fell out of line by not getting their building permit?

David- Essentially the coverall building is separate from the special use permit. It was described in the application but it wasn't necessary as part of the special use permit process itself.

Commissioner McCown – Did the coverall building itself require a building permit?

David – My understanding it did not. We inspected it as asked by Commissioner McCown and David explained we inspected it, it did required a building permit it didn't require a land use permit.

Commissioner McCown – Was there a building permit for the coverall building?

David – Yes.

Commissioner Martin – So the application for the building permit based upon all other requirements has been turned in to the Building Department Garfield County?

Commissioner Houpt – Do you have that application?

David – I don't see building permits when they come in.

Tracy – We want to emphasis the fact that this facility and facilities like it have proven to be very advantageous for safety.

Commissioner McCown – I make a motion we renew the special use permit with the condition that all permits be in place prior to occupancy.

Commissioner Houpt – Second – I think it is very important for everyone to understand that our regulations aren't just in place to take up room on a page of paper. There is a reason for having regulations especially with temporary housing before anyone moves in and it is put into use. I get very concerned about the fact that people come in front of us and apologize after the fact. I hope that we don't start seeing this type of thing because our regulations are in place to protect people including your employees.

Commissioner Martin – As we know these regulations are new to everyone. It's not an excuse. I think our staff has done a good job. We need to review the information and maybe work on the timing of it. Again the whole idea is to alleviate the problem with traffic, give more safety to both the citizens as well as the workers and to assist in reference to the housing crunch we have. It is a positive for both sides but we do have to follow our rules.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR COMMUNICATION FACILITIES LOCATED NORTHWEST OF THE TOWN OF PARACHUTE – APPLICANT; WILLIAMS PRODUCTION RMT, OXY – CHRISTINA MONTALVO

Christina Montalvo, Michael Howard, Tom Fuerrie, Plant Manager for Williams Production and Rob Galey were present.

It was noted for the record that the person who prepared the application, Doug Weaver, was not with company anymore.

Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner Christina Montalvo submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff Report; Exhibit E – Application and Exhibit F – E-mail from applicant addressing 5.03.13 Broadcasting Studio and/or Communication Facility – November 8, 2007

Chairman Martin entered Exhibits A – F into the record.

Planner Christina explained that Williams Production RMT Co. is proposing to install one Radio Tower and upgrade an existing tower site to provide radio transmission capabilities between producing gas wells in the Logan Wash area of the Garfield County and the main office in Parachute.

STAFF RECOMMENDATION

Staff recommends approval of the proposed Special Use Permit allowing a “Communication Facility” on a property owned by Williams Production RMT Company with the following conditions:

1. That all representations made by the applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval unless specifically altered by the Board of County Commissioners.
2. The operation of this facility shall be done in accordance with all applicable Federal, State and Local regulations governing the operation of this type of facility
3. The communication facility shall be available for future co-location and the denial of a requested co-location shall be based on technical reasons, not on competitive interests
4. Any flammable vegetation shall be removed from the area where the propane generator will be located prior to issuance of the Special Use Permit

Discussion:

Tom – I would like to expand on the questions about the FCC. These are small radios, very low voltage or low power output. Tom explained to the Board why the towers were placed where they were and showed on map. The tower is needed to communicate in that Valley.

Galey – Also unlicensed radios and they do not require an FCC License.

Commissioner Martin – Do I have a motion to close public hearing?

Commissioner McCown – So moved

Commissioner Houpt – Second

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the special use permit allowing for a communication facility with the four conditions recommended by staff. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A TEXT AMENDMENT TO SECTION 5.02.21, “MAJOR TEMPORARY EMPLOYEE HOUSING FACILITY” (SPECIAL USE PERMIT),

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CREATION OF SECTION 5.02.22, “MINOR TEMPORARY EMPLOYEE HOUSING FACILITY” (ADMINISTRATIVE PERMIT), AND CREATION OF SECTION 5.02.23, “SMALL TEMPORARY EMPLOYEE HOUSING” (USE-BY-RIGHT) OF THE ZONING RESOLUTION OF 1978 AS AMENDED – APPLICANT; GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS – DAVID PESNICHAK

David Pesnichak was in charge of publication.

Andy Schwaller was also present and explained Building Permits

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner David Pesnichak submitted the following exhibits: Exhibit A – Garfield County Zoning Regulations of 1978 as amended (the Zoning Code); Exhibit B - Staff memorandum; Exhibit C – Application; Exhibit D – Resolution 2006-108 Amending Section 5.02.21 – November 13, 2007; Exhibit E – Recently adopted Rio Blanco County Temporary Living Quarter regulations and related materials, dated June 25, 2007; Exhibit F – Colorado Department of Public Health and Environment, Water Quality Control Division, Primary Drinking Water Regulations (Amended January 19, 2005), Section 1.2; Exhibit G – Letter and Presentation from Doug Dennison of Cordilleran Compliance dated November 5, 2007; Exhibit H – Section 5.02.23, Small Temporary Employee Housing facility – dated November 8, 2007; Exhibit I – Section 5.02.22, Minor Temporary Employee Housing facility – dated November 8, 2007; Exhibit J – Section 5.02.21, Major Temporary Employee Housing facility – dated November 8, 2007 and Exhibit K – Proof of Publication (Chairman Martin entered Exhibits A – into the record.

Chairman Martin entered Exhibits A – K into the record.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners approve the text amendment with the changes proposed by Staff.

David – Gave a power point presentation and showed pictures of the Rulison problem with the sewage tanks. The state still does not regulate housing.

Andy Swaller also spoke about the permits on the slide presentation. He said what we would be looking at is how those units are set up in the field, the tie-downs, how the water is as well as sewage and electrical. David explained that they were looking at a three tier process: Major Temporary Employee Housing, Minor Temporary Employee Housing and Small Temporary Housing. All three are anticipated to be permitted in any zone district within the County. The Major Temporary Housing is the only one that would be able to be used on a State or Federally permitted site. Definition of temporary: Major temporary is the only one that can be used for over one year with annual review (to be able to extend past an ISDS is necessary), both the Minor and the Small are limited to one year. Minor will be an administrative permit, reviewed and issued by the Planning Department and the Small is the use by right with performance standards reviewed by the Building Department at the building permit stage. There is no land use permit issuance. Occupancy limits: 25+ plus based on beds for the Major facilities, 7 to 24 beds for Minor and 1 to 12 beds with ½ occupancy for the Small. Minor and Major can have 100% occupancy the Small is the only one limited to 50% occupancy. Major and minor just need implementation, the Small would require an amendment to the building code to require RV’s to obtain building permits. Occupancy limits based on beds is for enforcement purposes, any inspections we can count beds. We can actually say this is the number of people we can accommodate on 24/7 basis which is what we are actually permitting. Half occupancy was a compromise at the last planning meeting to ensure that we didn’t exceed the 6 people. They rotate they don’t share bunks. With the use by right, small facility, 12 beds with 50% occupancy the change staff is recommending that RV’s obtain an administrative permit and not the permitted as a use by right facility. The purpose is one it appeared to be too difficult and have to much of a rippling affect to amend the building code to accommodate our use. Secondly by permitting an RV through the administrative permit it is much more in tune with what we currently do with a special use permit for a camper park.

Commissioner Houpt – On the use by right you had wanted one to six, but had you come with the recommendation of use by right to the Planning Commission?

David – To the third Planning Commission we came with the recommendation of use by right with performance standards. The goal was to minimize the process as much as possible under a use by right while still achieving the same goals we felt we could get under the administrative process. He discussed processing time lines, use by right is dependent on building permit; generally we are looking at next day inspections and one week review. Administrative permit is up to 45 days, written in the code. 14 days for technical compliance, 14 days for review and determination and 14 days an appeal or call-up. The SUP is 60 to 90 days. Staff is recommending eliminating the area wide development plan option as it got split into three tiers; the area development got carried over into the Minor permit. Public notice is usually required but the use by right has no notice. That is a right to the property as long as the performance standards are met. David explained the performance standards. Public notice for the administrative permit is within 200 feet of the subject property as it is currently written. For an administrative permit, staff is recommending changing the permit requirement only in the RL Zone District to be from the permitted site instead of the subject property. The intention here is to speed up the processing time for the applicant. Staff felt this was a logical place to try to reduce the amount of time it takes to get an administrative permit. In the RL Zone district there are very limited densities as well as well as very large holdings of land. One facility in the middle of several thousand acres might not be reasonable to expect noticing from the entire property. Another motivation behind that for an administrative permit, which we are hoping to get to the point of issuing over the counter for the land use side but not the building permit side, is because it is easier to determine with these large properties how many property owners there are. The SUP remains consistent with the way it is today. Referrals are not proposed as use by right. The referrals for the administrative permit are sign off requirements for the Sheriff, Fire and Building Department prior to submittal. In the use by right there are sign offs required as for the Sheriff and Fire District to ensure they have all the information they need to be able to reach these locations. When the applicant comes in for a building

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permit they have the sign offs from the Sheriff's Office and Fire Protection district. SUP is at the discretion of the Planning Department. An administrative permit has a 14 day appeal period. It can be done by applicant, abutting property owner, or the BOCC. Enforcement - use by right is a standard fine and enforcement per the zoning resolution. The administrative permit has a more complex enforcement provision. Most notably, if you get three revoked permits you no longer are able to apply for an administrative permit in the future. All future permits are then referred to the Board of County Commissioners as a special use permit until the Board feels comfortable with the applicant to send them back to take advantage of the administrative process. He showed an outline of Minor and Small Employee Housing Standards and explained how they how to comply with standards (A through T). He talked again about the time lines and mentioned the entire processing time as laid out and recommended by the Planning Commission being six (6) weeks for a new Minor permit and four (4) weeks for the Area Wide Development Plan. He went through the amendments suggested and some new impacts that will come to the County by implementing these regulations. These assumptions are on page 10 of the staff report. Commissioner Houpt – For clarification, you're not saying that only the Minor facilities will be inspected. David – No. All facilities will need to be inspected at the building permit stage. Implementation period - : The industry was notified on November 6, 2006 that any operator was at that time in violation if they did not have a special use permit. Staff has re-enforced this over the past year and has not wavered on the fact that all of these need to abide by building code requirements for health and safety reasons. It is staff's opinion that the gas industry has had over one year of notice to bring facilities up to the current building code. Staff is recommending that implementation period be no more than six months and that would bring the total notification period up to a year and a half.

Commissioner Houpt – On a use by right, Tresi gave an example for understanding -we are in the middle of Divide Creek, we are in the middle of a residential area where there are wells being drilled on surfaces where the owner doesn't own the mineral rights, would this allow the company to also house their employees on this persons property without any notice, any special application?

David – The only special application is ensuring compliance with the performance standards.

Commissioner Houpt – But people living on your property, I'm having a real problem with this use by right thing. We have seen over the years and the industries have worked closely with property owners but we've seen them try to mend fences that have been torn down because of the impact that's created by industrial activity on somebody's property where they are living. And then to bring a man-camp onto their property as well so you have people living on your property with rarely any opportunity to say whether this is appropriate or not. I think it's totally inappropriate. To put something in place that turns the decision to allow man camps across this County on any piece of property and any zoning district into a use by right is wrong. I think we are not respecting people's surface ownership when we allow something like that to happen. I look at these regulations and I begin to ask the question of why in the world would you go beyond a small temporary housing site. You don't have to apply for permission to use that piece of property for that use. Also on the request to allow for notice just 200 feet from the site, I agree with you when you have large acreage where the site is right in the middle of the acreage; you're not going to impact a neighbor. But even in rural lands that is not always the case. So the way I could support that is if it was qualified and if there was a threshold area that fell into then that would make sense to me. But not just a blanket statement such as if you don't have to, if you're 300 feet from the property line you don't have to notice your neighbors. I think that your initial proposal of a 2 level regulation was a really good and responsible recommendation. I think it's wrong to make a temporary quarters or a man camp a use by right in every single zone district in this County.

Brenda Lindster – Wanted clarification on area wide development plan, on your enforcement flag you indicate that an area wide development plan was an option. In several of your slides you specifically recommended that was eliminated in the staff report on page 6. It says you want to eliminate the area wide development option on page 8; there are several sentences you recommend that the area wide development plan be removed. I was curious is the area wide development plan is this an option or not an option?

David – I need clarification, are you looking at is it an option in terms of if it remains as carried over from the planning commission?

Brenda – On your enforcement slide it seemed to indicate that area wide development plans were going to be acceptable under the Minor Permit Process.

David – I left that in because that is still the recommendation that has been carried forward from the Planning Commission.

Brenda – So the slide isn't the Planning Staff recommendation?

David – The Planning staff recommendation is to remove the area wide development plan, if the area wide development is removed then it would be taken out of the enforcement section as well.

Carolyn – Once we got the small facility people you wouldn't want to do the area wide because it would be easier to go for the small facility plan.

David Cesark – With regard to the Nabors issue, I think it is important that be pointed out that Nabors were actually the ones who filed that complaint with the County with regard to their main camp against the landowner.

Commissioner Martin – And that was approved in the 80's; not by this Board but previous Boards for 20 years. We also sat as the Department of Health which is this Board's right here on an emergency power to issue that particular cease and desist order.

David Cesark – There was an e-mail posted in David's Presentation to me from Carol Harmon and copied to the County. I think it's important that the last paragraph of that e-mail was largely ignored. That was the most important paragraph of the e-mail that Carol conveyed to me in her phone conversation which said her intent and her original communication with Garfield County was that the County does indeed need to regulate man camps. Her intent was not to have them regulate individual drill sites and cause a potential operational conflict. Doug may get into this too but it was brought up the number of 925 building permits, that's based on equating one permit per trailer and I think we assumed about 3 to 4 trailers per site, per drill site per rig move. I think we talked about two to three hundred rig moves per year and that is how we came

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up with the estimate of 925 building permits. I was also confused on how we had one year notification of the pending rules when it is still very much a moving target.

Doug Dennison – I’m here on behalf of an oil and gas industry working group. He gave a slide presentation and explained there was a wide range of oil and gas companies working in Garfield County. I can remember the first meeting we had was almost two years ago in November, 2005. I think we are to the point where we really need the Board’s input and direction. He commented on the issues of bears and how it is not just a problem for man camps. There was a statement that the State does not regulate this housing and I think we need to be real careful. Maybe the COGCC does not strictly regulate the housing. He made a comment about arguments about permits and his involvement with this process; the industry has never argued against permits. What we strive for is coming up with a process that is effective, efficient, enforceable, and doesn’t require an enormous amounts of man power on behalf of the County; also a comment about the certainty of the timing in this process. From the industries standpoint the certainty of timing is most critical to those small facilities. Unfortunately that is the one place timing is uncertain. Don thinks the building permit numbers provided by the industry are more accurate. They reflect three to five buildings associated with every rig moved; its not just one building permit per each rig movement. Doug - To follow up on his comment on the notification, frankly I was not aware of where the County stood on the issue of what we have always called the essential personnel. The people who have to be on site 24/7 is while the well is being drilled. For several months after November, 2006 and it was by accident I was looking at some old minutes from this Commission and found your direction buried in that. It was there if you followed the meeting minutes but I don’t agree that it was broadly relayed to the industry. One other comment on Commissioner Houpts discussion, “I think it is important to differentiate between what we are calling man camps, which in my mind are more than the people that have to be there. If you’re having rig crews and other folks reside on the well location. If I were a landowner and didn’t own my minerals or even if I did and somebody came to me and said hey we are going to drill a well on your property, by the way we are not going to have 24/7 supervisory personnel present there; if there’s an accident we’ll call a man from Rifle or Parachute or Grand Junction where ever the closest hotel is. I’d say uh-huh. You are going to have these half dozen people there around the clock because I’m not going to take the chance that something is going to happen”.

Commissioner Hout – Are you saying that there aren’t two shifts of people?

Doug – For the supervisory personnel each shift, which may be two weeks, those guys are there around the clock for two weeks. They will take two weeks off and another group will come in and that is where this whole concept of having double the number of beds came in.

Commissioner Hout – So people are on call 24/7 for two weeks and that’s safe?

Doug – They’re there, they sleep, they’re there to prevent accidents and in some cases with directional drillers then they have two hands there that work 12 hour shifts. That is the way every drilling operation has been since I’ve been affiliated with the industry. You’ve got 4, 5, 6 people there around the clock. Not physically working all the time but they are there in case something happens.

Commissioner Martin – That’s the definition of essential personnel that we haven’t been able to nail down through the State regulations. We know they are there we just have to identify who they are. From your tool man, your geologist, to your supervisor, safety person etc.

Doug – The other real important point from day one, several things the oil & gas industry has always been in agreement with the staff on first and foremost, we always agreed we need some sort of standards for this housing. Everybody has been on enough locations in years past to see some that were not the best and we need standards. There is a need for notification to the County and/or landowners and I would include the Sheriff and the Fire District. Early in this process the industry was supporting very significant fines up to \$40,000 per incident to encourage compliance; however, when the County Attorneys office looked into that they found you don’t have the statutory ability to do that. The larger centralized camps we’re now calling major facilities. The industry has always been in agreement with the process which is essentially the SUP process that we have now. Primary areas where there has been a lack of meeting of the minds between staff and the industry continues to be the building permit process and associated requirements of the occupancy levels. The review process - I saw some information today that I think would make folks a little more comfortable with pieces of that but not entirely. I understand where this Board is coming from when you are developing regulations to try to apply it across the board for all industries equally. Building permits we have heard a lot about and I would say the three biggest concerns that the industry has is being comfortable that temporary housing utilized by the oil & gas industry is being treated exactly like every other commercial facility in the County. One of the big questions and it continues to be, Mr. Swaller filled in a little bit of the holes today but what these building permits are really going to look like in the process and timing for approval has not really been clearly defined. As Mr. Pesnichak showed you and as Mr. Cesark and I have both stated that the numbers involved here are staggering. It is going to take a large commitment on behalf of the County and the industry to pull this off. We have been getting a lot of conflictive input from the Department of Housing. I get one answer on whether previously certified units are legal for use in the State. There are a lot of questions about which units have to be brought up to the 2003 IBC and IFC codes. I guess there is a question whether all temporary housing in the County is being treated the same as this housing. This question of RV’s I think is still up in the air. The original recommendation was the RV’s be required to obtain a building permit. If you’re going to do that to the oil and gas industry you’re going to require that for every RV used in the County. From a practical standpoint, one of the issues with the uncertainty in the timing especially with the small facilities is a need in this industry to often very quickly revise your drilling plans. He talked about all the things which could happen unexpectedly and affect their schedule and the uncertainty of obtaining building permits, inspections, CO’s, temporary housing every time the drilling rig moves is going to inhibit that flexibility that is required and it is a sticking point with the industry right now. How are we going to do this? The speed with these new drilling rigs is increasing rapidly. Tough to allow 6 to 8 weeks to go through the building permit process. There are a lot and a wide variety of housing units in use right now in the County. Some have been previously certified by the Division of Housing. I’ve been told that if they have been they are still consistent with their original certification having not been modified. The state considers them to be legal.

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I think staff believes that the first time you move those units to a new location they will have to up grade to the current bill. That is a difference we haven't resolved. This occupancy level issue just came up at the last Planning Commission and the industry's proposal previously; everything we had provided had reflected the number of actual people who would be living on site at any given time not how many beds were available. At the last Planning Commission meeting staff made everybody aware they look at it from an available bed perspective. The Planning Commission tried to resolve that on the small facilities but I think we may have inadvertently made it even more complicated and less enforceable by trying to resolve that. I think in the staff report the staff recognized that the 25 person number we previously all hung our hats on may not be based on actual regulations. We since discovered the States requirements for community water systems would generally not apply to any of these facilities. The waste water system requirements could apply but those requirements are not based on the number of people; they are based on the flow of waste water from the facility and there are practical and legal ways to separate systems so that you can still permit those systems through the County and not through the State. The biggest issue is timing. I know that the planning staff intent is good that they want to turn these things around as quickly as possible but I think we have all seen just with the normal conditional special use permits they get buried. There is not a lot of comfort from the industries standpoint that these time frames will be met. The oil and gas industry is different from your normal highway construction or subdivision or commercial building development and it's really tough to make a regulation fit everyone across the board. Doug feels at least with his involvement through this process that they have never had anyone from another industry coming in and talk and there is a lot of the text in these regulations that clearly implies that the oil and gas industry is one of the primary focuses of these regulations. The other big wild card is the other state agencies. I've heard that trying to get a fire marshal inspection is next to impossible. As far as the units that are in place there is a lot of housing units out there now that do not meet the 2003 IBC and to bring those up to speed is a huge task. In summary I keep backing up and saying what are we really trying to address here; I know fundamentally it's those things I listed that we have all been in agreement on but I'm not sure that we're still there. I feel we need your direction on how to get to the end of this process. Are we creating a process for the sake of process? I do think we need to get some of the state agencies to step up and tell us how they are going to be involved in the regulation of this housing. He pointed out the packet everyone had and submitted some recommendations. One issue that has been bounced around but we haven't really dealt with is whether this housing could be place on other sites permitted other than just well pads. Doug felt it made sense to utilize a piece of land that has already been disturbed for housing.

Commissioner Houpt – Asked on the last point why wouldn't that be allowed in this scenario?

Doug – Unless I'm mistaken, regulations talk about allowing on COGCC well pads since those pads have reclamation bonds in place with the state. We would like to see the ability to utilize other facilities that you have permitted.

David – Currently if a special use permit comes in and it has a lay down yard and facility that is a permitted combination there is nothing that prohibits them from being included. The way the regulations are written now a small or minor facility would not be able to be on a County permitted facility or site. So if a company did want to put housing on any of these other special use permit areas they would need to either submit a new special use permit or they could include it under the bonding I think.

Doug – The big disconnect we have right now is with the small or minor facilities that I believe current proposed regulations sensors and special use permit are involved with those, particularly the small facilities they have to be on a well pad.

Commissioner McCown – To your point initially and I would ask Doug and the other industry people the use by right that you are having so much heartburn with has been in place since day one. What brought it to everyone's attention is when the camper trailer started showing up. If they were staying in those "office type trailers" with living quarters no one noticed it. It was not brought to anyone's attention until the RV campers started showing up and then people go oh my God I've got people camping on my land without permission. The industry wasn't totally fault free by not policing its own ranks and staying consistent with the type of housing they had on their sites. I'm struggling with it. I'm hearing things like you can park an RV or a motor home on a site, you can hook it up a hose, you can plug into a box, and you don't have to have any inspection on anything other than the facility you're plugging into. Yet if I pull a Colorado State certified housing unit on there I've got have a state electrical inspector to inspect it when it's hooked up. I've got to have a building inspector inspect it when the water is hooked up to the existing water system. I've got to inspect the ISDS if there is an ISDS there to accommodate the water. You can just wheel your old motor home in there and plug in and have a good time and no snow load no nothing, accommodate 6 beds, fill it up. I didn't hear any restrictions on that.

David – You're talking specifically RV, which is why one of the options was to say okay you're an RV and not a whole lot we could do about it. This is why we bumped it up to the Administrative Permit so that we had that say. We aren't able to issue a CO or do a final inspection or issue a building permit on an RV at this point.

Carolyn – Staff recommendation is that RV's not be allowed on small facilities - the essential personnel. They would always be reviewed like an RV park. They would have the review to make sure they were all hooked up appropriately.

Commissioner Houpt – If you're not inspecting them why does that make an RV any better than a yurt and we don't know if they are up to code or not.

David – The issue is what the code is bringing it up to. Our code doesn't adequately address it. The way we reviewed this and made the recommendation before you, as I said earlier in a camper park, is done by a special use permit; we still don't regulate whether they hook a garden hose up. Another option is to say no RV's altogether.

Commissioner Martin – I can't say that I think they are essential. Feels it works for a small operation, can't afford huge facilities. What you are actually doing is discriminating against them because they don't have the big bucks.

Commissioner Houpt felt if RV's are going to be used they have to be inspected.

Commissioner Martin and McCown asked why and by who?

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Commissioner Martin – Let’s take it one more step. We have created at the fair grounds an RV park basically by the County. Are we going to inspect each RV, each horse trailer and everything that comes in there under the same scrutiny as we would for these folks, yes or no? And would they have to have a building permit to use that as temporary housing while they are at a two and three day festival?

David – The answer is no, they would not need a building permit if they are at a festival and no they would not need a building permit at the site; however, we did permit the site that those are hooking up into at the fairgrounds.

Commissioner Martin asked why inspect the other?

David answered we are not permitting, inspecting....

Commissioner Martin – Okay, mine is self-contained with electricity and water and it has a state certificate on the trailer that says I am legal and meet all codes pertinent to the State of Colorado. What is above and beyond that? I couldn’t use it because I would have to upgrade to the International Code? The answer is I’m not going to do that and neither are a bunch of other folks that use these facilities. If you go to other places in reference to RV’s it is a huge Pandora’s box. Why should we get into inspecting and issuing permits for all these RV’s? Keep in mind we are trying to be fair and equal across the entire board. I think it is something we don’t need to get into. I think it is the responsibility of the company that allows their personnel to be there and that is a liability that they need to step up and say excuse me this doesn’t meet our requirements.

Carolyn – That is why staff recommended that you not amend your building code to include RV’s.

Commissioner McCown – By not changing our building code to include RV’s we are cutting the RV’s a little slack that we wouldn’t be giving these individual housing units that were not meeting the 2003 IBC or the 2005 or whatever year it’s going to be but yet the RV’s are not expected and would skate by. So then we are going to start seeing more RV’s and fewer of these approved units with snow load compatibility everything else in compliance except they don’t meet the 2005 IBC and they have to be rebuilt.

Commissioner Houpt brought up the fact we just had a problem.

Commissioner McCown told her yes it was brought to their attention by the occupants of that site. To date in the 11 years I have sat on this Board and the industry has picked up significantly, I have never had an occupant of one of those temporary housing units come before this Board and complain about the living conditions that they have to stay on. This is related to the trailers in Rulison. If they are that bad they will drag up and have a job down the road in one that is a lot nicer. They do not have to live in those living conditions and they won’t. It is self-policing. Who are we trying to create this 40 some pages of regulations for, who are we protecting? At the end of the day it is those people staying in those units and that should be our concern. 99% of them are out in the middle of a multi-thousand acre facility. Now we are trying to build a set of regulations I’m not sure we can enforce. I’m not sure the industry can comply with. I’m not sure the housing industry can supply the units to make it work.

Commissioner Martin feels it is too complicated. We need to keep it simple and this doesn’t get it, I can’t support it.

Commissioner McCown – I personally cannot feel comfortable with moving forward with what has been recommended here today.

Commissioner Houpt felt everyone had differing reasons but felt they needed to figure out if they wanted to have workshops.

Commissioner Martin – We need to make a decision if we continue down this path by either approving it or continuing it. Or we go ahead and vote to kill it to start from scratch.

Commissioner Houpt – I don’t think we should kill it; I think there is a lot of good information in here, a lot of good process. What I would like to do is continue it. I want to have an opportunity to supply our concerns and solutions to staff and maybe have a workshop.

Commissioner Martin – It’s a public hearing, you can’t have a workshop during a public hearing. What we need to do and I’m sure there are people out there who would like to voice their opinion both pro and con. He asked if anyone would like to speak at this moment.

David Morgan – I want to know at this time if the small housing units, if they do not have a Colorado seal, do they have to be out of the state? We have several hundred of them on location right now.

Andy – It is actually a state regulation that if those units are in here they have to have an insignia and they have to be used in a way that was approved by the State Resolution 35. It is all state statute.

David Morgan – This came up within the last three weeks on the small housing unit and there is several companies that do not have them. We are talking hundreds of trailers.

Andy – I know of some that Atco provided, I believe Atco provided you with some. They submitted plans to the state and the plans they submitted are for offices so the state can’t approve those as being used as residences. Atco really needs to go back to the state and get them approved for use as a residence.

David Morgan – My question at this time is do we have to move them out of the state or do we have a period of time that we can deal with Garfield County?

Andy – That’s up to the state rules and regulations you should ask the question to them.

David Morgan – What about Garfield County, what is their status at this time?

Andy – Garfield County follows the states rules and regulations so we can’t ignore what is there.

Commissioner Martin – And if you were notified our process is about 30 days for compliance. That would be driven on complaint process only.

David Morgan – Garfield County right now is not telling us to get them out?

Commissioner Martin – You need to work with the state.

Commissioner McCown – Now that you have made us aware of it, its going to be hard to ignore.

Commissioner Martin – It is complaint driven and when we have those complaints with the identification, where those locations are we will give you 30 days and then we will have to abide by state statutes.

Commissioner Houpt – So the best thing is to work on getting them approved by the state.

Carolyn – As the guardian of the process do we have a CD or a paper copy of Mr. Dennison’s presentation for the Clerk and Recorder?

It is in the staff report was the reply

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Brady McClellan – One of the requirements is the fire suppression requirement. As of now the state does not require a dedicated water skid and a water source for fire suppression or a fire sprinkler system and I just wanted to clarify whether Garfield County intends to supersede the states requirements and specifically require them. It makes a big difference in the trailer that we manufacture. Our customers have a lot of concerns whether or not to complete their orders with us right now.

Andy – The states that have certified R3 residential units that do not have sprinkler systems are actually certified for use as like a fishing cabin. Anything that the state looks at is an R2 does require a sprinkler system in it. R2 is a boarding house so if you are seeing those units out there they were approved for one thing by the state. If you're trying to use them for something else then they would require a sprinkler system.

Brady – Our units are specifically designed and built as of now the state is not telling us that we need to install fire suppression systems but I saw this on the agenda and I just want to make sure it didn't get slid through along with a lot of other stuff.

Andy – I would check on your approved plans that comes with every set of houses by the state; if it shows it was for a fishing cabin, it won't have a sprinkler system, if it shows it is for something other than that it will. The only exception to that are silver labels that the state put on under the UBC and they might be something different. But there again it's the approved plans that the state approved is how the end use of the units, what they are approved for.

Brady – Okay.

Commissioner Martin – Not necessarily. I think what you need to do is get on the horn and talk to the state and say okay this is what we have, this is our permit, are we or are we not allowed to use these with or without fire suppression and then you need to get with the fire districts as they also have certain adoptions, rules and regulations that change from different fire district with the base being in Garfield County on some exemptions throughout the international fire codes in each district. And if you're not in a fire district, which a lot of this resource land is not, I guess it is up to the Sheriff to enforce that isn't it?

Andy – It is actually up to us the County.

Commissioner Houpt – Am I hearing from you that you believe that sprinklers are required?

Andy – Correct

Commission McCown – No exceptions whether the state says yes or no?

Andy – The state would say yes they are required for being used as boarding houses out on the well sites. Todd Anderson does the plan reviews. It is straight out of the 2003 IBC, fire sprinkler systems are required for these types of units that you guys have out there. It is nothing anybody made up, it's in the code books.

Amy Stout – Just a brief comment with regards to essential personnel. We have been asked many times what that definition is and I guess I just want the Board to keep in mind it is very dependent on company policies to some degree. I want to add to that depending how you define that as individual companies or operators it's very possibly those construction workers are keeping roads cleared for emergency evacuation etc., it's not just strictly for the people working on the drilling rigs.

Commissioner Houpt – Would you say that differs depending on how remote the pad is?

Amy – Definitely. I can't speak for other companies but we are working strictly on the Mesa so we have no valley locations; we have to keep roads open for emergency personnel etc.

Carolyn – We primarily need direction from you on enforcement because the way we are sitting now, we are an exclusionary zoning County we have a lot of illegal housing units out there except those that have been given SUP's. So we need to know if we are enforcing or not.

Commissioner Martin – I think under the process we are tying to come up with rules and regulations, I think we need to hold off on enforcement on that issue. We are trying to come up with rules that are fair and equitable. We recognize those that need to be improved, we will look at everybody's cooperation to clean up any operation that again has been reported in violation. Andy is going to have to go out and do certain things.

Fred Jarman – Just to clarify what Carolyn's saying right now we have this issue of who's in compliance and who's not. The way you left it when you set your staff off to go take a look at this housing issue and come up with a regulation and bring it back to you was in fact, I think it was your motion Tresi that carried that day, which was 4 people or less was okay at that time. We are looking for clarity from you is, are you still saying the same thing, do you want to take another look at that, what is your feeling as the Board?

That is the direction when Doug Dennison was talking about perusing all the Board minutes. From your staff what is it that you all feel is appropriate?

Commissioner Houpt – I guess the question I had was geared more toward the process because what I am hearing from all three of us is maybe for different reasons, at least I'm not ready to adopt this today. I'm wondering in terms of process if it makes sense to continue this or to close it and have a workshop.

Commissioner Martin – There is some good information in here and there is a good way to do definitions and to move forward with again best practices and permits and also review process and criteria. But I think this way is too cumbersome for everyone.

Commissioner McCown – I think the issue of sprinklers is just another example of different levels of regulations within the state. Everybody is not on the same page. I don't think we can assume responsibility for the state not stepping up to the plate and being responsible for their actions either so I make a motion we continue this until February 4th. At that time I would hope that I am to come back with some recommendations of my own, if Tresi has some, John has some and I would hope Doug is back representing the industry and at that time take a look at this. I'm prepared today to move forward with this essential personnel thing so there isn't a perceived enforcement issue out there that we are avoiding because I have said all along that those essential personnel have been there since the first rig pulled into Garfield County. There going to be there when we are all gone out of office and I don't think it's an enforcement issue that they are there, I think it's a bigger one if they're not. I'm not prepared to put a 4 or a 5 or a 6, we have heard that it is different with every company. I don't want Marathon to be in violation on top of the Mesa because the have operators there that run heavy equipment to plow snow so the pumpers can get in and out. If they kick the operators off then the pumpers can't in, then you have a health problem. I'm not prepared and everybody that has studied it and the industry itself has not come up with number.

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But I am prepared to say that no enforcement of these critical personnel units that are on these rig sites today will happen until we come to some kind of resolution.

Commissioner Houpt – Except that we don’t want to see the remote pads being understaffed, we also don’t want to see pads on Grass Mesa with 20 employees living on a pad. I think there has to be a way to help define this and where the four came from was we had industry in the audience talking about who is essential to be in place in case of an emergency and who those people are when the rig was in place. I don’t disagree that there shouldn’t be people there in case of emergency but I don’t think it should be so open ended that suddenly we find what people would traditionally define as a man camp on pads in residential areas.

Commissioner McCown – Everybody has their own interruption of man camps but I’m not sure I’ve seen a definition that I would clearly buy into but to me a man camp is when you have a third party service in there supplying food to those individuals. If you’re living in a unit, cooking for yourself and you’re doing your own laundry whatever, that is not a man camp, that’s a housing unit. If you’ve got a third party contractor supplying food and other amenities, that is a man camp. To me if that is a simple enough tool to break these down on what is, let’s use it. Let that be the criteria on what is a major development and a man camp. When you have that third party service in there that supplies food and other amenities to those workers on a full time basis it’s a major facility. Anything other than that is the minor.

Commissioner Martin – Let’s keep in mind also this is for all industry not just one. If we had a filming industry here and they wanted temporary housing for a 30 to 60 day filming session they would have to go through the same process.

Commissioner McCown mentioned the carnival at the fairgrounds. We have to keep it simple, understandable but yet it’s enforceable.

Commissioner Houpt – Well maybe that will be part of the discussion too. I heard Doug say that is problematic. It’s very difficult to make this such a general policy that it works for every industry because the oil and gas industry is pretty unique. Second. In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT TO ALLOW AN INDUSTRIAL SUPPORT FACILITY WITHIN THE RESOURCE LANDS ZONE DISTRICT – APPLICANT; HARRY AND RHONDA NAUGLE – CRAIG RICHARDSON

Michael Howard, Ron Liston, and John Savage were present. Ron Liston answered questions.

Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board that notice was not proper and we cannot proceed.

Chairman Martin - We will not open up the public hearing due to defective notification. Ron you will have to re-notice. Explained to applicant if they are not noticed they could come back.

Craig informed applicant nearest date is January, 2008

BUILDING AND PLANNING - CONSIDER A CONDITIONAL USE PERMIT TO ALLOW AN ARTS STUDIO WITH THE AGRICULTURAL RESIDENTIAL RURAL DENSITY ZONE DISTRICT – APPLICANTS; JAMES SURLS AND CHARMAINE LOCKE – CRAIG RICHARDSON

Michael Howard, Craig Richardson, James Surls and Charmaine Locke were present.

Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner Craig Richardson submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –

Application; Exhibit E – Memo from Garfield County Road and Bridge Department dated October 22, 2007; Exhibit G - Staff memorandum Chairman Martin entered Exhibits A – into the record.

PROJECT DESCRIPTION

The Applicant is a professional sculptor and requests approval to operate an art studio on the same property as their single-family dwelling. The proposed studio will be a single building totaling approximately 6,000 sq. ft. The Applicant states that the estimated amount of income which is generated by making art in this studio is approximately 100% of his total income. This is a private, personal studio where the Applicant is the sole producing artist. This studio will not have any retail hours or any times open to the public and there are no employees required for the business so there will be no visitor traffic to the property associated with the studio. The Applicant makes the sculptures at the studio and then transports the art to be shown at his art galleries located in several major cities around the country such as New York and Houston.

The sculptures that the applicant creates have large dimensions and require significant space to store materials and to create the artwork. The sculptures can reach height of 20 feet and 7 feet wide. The applicant is requesting a 6,000 sq. ft. building to accommodate these large sculptures. The sculpture shown below was created by the Applicant and is 19 feet high.

STAFF RECOMMENDATION

Staff recommends the Board of County Commissioners **APPROVE** the request for a Conditional Use permit to allow a Home Occupation for a property known as Lots 2 and 14, Section 18, Township 7 South, Range 87 West, located at 7455 County Road 100, Garfield County with the following conditions:

1. That all representations made by the Applicant in the application, and at the public hearing before the Board of County Commissioners, shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
2. The Applicant shall be allowed to open the studio to the general public for the Open Studio Weekend in August, each year.
3. The Applicant shall be prohibited from erecting any signage or lighting associated with the Home Occupation.
4. No retail or wholesale sales of any kind associated with the activities of the Home Occupation Studio for the Art and Crafts shall be allowed to take place at the property which requires any visitor traffic.
5. In the event any representations made in the application for which this permit is granted, change and are no longer consistent with the representations in this application, the applicant shall be

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- required to submit a new permit application to the county addressing the changes.
- A stop sign is required to be installed at the entrance of County Road 103 and shall be as required in the MUTCD (Manual on Uniform Traffic Control Devices).
 - All conditions for the driveway access must be completed prior to issuance of the Conditional Use permit.

Commissioner McCown made a motion to close public hearing and Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown I move we approve the request for a conditional use permit to allow for a home occupation with the seven (7) conditions as presented by staff. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

DECEMBER 3, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, December 3, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M. **REGULAR WORK SESSION:**

COUNTY MANAGER UPDATE: ED GREEN

COURTS - DISCUSSION/DIRECTION – 9TH JUDICIAL BUDGET REQUEST – CHIEF JUDGE JAMES BOYD

Judge Boyd and Jim Bradford attended and presented the 9th Judicial Budget to the Commissioners and explained their request of improvements to the 3rd floor courtroom and courthouse in general. These improvements are necessary because we will receive a new judge in July 2008. Room 301 is not set up as a courtroom and we need separation from the judge and the public as they make decisions that are not popular. The addition of the 7th judge will mean more demand for courtrooms.

Jim Bradford has been working with the County staff on the budget.

Chairman Martin stated the former chief judge wanted Room 301 the way it is when the Commissioners abandoned it to move into the County Administration Building. The informal court will go away and after the remodel it will be a formal court area.

Judge Boyd said they will still have the informal court such as the family court; it will be held in a formal courtroom setting or they can use Room 402 - the jury room if needed for an informal setting as well. Commissioner Houpt questioned the proposed changes in the Courthouse with security and asked for feedback.

Judge Boyd said it is important to have a good neighbor working relationship with the public and those housed in the building currently. He is pleased with the security we have now but doesn't want it to be impactive to the public. If the entire building is court related functions then they would like the same security in place currently.

Chairman Martin said they would have the budget approved by December 15, 2007.

EXECUTIVE SESSION

Contract direction regarding real estate property gas producers' audit – John Gorman and Don DeFord Item B – Executive Session - contract on the real estate gas.

Don requested an executive session on the status of the contract before public discussion. John Gorman was not present; the BOCC contacted him via telephone conference. Sean McCourt represented the Assessor's office.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried.

Sean McCourt presented the contract and requested direction regarding the real property gas.

Discussion:
Don stated the public record should reflect the Board concluded advice and direction as well as an informational session that included discussions with Mr. Gorman who was not available publicly but was on conference call. The matter is part of a discussion for action. Assessor is requesting the Commissioners authorize a contract with Martindale Consulting to conduct a gas audit for real property for the years 2002 to 2007 with designated gas producing companies in Garfield County. The contract as a matter of law and it will require participation by the Board of Commissioners as the funding entity and Assessor who is elected official responsible for the evaluation of real property. The proposal by Martindale is to conduct a comprehensive audit of gas production of which we value that real property interest in Colorado. It is designed for 2002 completing with more designated companies in 2007. Don said at the end of the day conceptually, I would like authority for the Chair to sign a contract to conduct these evaluations beginning stated even. Dstated the motion would be to grant the chair the in the standard professional services contract, Martindale the agent of the Assessor for these purposes. Sean – a little background for the public; this is simply a continuation of a prior audit that we started a few years ago. With a new Assessor coming in it has taken a little time to get things going but this is before you and we want to continue that process. As Don said, the Martindale Company is the best company to do the work.

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PUBLIC COMMENTS FROM
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Commissioner McCown made a motion we approve the contract and that the Chair be authorized to sign with Martindale Consultants, Inc. in an amount not to exceed \$250,000 and that would include the 3 entities starting with 2002 which would be Williams, EnCana and PDC and those would be carried through the year 2007; we would ask that a monthly report be given as a part of this contract to the County Assessor and the County Assessor relay that status information back to this Board, if you would, knowing full well we may need an additional contract and budget amendments as we proceed into the depths of this; in 2005 the number of companies goes from 3 to 8 and continues to grow, so right now I'm looking at the top 3 that start out in 2002 carrying those all the way to 2007/2008 contract period.	Formatted ... [1]
Commissioner Houpt second and I would say that this makes practical sense to me to start with these 3 but I anticipate that we will assess the potential auditing of all of the companies that are working in Garfield County and where there appears to be a need to conduct that audit that will occur with this group as well.	Deleted: audit
Don commented from the County Attorney's (CA'S) office perspective that the Board may wish to consider this as a separate item but right now he's proposing that the CA's office provide the legal representation for the Assessor's office and to the contract for an auditor for the purpose of as I've indicated in my budget proposal to the Board. This will require potential additional staff in my office as this is a very time intensive process for both the auditor and legal counsel. The current anticipation is that Debbie Quinn out of my office will be the attorney conducting this work; that will also necessitate some modifications to the physical facilities in my office to accommodate an additional attorney. Both of those items have been included in the budget that's before you. What is not in front of you and really he wasn't aware of the breadth of this until we talked with Martindale, Debbie will need to do some travel during this process and that's not part of my budget. Right now I can only say that will be at least \$5,000. I'll like to treat this similar to the contract and see in during the first half of the year if that is actually expended and then an additional travel fund would come back to the Board so you would understand what's going on.	Formatted ... [2]
Commissioner Houpt - I appreciate you projecting those numbers but I would think it would be a number that should be sent to Patsy and add the, instead of something we would act on today.	Deleted:
Don - I understand that, but I want the Board to be aware of it; contracting with the Martindale is only one piece of accomplishing this task. Chairman Martin said it's the least expensive of the proposition we've got in front of us. Now you can look at what the ancillary things, which are going to be double that and then the potential of increasing the contract in the next couple of years probably. Again, this is only the tip of the iceberg just for those folks out there that say ah uh, government in action.	Formatted ... [3]
Commissioner Houpt - this is the probably the largest part of this audit because once they get going in this process, I'm assuming it will flow more smoothly; we really are working with the larger entities that will need more time.	Formatted ... [4]
Ed - in addition to that monthly notification I would suggest we add 5% modification to the contract.	Deleted:
Chairman Martin - so it would require a hearing before it ran out of money so that we would be able to re-appropriate money to continue the contract.	Formatted ... [5]
Commissioner McCown - I would amend my motion to include that.	Formatted ... [6]
Commissioner Houpt - Second.	Deleted: dd
Don, one other comment publicly I should make so that there is an understanding by the public of the process, if the audit is successful, that is if it locates some new revenue stream that is appropriate from omitted property, there is a specific statutory proceeding that allows the County government to recoup a substantial portion of those costs out of that funding stream before the additional funds go to the other taxing entities. In favor: Houpt - aye McCown - aye Martin - aye	Deleted:
FINANCE - DIRECTION RELATED TO 2008 PROPOSED BUDGET - PATSY HERNANDEZ	Formatted: Font: 10 pt, Not Italic
Patsy presented the spreadsheets that represented the changes added to the 2008 proposed budget since it was presented to the Commissioners on October 12, 2007. At this time the projected total for 12/31/2007 end of year fund balances for Garfield County is approximately \$57 million.	Deleted: to
The 2008 projections based on the Proposed Budget equals \$51.32 million.	Formatted: Font: 10 pt, Not Italic
If the Commissioners are in a position to let Patsy know today whether they want any budget items to be removed or added to the 2008 budget, then this will allow Patsy to make the changes before running the budget reports to be presented to the Commissioners on Monday, December 10, 2007.	Deleted: budget
PARKS - WHITEWATER PARK - CONTRACT WITH THE CITY OF GLENWOOD SPRINGS	Formatted: Font: 10 pt, Not Italic
Ed - The contract just approved only had \$100,000 and we will need to add \$150,000.	Deleted:
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Carolyn - the IGA for the Whitewater Park includes \$100,000 in 2007 money and the contract was sent over to the City. Are the funds.....?	Formatted: Font: 10 pt, Not Italic
BOCC - no. Patsy - Conservation trust fund money was approved for \$100,000 to be spent in 2007. It was approved in the budget, but not spent in 2007. That expenditure was projected to be spent in 2008 so this will just roll over. The Board reminded Patsy that this \$100,000 was for 2007 and the contract with Glenwood Springs should be finalized.	Formatted: Font: 10 pt, Not Italic
Carolyn will get with them with a contract and a scope of services and have it ready by next week.	Formatted: Font: 10 pt, Not Italic
Commissioner an additional \$100,000 for 2008. Ed and Carolyn will work with the City on this issue. The 2007 \$100,000 is from the Conservation Trust and \$100,000 in 2008 from the General Fund. Put this on the agenda for next week or the last meeting of the month.	Formatted: Font: 10 pt, Not Italic
SHERIFF - ANIMAL - CARE	Deleted: ¶
The question for Lou Vallario was posed by Commissioner H on the adjusted budget for CARE and Divide Creek for the support on animals.	Formatted: ¶
This discussion was over a cut in CARE's budget of \$75,000. After a lengthy discussion it was decided that Lou would meet with the CARE people and work out a solution.	Formatted: Font: 10 pt, Bold, Underline, All caps
A number of concerns were expressed including the number of animals CARE could not take during the year; the need for an additional facility to help with animal control and the plans for an animal shelter.	Deleted: oupt ...
Chairman Martin voiced a concern that we spend more on animal care than we do for the elderly.	Deleted: ¶
HUMAN RESOURCES - DIRECTION RELATED TO DECEMBER 31, 2007 PDO BUYOUT - PATSY HERNANDEZ	

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Patsy presented the request for the who had not used all their accumulated PDO and requested direction as to the buyout. If the Board approves, the PDO amounts by employee will be calculated after December 31, 2007 and the amounts added into the February paycheck. The policies are based on the Boards approval and the question is does the Board want to approve it.	Deleted: list of individuals
Ed said when we first began this program, the cost was around \$20,000; last year it was between \$5000 and \$6000. This policy is working and it appears to be the same people who use the PDO buyout, yet they take their 3 weeks of required PDO yearly his includes the people that accure 18 plus hours per month and have with the County. You can take the 3 weeks that are required to be eligible for the program and still be over. A motion was made by Commissioner McCown and seconded by Commissioner Houpt to continue the PDO buyout policy as in previous years for those folks who have taken at least 120 hours and still have an access of their maximum carryover and those individuals will be paid at the 40% level calculated after December 31, 2007 and included in the February paycheck. In favor: Houpt – aye McCown – aye Martin – aye	Deleted:
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OIL AND GAS - UPDATE ON NEW COGCC REGULATIONS – JUDY JORDAN Judy Jordan provided the Board with the updated on the new COGCC regulations. Last Tuesday, the COGCC released their pre-draft proposal on new regulations relayed to them and they reviewed that pre-draft proposal with the old. There were a number of stakeholder groups present and they are giving us a chance to comment by December 11, 2007. If we take the opportunity to comment, we need to get those in. Judy is drafting some comments and this will be discussed with the internal oil and gas coordination group here at the County Tuesday, and she will be collecting feedback from folks. She plans to share a preliminary draft of comments with the BOCC this week and then check back with the BOCC next week to see if there are other submissions, omissions, and/or comments and/or if you want her to turn it in as is. She would need to know right away. The Commissioners felt the time frame appears to be doable. The public comment will be after December 11, 2007. Commissioner Houpt said she got the impression there may be some additional time as all of the counties felt engaged. The goal should be for us to respond since we were at that meeting. Don will review it as well this week. Commissioner McCown is still finding the same concerns on his initial review. A lot of this process regarding surface owner and mineral owner are left out of this Form 34 process. He also felt that the CDPHE, the COGCC and the Division of Wildlife are making decisions that nullify surface use agreements and are overriding a particular landowner that in fact may be the mineral owner. I see landowner rights being steamrolled over here and some fairly significant possibilities of taking litigation given the history of the court proceedings; he would like Don to pursue this and see if he has the same concerns. On Form 34 there is no place that acknowledges a surface use agreement. So, does the operator get a surface use agreement before they apply for the Form 34 which they have to apply for before they apply for a permit to drill?; does it negate the surface use agreement completely?. Does Form 34 replace that, and if so he didn't see any provision for the surface owner/mineral owner if they are the same individual to weigh in. These are some of the concerns that are. He asked Don to review and comment on Chairman Martin – on that one there was a notification/requirement to the landowner but no accountability on how it was to be received, how it was to be sent and who was going to verify that it was. There were multiple issues that were discussed. Commissioner Houpt – this is why the process is occurring; this is a preliminary draft. Suggestions are requested. Please email Judy so you can have this information to put into your document as well. There was a huge discussion with energy impacted counties and many different comments that have been taken back to the staff. Chairman Martin – we had the same issue with our land use regulations and when do they go into effect and how do you initiate them and when do the old ones end, etc. That was a very long conversation as well. When the new rules take place, what happens with the existing APD's and other grants that are involved? Judy requested comments to her by December 11.	Deleted: regulations
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Ed's Executive Session issues: Jesse – Severance Tax update and Ed – CSU negotiations GARFIELD COUNTY COURTHOUSE COURTROOM REMODEL Jim Bradford submitted the preliminary cost estimate for the remodel that totals \$331,000.00; he said they had budgeted \$350,000.00 so there was room for additions. COUNTY SHERIFF UPDATE: LOU VALLARIO WILDLAND FIRE INVOICES Jim Sears and Lou Vallario were present and submitted the following invoices regarding wildfire expenses: - DeBeque Fire District (Garfield Assist #10) \$1567.77 - Rifle Fire District (Savage Fire) \$1625.69 (County) - Rifle Fire District (Gray Barn Fire) \$5400.00 (County) - Grand Valley Fire District (Garfield Assist #11) \$ 569.48 (County) - Grand Valley Fire District (Garfield Assist #17) \$ 975.42 (County) The Sheriff gets billed and Lou explained the purposes of sharing these costs. The other piece of this – we have a reciprocal relationship with the fire districts and has been a conflict in statutes on the issue of which players need to be at the fire. Don asked to have who's alleging what and then he can sort it out. The Legislature has not made it that clear. He asked Lou to send him a memo explaining this. Lou – nothing has been changed since the fire districts met but there are still some concerns – it's not a negative and it deals with resources. He needs an opinion from a legal perspective. The relationship with the fire districts is not at issue – things are going well, it's just a matter of the statutes. A motion was made by Commissioner McCown that we approve the County's cost \$10,139.36 for the fire districts as broken out and submitted by Lou Vallario. Commissioner Houpt – seconded and suggested to create a line item for this.	Deleted:
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Chairman Martin suggested putting a contingency of “x” dollars not to exceed. They will have a discussion this next Monday, December 10th to make sure it is in the budget.

In favor: Houpt – aye McCown – aye Martin – aye

SHERIFF - UPDATE ON PERSONNEL SHORTAGE – 8 people are in the process of being hired and testing will be completed this week for patrol. Lou could end up with 12 more people. They have revamped the training program in the jail down from 12 weeks to 9 weeks by streamlined the process.

SHERIFF - EMERGENCY PLAN – Lou stated this was on **WEBSITE** for the general public to review.

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE ON ITEMS 1 A AND 1 C AT 10:15 AND ALSO 1B – POTENTIALLY. ALSO, ON **NOTICES OF CLAIM ON THE STOREY ISSUE; ACCESS IN TRAVELER’S HIGHLANDS AND TWO ITEMS MENTIONED BY ED PREVIOUSLY.**

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session specifically 1 a, 1 b and 1 c listed at the 10:15 time; motion carried.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried.

Action Taken:

COUNTY ATTORNEY - CONSIDERATION/APPROVAL OF MEMORANDUM OF SETTLEMENT-TOWN OF SILT – STILLWATER - DON DEFORD

Don submitted the memorandum of settlement with the Town of Silt arising from the lawsuit the Town clamed for payment for certain road repairs pursuant to an IGA entered into on May 13, 2996.

The memorandum of settlement (MOS) states that the Town commits to utilize the \$200,000 received from the County for improvements to roads and bridges within the Town of Silt, intended to devote that payment primarily to those roads that currently lie within the proposed “Stillwater Subdivision”. However, the Town is under no obligation to account to the BOCC for the amount and manner of expenditure of the \$200,000 transferred pursuant to this Memorandum of Settlement. Thus CASE NO. 06CV368 is resolved.

Don requested the Board authorize the signing of the MOS with the Town of Silt.

Commissioner McCown – so moved; Commissioner Houpt - seconded

In favor: Houpt – aye McCown – aye Martin - aye

COMMISSIONER REPORT

Commissioner Houpt – last week the I-70 Collaborative Process that was held in Denver on Monday; there’s been a commitment from CDOT and Federal Highways to make this process stick if this group gets consensus and both heads are sitting at the table this time so hopefully we will come up with an alternative for I-70. We have to complete the PEIS. The money discussion isn’t there yet. CCI annual conference and discussion on the Code last week; this week in Battlement Mesa 7 a.m. for a Kiwanis meeting and then we have our Planning Code meeting; Thursday – Oil and Gas Forum and Friday, Spring Valley.

Commissioner McCown – tomorrow we have the Land Use in Rifle; Wed., BLM sub-group meeting from 5 – 8 at the Energy Office; Thursday is the Northwest Oil and Gas Forum; Friday is Spring Valley – December 7th.

Commissioner Martin – did attend on Saturday the RSVP meeting and it was a wonderful time there – had a nice turkey dinner; they did force us into singing every Christmas song that we knew. Very busy week and everyone has touched on the bases as well as again verification on the 4 to 6 on Thursday on the 13th at Battlement Mesa Activity Center.

CONSENT AGENDA:

- Approve Bills
- Changes to Prior Warrant List
- Authorize the Chairman to sign a Special Use Permit and Resolution of Approval allowing a “Studio for the Conduct of Arts and Crafts”. Applicants are James Surls and Charmaine Locke – Craig Richardson
- Authorize the Chairman to sign the Special Use Permit for Two (2) Temporary Employee Housing facilities located approximately 12 miles north of the Town of Parachute and within the North Parachute Ranch. Applicant is EnCana Oil and Gas (USA), Inc. – David Pesnichak
- Liquor license renewal for Glenwood Tramway LLC d.b.a. Glenwood Adventure Park – Jean Alberico

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a – e. In favor: Houpt – aye McCown – aye Martin - aye

CROUCH PROPERTY – MISSOURI HEIGHTS - DISCUSSION AND DIRECTION RE: LOCATION OF CR 162A – ADRIENNE CROUCH (STIRLING RANCH)

Chairman Martin stated that the Board requested Stirling Ranch come forward as to the issues that have arisen and not revolved as of yet.

Mark Hamilton, Don DeFord, Adrienne Crouch and Louis Beutner were present.

Mark Hamilton on behalf of Stirling Ranch, LLC. said he’d been associated with this project in one form of another since about the late 1990’s. This road issue actually pre-dates that and he did some studying and learning to understand the history pre 1999 or so and reviewed a packet of information for the Board regarding the alignments of 162 and 162A. Photos were also submitted as well as the minutes from the BOCC.

In general things have been moved to the east. Photos were submitted and reference to the old historical road. He made a comparison of the property. They believe a very clear path was made in 1993 and specific standards were set out.

The gate was moved and 27 or the 30 lots in the Ranch have been sold. No objections to Ms. Couch of moving the gate. This is a civil issue and continues to be a 60 foot right of way as presented by High County represented in 2004.

No comment was provided by Adrienne or Louis Beutner.

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Fred Jarman said the encroachment has been identified and said that the last official time this came up was on Lot 28. At this point it gained momentum and notice to neighboring property owners came up and they pulled up the plat that was submitted. The road is 600 liner feet from Lot 28 and reminded the Board that these are private roads.

Fred said there are some drainage issues but he hasn't done a full investigation.

Commissioner Houpt – the gate was moved; there's a tree planted; she is not seeing from these pictures a significant difference between what they were asked to move and reclaim and what's on the other side of the fence.

Chairman Martin noted there were multiple issues of dispute between the two and the Board is trying to resolve just one item and that is the alignment of this road. If there's any encroachment off what the subdivision improvements agreements is, survey etc. and if there's any encroachment onto the Crouch Property we requested it be again remedied. Is that your understanding Mark Hamilton?

Mark Hamilton – yes it is and he hasn't surveyed it recently but it is my understanding that the here and now situation where cars are coming in and out of Stirling Ranch not driving on the Crouch property because of the tree and because of the relocation of the gate.

Commissioner McCown – is this what's on the ground today.

Mark Hamilton – no, that was prepared by Mr. Liston at the time. This was pre-moving the gate.

Commissioner McCown – if these stone pillars as they appear on here were to be relocated on the ground where they are today, where would they be?

Mark Hamilton – again he stated he was not a surveyor, it is his understanding they have been moved off to the east so the western most pillar would now send traffic is oriented so that it no longer drives across the highlighted area.

Commissioner McCown – so is would in no way encounter this corner that's shown in bold here.

Mark Hamilton – the gate also as shown in the photo was moved to the south and there's a new sharper curve required to accommodate that that made us need to amend Lot 23.

Commissioner McCown – and that sharp curve would show up in this picture.

Mark Hamilton – that curve again would send traffic away off to the east away from the Crouch property.

Commissioner McCown – how close to the best of your knowledge, given the existing picture that was presented here, where is the property line in relation to that brick post that you can see on the right.

Mark Hamilton – didn't have it with him.

Commissioner McCown – sees a vehicle sitting there and asked if that vehicle was still on the 60-foot right of way?

Mark Hamilton – that vehicle is across the property line onto the Stirling Ranch property. So it is south.

Chairman Martin – I also heard that you had no objection to the correction of the fence alignment if necessary.

Mark Hamilton – on behalf of the developer, noting that I do not represent all of the owners of the lots.

Commissioner McCown – so that would be a matter of where you see it veering to the right if you will going up to those posts you alluded to as the property line or the possible property line knowing you're not a surveyor but those could be swung back to the left basically tying into something similar to this fence.

Mark Hamilton – and the foreground on that photo where you see the three wheel fence, you can see how that angles off on the foreground, bottom right. That angle then turns to the right and it could be brought into a straight line.

Commissioner McCown – and tie into this existing fence here.

Mark Hamilton – correct and the developer has no objection to that.

Commissioner McCown – we'll review this further and go over that plat with Fred that was alluded to.

Chairman Martin – and if there are any encroachments they will be noted and also hopefully that will be corrected.

Adrienne Crouch – for the record, she would like to continue to give the County Commissioners additional information on the road and again to say the commitment Stirling made over the last 20 to 30 years was to give legal access on 102 Road, 162 Road and 162A Road and I don't believe that has been met.

Chairman Martin – not today it hasn't Adrienne, what we're going to do is dealing with one issue at a time and this is going to be the encroachment and the of the fences we're talking about today; we're going to march right down this path of all the items we need to go ahead and correct.

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Adrienne – That's 162 A and I've requested last March that you give me the legal description as recorded given from Stirling to the County of 162A because there are issues Lou provided that easement – do you own the easement to provide it to the County and it's an on-going issue; it's not just about 10 feet encroaching on my property, is it 300 feet and I would like you to review everything that I've given so far and to continue that and just give me a note that says on the record I would like to make sure that any other notices are put on the record that I am notified of any communications and that I would leave it open that I would like to come in front of the council again for more information. And I represent myself, Ron Liston doesn't represent me, High County Engineering doesn't represent me and those plats that were given have not been recorded and Don DeFord knows that and my lawyers in 2004 said just that and they requested in November of 2004 that the entire road be taken off of my property; and that letter was sent to the Commissioners.

Commissioner Houpt – Adrienne would you like to comment on this photo because it's a pretty good illustration of what is going on and how the gates were moved and where your fence line is. So if you'll like to comment on that.....

Adrienne – first of all that pad was built by Mr. Stirling's engineers without engineering plans or at least I've never seen them. In 1992 he says in an SIA that there are engineering plans etc. That road was not built until after 1992 or 1993 – that's less than 18 years. The road to the east of my fence and the reason I put the fence there was to match Becky Stirlings new fence that she put east and west that is also encroaching into my property. I was trying to be a good citizen and match my new fence to hers. So the old road that you see that Mark Hamilton mentioned, that's on my property. When you go back into the legal description and deeds, John Stirling in the 1980's gives acreage to Ruth Stirling, his wife for a new house and he says, oh by the way, in that warranty deed – the warranty deed says I don't guarantee where the road is but I want

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access through Ruth’s land into my land and that warranty deed I believe is 1983. My family’s property was purchased with title policies – I’ll be happy to provide that – in 1982. So the dirt road that you see that’s parallel to the 162A Road was not on the property as far as I know when my family got the property. That’s the issue – where are the legal rights – I don’t care how many roads, if you look at the aerial views of the Stirling Ranch, there’s a thousand roads up there, which ones are dedicated, which ones aren’t and this is from the late 1980’s and I can provide a lot more.

Commissioner Houpt okay but for today you wouldn’t disagree with the depiction of

Adrienne – that’s on the ground today, whether or not it’s legal that a bigger issue or a major issue and I would like to also provide that Stirling Ranch has given 27 water court cases so far over Stirling Ranch – that’s a lot of money. And water court cases also basically show water problems up there as they deal with my family’s water issues.

Chairman Martin – this is a different issue – that’s one of the ones down the road that we have to....

Adrienne – I just don’t want anything passed without me being aware of what you’re going to pass.

Chairman Martin – and we’re going to try and make that decision and make some kind of a finding.

Louis Beutner – a land, and I have been doing work for Ms. Crouch. In regards to these photos I think I can help you a little there; on the horizontal and, of the same photo –if you’ll look at the right side of the road as you go in there is a slight orange mark on the traveled way there; that is approximately the location of the property corner for the Crouch property, about 6-feet into the traveled way. If you speak to Road & Bridge I think they will probably want the road to be moved over there approximate another 10-feet from that point so they have some place to put snow and such as that. That is approximately the property corner. I didn’t take these pictures and wasn’t there and consequently I can’t say for sure that that is the corner.

Chairman Martin – and you rely upon the agreement in the Subdivision Improvements Agreement that the entire road will be on the Stirling Ranch and not on the neighboring properties and that’s what you’re point is.

Louis - The agreement says it shall be within the 60-foot right of way.

Chairman Martin – I think we got that point; we’re looking at the legal encroachment if it exists or not exists and if so we’ll look at having that remedied.

Commissioner McCown – Louis are you saying that Mark alluded to the last one with the hatched area, there is not a correct survey by High County Engineering?

Louis – yes I would say that is incorrect. It surveyor to survey this property in 2002 and this survey shows the property, the road to be encroaching; it was just recently surveyed by the County Surveyor and he shows it to be encroaching – I had a survey there, the property corners located out in the traveled way has been identified by four different surveyors contain an infringement on the Crouch property.

Commissioner Houpt asked if we have the County Surveyor’s survey in the information.

Don – These are the County Surveyor’s maps.

Louis – That map is the 2002 map, not the recent map.

Mark Hamilton – that was the 2002 map before the gate was moved, if there isn’t we would like a copy of it as well. And then to reiterate that whether the High County Survey is correct and we of course believe that it is, but even it weren’t, I think this is an intent on everyone that this driving surface, the road traveled area, so to speak, would be immediately on that boundary line, not 10 feet off as just requested and that was contemplated, reviewed, approved, accepted and collateral leased at the time when improvements were done. I think that was way back in the 90’s; that’s not a recent thing and then as far as the survey corner, again I’m not a surveyor and not in a position to argue whether that corner is or is not as represented to you a moment ago but our point is that we believe there is adequate width of driving surface to the east and we have no objection to the reestablishment of a fence line along the deeded line of the west line of that right of way and as far as reclamation or whatever you call it, given this history, 35 years plus of roads in the area, we don’t believe there is a material distinction that, the quality of the two areas and that once the physical use of the property ceases that ought to be sufficient.

Chairman Martin – we’ll make our determination and when we start making our final decisions next week, so we’ll have a decision on this particular issue and we’ve got all information and then we’ll start from there.

Commissioner Houpt – so this will be back on the agenda next week?

Chairman Martin – yes for final decision of this issue – the next issue will be identified and then we’ll go in reference to the items that we have to deal with – we want to take these one at a time.

OIL AND GAS - COLBORN WELL SITE NEAR RIFLE VILLAGE SOUTH – WAYNE BANKERT WITH LARAMIE ENERGY

Laramie Energy was invited to present information related to this well site near Rifle Village South because of the concerns residents in the subdivision has addressed.

Judy Jordan and Wayne Bankert were present as well as Jim and Marsha Golden, residents of the subdivision.

This is an informational gathering and we want to keep this friendly. The BOCC will make a decision and it could be forwarded to the COGCC.

Don - Judy Jordan asked what direction she should take on this issue; we have two days left and we need final direction as to whether or not the Board wishes to intervene.

Commissioner Houpt – recused herself from this since she serves on the OCGGC forum.

Ken, Leis and Wayne Bankert were present and stated they appreciate the opportunity to present Laramie’s side of this issue and are willing to clear up any misunderstanding regarding the proposed drill pad.

Because of all the controversy, the fact that they wanted to hold a community meeting, as well as the fact that they do not have a surface use agreement in place then they are prepared to put this proposed drill pad on hold to see if they can find another location. The mineral interest is not owned by Mr. Colburn. The Northeast corner of the property covers 8 acres and it allows them, opportunity to drill. Since September they have been looking at various locations, as well. The Ross pad is not a good location and in addition the access would have been through the subdivision. The best alternative would be the Colburn property.

However, there is no final agreement and Laramie Energy is amendable of a final survey, Mr. Colborn has stated he has plans to build a subdivision on the land that he owns. This information of the drilling pad got

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out and drew a conclusion that this is a final deal and Laramie didn't plan to move forward without a surface use agreement and to accommodate the ones most impacted. They will have a community meeting. Access will be considered off CR 320 and they will put together a plan that would be workable to develop these minerals. They have informed the COGGC that we would like to hold off on this APD. The Rule 106 for drilling in high density is 1000 feet from the residences. The well pad layout is very limited in order to be in compliance with the 1000 feet and 465 feet from the residences. They showed the development that Mr. Colburn has planned and a new access road and continued to show the layout for the reclamation plat for the well site. This would be approximately a 3-year program to drill all of these wells. Negotiations with Mr. Colburn have been on-going and a specific time period to be complete was spelled out.

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Laramie's Mission Statement was reviewed but since they were having a community meeting with the residences, they will state that some wells can be reached from the top of the Mesa but they still need to find a location somewhere in this proposed area. There is very limited land available and issues of a road, issues from the south make it virtually impossible to build an access road. He pointed out the areas they will be unable to develop if they are unable to reach an agreement with Mr. Colburn. Laramie is not a company that pushes themselves onto the public. Commissioner Houpt stated the value of a community development plan and suggested the need to get the community in place to develop the minerals.

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Laramie Energy representatives asked the Commission to put the permits hold with no time frame at the present.

Don reminded the Board there is only two days left to intervene if that's the pleasure of the Board.

Judy could request the County's opportunity to hear this before the COGGC.

There are a lot of unknowns; there is no driveway access permit in place which gives the County some hammer.

Don requested the Board to provide copies of their electronic communication to Judy. The APD is straight forward and you can make your representations as part of the record.

Laramie Energy representatives stated once again they are committed to the public and will notify the COGGC that they are over the 1000 foot requirement from a church. Setback requirements are to be 450 feet from Colburn's home and they do comply. They just need to work out a surface use agreement with the property owner. Rule 603 needs to be complied with as well as other rules and regulations on the Federal guidelines as well.

Public Comment:

Marsha Golden said she appreciates the concerns on the technicalities. They would greatly appreciate a decision to postpone this application and have the Board submit to intervene on behalf of the residents and requests a hearing. She submitted a petition that was signed by 87 residents. She read into the record the request for a hearing and submitted the petition for the record.

Commissioner McCown clarified the residents were suggesting the Board request a hearing.

Marsha – yes.

Harry Colburn stated he purchased his property in February of 1996 and was led to believe he owned the mineral rights. Petrogulf notified him that they owned the mineral rights and were intending to drill. He had meetings with Petrogulf. Laramie Energy bought out Petrogulf and they have been easier to work with. He is against a well pad on his property. How close can they drill to people's houses? He has future plans to subdivide his property as it is prime land for a subdivision and doesn't need a gas well on his land. This site is too close to town and mentioned all the other areas they can drill. He appreciates all the support from the Commissioners.

Lynn Marr made a clear point that there are residents in the subdivision and a church; there is also a school bus stop very close by the proposed drilling site. Her concerns include sinkholes all over the area and with drilling it may cause more sinkholes. She mentioned a blind spot on the CR 320 that would be dangerous for additional truck traffic and included that this is the only access from the subdivision except through Rulison which is a long way out of the way. Regulations say 1000 feet from a church and there is a problem with that. Oil wells require 450 feet from a residence. Her concern is we are being forced to accept this. There is a concern about the two days delay; we need a hearing.

Commissioner Houpt clarified the Colburn property is a 40-acre tract. Many people don't want a well pad on their land and laws are in place that has allowed that to happen anyway. She understands Lynn's concerns.

Lynn – they don't have any say so whatsoever.

Brian Dour lives next to the property and he doesn't agree with the spot selected to develop these minerals. There is land to the north of us that will cost them more money and it is more convenient to drill this well on Mr. Colborn's property, but his concern is that it is too close to a subdivision. If they drill on this proposed site it will create health hazards for all the residents in the Rifle Village South subdivision and he feels he needs to speak out for everybody in the County because these wells are getting closer and closer to our towns and neighborhoods.

David Crabtree said he is also a very concerned citizen about the well; it is going to be an eyesore and create smells. He just wanted to be heard.

Mike Vanian stated he is a registered voter and gave an example of how the gas had to be flared on a well pad and it created the evacuation of about 450 people. He also gave an example of a dad lighting a lamp near a river where the gas has leaked. Members of the family died and only two small children lived.

Judy Jordan was instructed to obtain more information and the Board will resume discussions and a decision will be given later today.

BUILDING AND PLANNING - CONSIDER A REQUEST BY THE OWNERS OF THE PROPERTY FORMERLY KNOWN AS THE BAIR-CHASE PROPERTY FOR THE BOCC TO RE-NOTICE THEIR ACTION TO REVOKE THE SANDERS RANCH PUD AND REZONE THE PROPERTY TO RGUD. (CATTLE CREEK CROSSING) – FRED JARMAN

Fred Jarman, Jim Lochhead, Rocky Shepherd, Calvin Lee and others were present for this request for discussion.

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A letter was received from Jim Lochhead stating that the new owners of the property agreed with the commissioners that adequate notification was given, however, the new owners have a commitment to the appropriate development of the property to make sure the public and neighbors have a full and fair opportunity to express their views on how this property is developed. Moreover, questions and threats of litigation over the notice may detract from hearings on the development proposal.

Therefore, the property owners request you re-notice you action to revoke the Sanders Ranch PUD and rezone the property R/G/UD and that the Commissioners hold another hearing on such action after appropriate hearing and recommendation by the Planning and Zoning Commission. The owners are confident that after the new notice and hearing the Commissioners will again find that R/G/UD is the appropriate and best zoning for this property.

Chairman Martin – no problem on renoticing.

Direction – affects an action the Board has taken.

Fred explained the way this would work – staff would post, do the mailing; publish the notice; and this will be required to be reviewed by the Planning Commission and we are looking for a date – that would be the 12th of December; people can call the Building & Planning Office and we will put this on the website. It will be the end of January or first of February before it comes to the Board.

Commissioner Houpt – this is a good reminder on how to move forward; many people in the public didn't understand.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to accept the recommendation to reschedule this before the Planning Commission and the Board of County Commissioners.

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In favor: Houpt – aye McCown – aye Martin – aye

AIRPORT - RIFLE AIR LLC TO OPERATE THE FBO AS ATLANTIC AVIATION (LEASE AND AGREEMENT AMENDMENT REQUEST) – JUSTIN CARVER AND CHAD FARISCHON

Brian Condie, Carolyn Dahlgren, Justin Carver and Chad Farischon were present.

A power point presentation was given explaining Atlantic Aviation's network of aviation facilities at over 60 locations from coast to coast.

Atlantic Aviation FBO Inc. will close the stock purchase of Rifle Air LLC on November 30, 2007. Atlantic Aviation FBO Inc. intends to operate as Rifle Air LLC dba Atlantic Aviation and be an integral part of the Atlantic Aviation branding program and network of 70 FBO's nation wise.

Request for an amendment consisting of one page. The intention is to stay as Rifle Air and have a lease amendment.

Chad added that this will bring national attention to Rifle.

A motion was made by Commissioner to accept the lease and agreement amendments with Rifle Air LLC to operate the FBO as Atlantic Aviation and that this be placed on the consent agenda for the Chair's signature, once the Consent Agenda is approved. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin – aye

ASSESSOR - ABATEMENT FOR RE-1 SCHOOL DISTRICT

SCHEDULE NUMBERS R311660 AND R311795 – LISA WARDER

Lisa Warder presented the abatement and stated the RE-1 School District had been notified.

Chairman Martin swore in the speakers.

Schedule R311660: RE-1 School District

Lisa explained that the schedule number was taxed in error for the 2006 tax year. The property became tax exempt due to condemnation by RE-1 School District as of 1.1.2006 per Order of Possession Case #05CV336. The abatement request if for \$16,046.68.

Schedule R311795 - RE-1 School District

Lisa explained that the schedule number was taxed in error for the 2006 tax year. The property became tax exempt due to condemnation by RE-1 School District as of 1.1.2006 per Order of Possession Case #05CV336. The abatement request if for \$5,054.92.

These are housekeeping issues. This is property that was condemned for the new Glenwood Springs High School.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing;

In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the abatements:

In favor: Houpt – aye McCown – aye Martin – aye

CLERK & RECORDER - LIQUOR LICENSE FOR COLOREXES INC. D.B.A. DOS HERMANOS'S. JEAN ALBERICO AND GRACIELA EDGAR

Jean Alberico, Graciela, David Sr. and David Edgar Jr. were present.

Jean submitted the Exhibits: Exhibit A - proof of publication; Exhibit B - application, and Exhibit C - sign posted.

Chairman Martin entered Exhibits A – C into the record.

This is a new liquor license for Dos Hermanos's to be operated at the former Sopris Restaurant site.

The Department of Revenue has notified Jean that they are behind in their licensing and it may be a while before this is approved. Jean did the background checks and they are fine. These folks have had liquor licenses in Carbondale and Aspen and have been in the restaurant business for a long time.

Some additions such as windows added and painting and updated the flooring and booths.

No petitions were issued.

David said they were aware of the in and out problems and they plan to light up the fencing better.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing.

In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the liquor license for Colorexex Inc. dba Dos Hermanos's stating in the motion that given the history of this

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location being a food service and alcohol beverage serving entity that I feel it still continues to fulfill that need and the service area is anywhere from Carbondale to Glenwood.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A TWO-FAMILY DWELLING AT 735 HEATHER LANE IN SPRING VALLEY. APPLICANTS ARE JENNIFER AND PAUL FLEETWOOD. – FRED JARMAN

Michael Howard, Fred Jarman, Jennifer and Paul Fleetwood and Eric Wiebling were present.

Michael Howard reviewed the noticing requirements with the applicant and determined they were adequate and advised the Board they were entitled to continue.

Chairman Martin swore in the speakers.

Fred submitted the following exhibits for the record: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Garfield County Subdivision Regulations; Exhibit F – Staff memorandum; Exhibit G – application; Exhibit H – email from Resource Engineering dated 11-19-07; Exhibit I – letter from Jim Austin discussing the water issue and Exhibit J – Letter from Rick Neiley raising the protected covenants on use of lots.

Chairman Martin entered Exhibits A – J into the record.

The Applicant requests approval from the Board for a Special Use Permit for a Two-Family Dwelling which is defined in Section 2.02.21 of the Zoning Resolution of 1978, as amended as the following:

PROJECT DESCRIPTION

The Applicant owns a single-family dwelling in Christeleit Views Subdivision located between Carbondale and Glenwood Springs, east of State Highway 82 in Spring Valley. The Applicant wishes to construct an addition on the single-family dwelling to include a living area, garage, kitchen, bedroom, closet and bathroom. The property is 5.41 acres. The primary purpose of this addition is to take care of a relative at the property. Because this unit is attached to the primary residence, the Zoning Resolution defines this new configuration as a Two-Family Dwelling, more commonly called a duplex. To that end, the Applicants would like to serve the additional unit with water, sewer, and electricity from the primary dwelling.

STAFF RECOMMENDATION

Staff recommends the Board of County Commissioners **APPROVE** the request for a Special Use permit to allow a Two-Family Dwelling for a property located at 735 Heather Lane, Parcel 5, Christeleit Views Subdivision in Spring Valley, Garfield County with the following conditions:

8. That all representations made by the Applicant in the application, and at the public hearing before the Board of County Commissioners, shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
9. Any physical changes to the Two-Family Dwelling may require a building permit from the Garfield County Building Department.
10. All lighting associated with the property shall be directed inward and downward towards the interior of the property.
11. Prior to issuance of a Special Use Permit, the Applicant shall upgrade the septic system and obtain approval from the Building and Planning Department.

Fred pointed out that the covenants for this subdivision spell out only one single-family unit. The County does not enforce covenants.

Jennifer – when they chose the property they wanted to have her mother to come and live on the property. This was addressed at their first HOA meeting and they even signed a contract stating that they would have this for family only. When first coming to the County they were told they would have to attach this to their house. The HOA doesn’t have a current president and things are not being enforced. Only one family had any interest. Jennifer said they did some remodeling and a lot of neighbors called in and complained. There were 6 families there and 5 voted for approval at the HOA. Some of the complaints were about view shed and water issues. This will not be used as a rental nor will they sell or split the property. This will not be a drain on the resources in the area. One neighbor has claimed this will change the character of the neighborhood. She consulted an attorney and they were informed to continue before the Board. Photos were submitted as Exhibit K – first one is the detached garage that belong to a neighbor where there are residents residing. One neighbor has more square footage than the Fleetwood home even with second a structure combined.

Public Comment:

Rick Neiley representing Katherine and Peter Cantrup submitted a copy of his letter saying he was not asking the Board to enforce the covenants because he understand they do not do that, but he pointed out in the covenants of this subdivision that it was not appropriate for the County to approve an additional structure. The applicant has not demonstrated they can prove an adequate and legal source of water and it cannot be approved unless they can demonstrate they have adequate water. The issue at hand is that the remaining property owners in this subdivision could come in and request the same SUP for an accessory dwelling. Members of the association are here today and there is no plan to increase the water system. The contract is with the HOA as well as the water service. The Fleetwood’s would need approval of the owner of the water service which is the HOA. This is a single family residence subdivision. The Commission is in no position to determine the character of the neighborhood.

Peter Cantrup – he takes care of the well when it goes down and is familiar with plumbing. They added an extra tank due to when high watering was taking place the tank would go low. The low level light went on three times. The volume coming into the tanks is 7 gallons per minute and therefore the holding tanks are needed. The other issue is that they haven’t done landscaping due to the water issues. The detached garage on their property was approved with an office and a bar sink and they have a nephew in there now and they are planning to get him out.

Kimberly Mechling is strongly opposed to the impact in this subdivision. They are adjacent to the Fleetwood’s; they looked hard to find a property where it would be low impact. The character of the neighborhood is that no more than 7 homes would be built in this subdivision. They discussed with the Fleetwood’s that there was no approval for a mother-in-law accessory dwelling. The covenants have been

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read and nothing is allowed other than a single family dwelling; a detached building can be built but not for a residence. People constantly abuse the covenants and it is very time consuming and they are going after those that do not abide by the covenants. We've been asked several times for this variance. One of the photos submitted is in another subdivision. They've been here before this Board for that particular abuse and are following the direction of this issue.

Documents such as the Protective Covenants were offered. They have four separate well permits for this subdivision. Each time the well has failed they have applied for a new well. Spoke with Resource Engineering and when Paul and Jennifer went to check the water supply with Basalt Water System, were told the subdivision has failed three wells and the last well has been an incredible process. The Fleetwood's are the 5th homeowner in their house. The Fleetwood's do not have their one individual holding tank. She did not save all the emails sent to Kimberly about not having water for a shower. There has been an architectural committee but the Mechling's did not hear via email about the Special Use Permit. None of the homeowners were aware they were applying for a duplex in this subdivision.

Renelle Lott – Dan and her have a home and were approached by Jennifer for a home for her mother. The covenants and the water issue do not justify the approval of this request.

She referenced leasehold interest versus title interest. Then when the SUP notification was issued it was for a two-family dwelling and water does not support this request. There is a better solution for this request.

Peter Cantrell – the way they were building their house will affect the Sopris Mountain view and will affect the property values.

Commissioner McCown asked how many wells this subdivision has.

Peter – one well at the bottom of Spring Valley which pumps into a holding tank and there are two holding tanks – one is 5,000 gallons and the other is 10,000 gallons. In the past they have had two dry wells.

Edward Mechling – they only have one working well.

Commissioner McCown – can you control the number of members per household?

Kim – no, the original developer drilled a well; it went dry. Second well – it well went dry in 2004; 3rd well - it went dry so they are now on the 4th well and it can pump 25 gallons per minute. All other wells have to be capped. At the maximum they have pumped 13 gallons and in the winter they pump 7 gallons.

Commissioner Houpt – the Basalt Water Contract, does it require that they approve an ADU.

Fred – this is not the role of the Basalt Water Contract. In 1996 the BOCC had approval with the state engineer that this subdivision had adequate and legal water supported by the Basalt Water Conservancy.

Fred was not the person involved. At the end of the day, the County's land use controls the zoning. The County Zoning does not address an attached unit. It this didn't have a kitchen; we wouldn't be here before the Board. If the kitchen is removed, there is no issue before the Board.

Eric – if there is an ADU, does it require one leasehold?

Chairman Martin – it can be leased out to family, but not sold.

Fred – it this was a true duplex you could in theory sell off that side of the duplex. It's a structural issue.

The Board has offered in the past, a special SUP so this approval is personal and for this family only.

Chairman Martin – in your Homeowners Associations, is there any review process on water to individuals other than what is?

Kimberly – will try to answer – they have no president and are trying to work as one unit.

The other subdivisions have AUD's but not Christeleit View.

Kimberly – Balcomb and Green has the legal documents and a service contract between the two subdivisions and it is so stated in both sets of covenants. When we have something happen or a violator of that water use we have to go as one unit and try to get that stopped or abated and we do work as a group now.

Chairman Martin asked who was able to enter into the contract on both sides. Who has the say in reference to the water?

Eric – we had a meeting in May that we needed to legally join contractually the two subdivisions for their common interests. Balcomb and Green drew that up; recently within a month we took that contract and circulated it amongst the members of the subdivision and that contract was signed off by a quorum of the majority of both subdivisions. And at that point and time we had to specify an individual from each HOA to be representative on the contract and at that point and time my name was put on as Christeleit View Subdivision's subdivision and our neighbor in the other subdivision, Greg Mohl represented the other subdivision.

Chairman Martin – have you had a meeting with your counterpart in reference to expansion of service?

Eric – no.

Commissioner McCown – in the letter from Michael Erion he refers to contract No. 205 which is for Lot F which specifically was subdivided into 7 lots of Christeleit Views, now is that a fact?

Eric – correct.

Commissioner McCown – Contract 205 covers in-house use for 14 single family units; 2 units per lot characterized as single family home and a detached ADU. I don't think you can get much clearer that what the Basalt Water Contract intention was. That is 7 lots or 7 different lots under Contract 205 and then Contract 127 is for Lots a, b, c, d, and e and I don't know if they've been re-subdivided or not. I'm assuming not.

Kimberly – when we came to the realization after the 3rd well went dry that there was not going to be enough water for the 12 homes; we were afraid at that point that one well even pumping at 25 gallons at a high point did sound low enough in those low times that it is not adequate; we pumped dirt and filled our holding tanks with mud and so at that time we asked the Basalt Water Conservancy for the additional contract which would allow us to run two wells simultaneously if that were necessary. It deemed not even an issue because we couldn't pull that much water out of the ground anywhere within our subdivision – it would cause the other well to fail. So it became a moot point and even though they granted us the additional request for additional water because of all the problems, it ended up being a moot point

Applicant Jennifer Fleetwood - we are willing to sign any kind of legal documents not to separate the property; we have talked to Fred and Christina about potential solutions to the labeling of this potential property and not one of her HOA friends there had any interest in appearing with us as to a potential

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solution. Have documentation showing that on August 29, I did send an email which can be referenced that went to all the things that are going on now that I also made available at the HOA, printed them out and made them available that makes a very specific reference to the fact that we had applied for a SUP. And I have a letter from another one of the homeowners dated August 29 which states that they are quite aware that we applied for a duplex SUP and didn't want anything to do with it and then in September, these people you are hearing from with the exception of the Cantrup', and Eric was not there, but the other people you've heard from today did vote in favor of this and they did have prior knowledge that we had applied for a SUP. I would also like to make it extremely clear that we did what we were guided to do through the County; we didn't come to the County and say please give us a multi-family duplex – we through we were applying for an ADU. It was never their intention to be misleading to anyone; they want her mother to live with them on the property. At the meeting of September 6th we also decided to do some revising of our covenants and I have emailed and have documentation to also prove that the email has been something that is in the process and part of that reason was to address any concern of our addition.

Commissioner McCown – how important is the kitchen to your mother?

Jennifer – we tried to change that but Building & Planning said no.

Commissioner McCown said if the plans were approved you'd have to resubmit the plans without the kitchen. Andy was informed.

Kimberly – we were not aware that the plans were ever submitted without a kitchen. They absolutely knew this to be true – an additional unit without a kitchen was not a problem. The fact that this is a separate dwelling unit and a kitchen exists is the breaking point for our subdivision and I don't believe anyone from the County would have told them that they could not do it unless the kitchen existed.

Jennifer – we submitted the plans with a kitchen and the County, whatever discussion the builder had with Building and Planning Department and what he was trying to say was don't be dishonest. The reason that he didn't want to accept the plans without the kitchen is because he thought we would put the kitchen in anyway. I believe that's the reason the builder got the direction that he got from Andy because they had seen the plans with the kitchen in it and didn't want us to go forth with some sort of false thing about whether or not we would put in a kitchen.

Commissioner Houpt said they have seen this in the past and hope you didn't take that as someone calling you dishonest people. I'm hearing there is more than the kitchen issue; you hadn't even raised that earlier. I'm sorry that people didn't sit down and talk to the Fleetwood's before this.

Kimberly – we didn't have meetings, we spoke about the impact it was going to have because they were not willing to apply for anything other than this duplex. We asked them, apply for something else but they said no – they were not willing to back down from this application. This is what they wanted to apply for.

Peter Cantrup mentioned his concern about the way they were planning the building, it would block their view shed.

Jennifer maintained they were never approached; they could have offered up a possible solution, no one came to ask them to apply for some other option. There was an issue with the leach field that was taken into consideration when placing the extra unit.

Peter Cantrup – leach field is toward the back of the house and there's plenty room and he could show on the plat; he disputed her remarks.

Jennifer – one thing we addressed in the conditions, if it was granted we would request that the alterations to the sewer system be a condition of the certificate of occupancy; they do not want to have to disrupt their septic system during the holidays.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing. In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown approve the request for a special use permit to allow for the two-family dwelling with the 4 conditions alluded to by staff adding a 5th condition that the applicant shall place a deed restriction on the property that no severance of the property shall ever occur that it shall always be sold and maintained as a single ownership unit.

Commissioner Houpt second. If it weren't for the wording of the water contract, I would have even more problems with the conflicting testimony we heard on the water but I think what has been represented to us indicates that there should be adequate water. I have to tell you what is really disappointing to me is when these kinds of disputes come to the Board because all of this should be taken care of before it comes in front of this Board. I don't know why there was the implication that could only be a two family unit, if that was our mistake, I'm sorry about that – I don't know why questions of view shed couldn't have been dealt with, I don't know why there are different interpretations of the water contract and think you all need to read the water contract again – get a better handle on that. If you're trying to work something out as a HOA, you don't have separate conversations, you sit down with the people that you're concerned about a decision on and don't keep them out of it because they're the applicant; you try to be good neighbors and make sure you can live and work together because even when we're in very rural areas we need to be sensitive to that and I'm looking at all sides and not I'm seeing that sensitivity in this application.

Commissioner McCown – we clearly do not enforce covenants; but if I could suggest to your HOA, go home tonight and call a meeting and elect officers and elect your ACC committee and get that information back to every homeowner in your association. I don't like the sound of this roving quorum that approves things; you should have an elected body where everyone has the opportunity to voice their concerns in the running of their particular quasi government entity where they live because I'm sure it affects them by fees and other means of paying for the amenities that's provided by the HOA. You made it real hard today; had you had a good strong HOA with a set of officers where the applicant had gone to you and discussed this matter and you guys had made every effort to work this out and you couldn't reach a resolution and it came to us, fine we'll make the decision. We have to make it anyway but I don't think as neighbors more than anything else, I don't think you guys play well together and I don't think it's particularly appealing to any of you going home today feeling good about yourselves. We've taken about two hours on an issue that had it not had a kitchen in it would not even have been here. It may have been the same structure design, the mother may have still lived there but I think a lot of things were misunderstood, the fact that the additional dwelling unit which I heard testimony from the neighbors, they really didn't have a problem with because

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they knew it couldn't be conveyed separately; once it's attached to a building it is called a duplex. It's no different in structure, in intent, it's the fact that's it's attached to the building. This is the only thing which caused the applicant to have to change the name. The only reason they came in with this application I think is their honesty. The fact that they wanted a kitchen for their mother. They could have built an addition without anything and probably put the kitchen in. And I'm not saying there aren't a lot of them in Garfield County today because I know they are. But I admire their honesty and going through the channels. That's what all is about.

Chairman Martin – as they say, no good deed goes unpunished and that's on all sides. Again I reiterate a HOA with a strong spokesman with a review of the architectural committee is needed, thumbs up or thumbs down, also I think that you need to throw in the HOA has an agreement in place with the water - if you're going to allow the water, if you're going to have restrictions, etc. that needs to have some strength and it needs to come from an organized group which is a combined group of two subdivisions. I strongly suggest that you do that because you are going to have real issues of no snow fall in the next 5 to 10 years – real issues and you'll have to make some hard decisions. To take a mother and put her in the house is nothing wrong with that, I think that multiple generation households need to be there more than they ever needed to be before. As far as the kitchen I think that's absurd to call it a duplex or two kitchens; how many people grew up in the County that has a cooking kitchen and a kitchen that we use for canning and processing. Two kitchens in the same in the house – 10 kids, 6 kids, whatever. That's not anything urban, that is rural and it's a fact.

Commissioner Houpt – well and I'm bothered by the view shed issue too; probably of everything else that concerns me.

Chairman Martin – another reason why I have to live in a place that I don't have covenants because I just can't have other people watching over my shoulder all of the time and telling me how to live my life either – so I chose not to live in those places, some people chose there because it's protection for them and I applaud them for it because they come together and they're a tight knit community. But once you have a family argument and there's a falling out, there's a lot of fence mending to be done and I don't know if this one is ever going to be mended. In favor: McCown – aye Martin – aye Opposed: Houpt - aye

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BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT TO ALLOW A PLANT FOR FABRICATION OF GOODS FROM PROCESSED NATURAL RESOURCES, CONTINUED FROM OCTOBER 15TH, 2007. APPLICANT IS BLUE OX LOGCRAFTERS, LLC – CRAIG RICHARDSON

Craig Richardson, Bill Argernes representing Blue Ox Logcrafters, Roger Sherman, and Michael Howard. Bill stated - this was a continuance because notice from the County to the Town of Silt had not occurred properly and it was thought to be the best decision to go ahead and make my presentation back in October which we did and wait to hear from the Town of Silt. Today I sent an email to Craig Richardson.

Michael Howard – no notice was required and this was continued to a time and date certain.

Exhibits presented at the October 15th meeting: Exhibit A – Proof of Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff Memorandum; Exhibit E – Application; Exhibit F –attached to the BOCC memo, a letter and photos from Ms. Jeanne Long Locke and Exhibit G – Letter email from Gale Carmony from the Town of Silt received today.

Chairman Martin entered Exhibit F and G.

Chairman Martin swore in the speakers.

Roger Sherman - The Town of Silt has responded in favor of the SUP. They note that moving the business away from the present location in a residential area would be in everyone's best interest and that they don't feel Blue Ox Logcrafters would be a detriment to the area as they seem to have been a good neighbor in the past.

This was originally heard on October 15th, 2007 when the Board of County Commissioners continued a public hearing until December 3, 2007 for the Special Use Permit request allowing Blue Ox Logcrafters, LLC to operate a Plant for Fabrication of Goods Processed from Natural Resources on a property located east of the Town of Silt (the Town). The purpose for this continuance was to allow the Town more time to review the submitted application. Staff has not received additional comments from the Town. Staff has provided an updated list of recommended conditions of approval, which take into consideration comments made by the Board and an adjacent property owner.

Staff's Recommendations:

1. That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. Volume and Sound generated shall comply with the standards set forth in the Colorado Revised State Statute;
3. The Applicant shall comply with all performance standards identified in §5.03.08 of the Garfield County Zoning Resolution of 1978, as amended;
4. The Applicant shall obtain a State Access Permit prior to the issuance of the Special Use Permit;
5. The Applicant shall submit a site plan drawn to scale sealed by a surveyor licensed in the State of Colorado that accurately represents the location of wetlands, flood plain, and the proposed improvements on the subject property prior to the issuance of the Special Use Permit;
6. The Applicant shall submit a site rehabilitation plan to be approved by Garfield County Vegetation Management prior to the issuance of the Special Use Permit.
7. The Applicant shall provide a revegetation security to be determined by Garfield County Vegetation Management;
8. The proposed caretaker unit shall only be occupied by employees of Blue Ox Logcrafters, LLC as long as the Special Use Permit is active; (includes suggested change from Commissioner McCown)
9. The Applicant shall submit an approved well permit allowing for commercial and residential uses prior to the issuance of the Special Use Permit;

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10. The Applicant shall submit a Wildlife Management Plan prepared by a qualified professional prior to the issuance of the Special Use Permit;
11. The Applicant shall submit a drainage plan demonstrating the ability to manage surface run-off, this plan shall be reviewed by staff prior to the issuance of the Special Use Permit;
12. The proposed caretaker unit/office shall be constructed within one (1) year after the proposed operation begins; (added at the request of Commissioner McCown)
13. The Applicant shall provide a fire protection plan approved by the Burning Mountain Fire Protection District, the Special Use Permit shall not be issued until all requirements identified by the fire district have been met; (concerned neighbor)

Commissioner Houpt asked where in relation to this property are these homes – I got the sense they were right across the river.

Craig - Ms. Locke is across the river but not within the adjacent property owner boundary. This could have an impact on the hours of use for the equipment or whether it's sited where it is and I think anytime there are questions that come up we should mull those over and have the appropriate answers.

Chairman Martin – that was in the presentation from the applicant.

It was determined that all information was previously presented.

Public Testimony:

Jeanne Long Locke – in response to the Town of Silt's letter and she is located between Silt and New Castle across the river. There were other people here earlier but in light of the long discussion of the case before us, they had to leave. She responded to the letter from Silt that they approved the Blue Ox undertaking and I find it interesting that they state they're happy to get it out of a residential subdivision and they are asking to put it into another residential subdivision. So I find that a dichotomy – we are a residential subdivision and zoning has been in place for a long time and the gentleman wants to change the zoning. So my question to this board is what would be the benefit of changing the zoning; are we gaining financial revenue; we're certainly not atheistically changing the area, so I would think that in order to change zoning from one to another the County would want to benefit from that.

Chairman Martin responded that it will meet with the master plan of the area that is the benefit, it is harmony. We're not changing zoning.

Chairman McCown there is no change in the land use zoning.

Commissioner Houpt - they are asking for a SUP in the current zone district.

Jeanne Locke – what benefits is it to this allowed use.

Chairman Martin - they are requested a special use that is not a use by right so there's a process to use to allow another use that again we would put restrictions on.

Commissioner Houpt – the benefit is to the business owner.

Jeanne – if he sells his parcel of land and you give him a special use permit enabling him to perform a manufacturing plan on this parcel of land. Then, would the person who purchased it from him have the ability to also use the SUP or would it be negated when he sold the property.

Chairman Martin – it goes with the land but we could set a condition in there that it didn't go with the land.

Jeanne – this is setting a precedent like that is unnecessary. The plot of land is inadequate and more information is needed to see if it would change the character of the neighborhood and this needs more information. It was introduced as a small family operation. She referenced gas tanks, needing more than one building, storing equipment, cranes, applicant didn't put the time for the neighborhood to see if they can work with it. Jeanne is directly across the river. Blue Ox is on the frontage road and there is an island in the river and all her neighbors are in very close proximity to the location.

Commissioner McCown – this is an industrial/agricultural zoning and there are any number of activities that could take place on this property as a use by right that you may find far less appealing and would not even require this hearing today.

Jeanne is aware of this.

Commissioner McCown clarified that Jeanne missed the presentation in October.

Commissioner Houpt said these are very important questions; the sound can be mitigated, hours of operation and what should or would be enclosed are part of the conditions.

Craig said there was a sound study and they are required to meet the code.

Jeanne – they are not going to submit plans for the structure for another year so what is the plan for this first year.

Craig – we discussed that it would be a single family residence, and if approved they would be allowed to act as an office in the dwelling unit. The only lot requirements would be those identified in the AI zone district - there is no maximum square foot other than in relation to the size of the lot and maximum lot coverage.

Commissioner McCown and there was a condition that it could only be used as an office as long as Blue OX. Logcrafters are in business and then refer back to a single family dwelling if they abandon their business.

Roger said he spoke to Ms. Locke and tried to answer her questions; I think the Board is consonant that this is an industrial agricultural area and we're not moving to a residential area. What's happening at the present location is residences would be build right up next to the fence

And I think that's why the Town of Silt is in favor of moving the business away from this residential area; they feel it will be in everyone's best interest. They agreed this was a good location. In order to appease Ms. Locke of what could possibly happen as the Commissioners know, industrial operations that are allowed to exist without out a SUP includes extraction processes, fabrication, industrial support facilities, mineral waste disposal, storage, sanitary landfills, salvage yards and such. We are by no means suggesting that type of industrial operation that is allowed without a SUP. What we have done is try to answer every question we could to the Commissioner so that you are aware of exactly what we are doing and we fully expected there would be conditions of approval. He presented the diagram to show Blue Ox's plan for the lot. Location of 100 feet would not have any impact on Ms. Locke's house. They did a chart on the sound levels at varying distances – this is an industrial zone allowing 80 dBa for the daytime. They are well aware that neighborhoods might well hear this but they meet the residential standards; he said these are below the

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ambient levels for this area. They do not have plans for the house; it will be built within a year of operations. The port-a-potty will also be limited to one year. There is a stream about 8 feet in height dividing this property from Ms. Locke.

Commissioner Houpt asked if adjusting the hours from 6 – 7 to 8 – 5 for equipment operations would hurt their operation. It would be okay to organize the day but actual limiting the motors, and the noise that would travel.

Roger said this would be a significant hardship for them to adjust these hours. They normally work Monday through Thursday 10 hours a day. They are rarely there on Friday and Saturday but are asking leeway to move within those hours. One of the concerns Ms. Locke had was so many automobiles per day. Roger said they are under obligation to tell the Board the number of trips per day and are bound by their testimony today. They may do some work on Friday and Saturday's but they need to tell the Board the maximum.

Commissioner Houpt – typically it is not a 6 am to 7 pm daily.

Roger said that was very true; the owner and employees are 40 hours a week people. 90% is log and timber and mostly the yard is used for staging and preparing. Lighting of the lot – no need but the conditions of approval allows it as long as it is down turned and not a nuisance. Security lighting would be submitted to the County for the approval. Security camera operated in low light and security signs more than lighting work best in this County.

Jeanne Locke – comment on what the Town of Silt said in their letter and her question was for them to increase the business and increase in traffic would be negligible. This intent sounds like they are growing and the BOCC approval is 20 vehicles per day and 13 hours a day 7 days a week.

Frederick Locke – one thing bothering him is the noise level of 55 decibels going over his fence. In his noise evaluation from the company how can they know the levels?

Chairman Martin – stated these are ambient levels.

Roger said he measured the current site and then did a study of the new site. The sound man came to the site and made them use all the equipment all at once time. The loudest noise will override the largest piece of equipment per his expertise.

Robert – it is gas powered and last week they worked 15 hours and the week before that 1 hour. They do custom logs and it takes longer to do custom work. The number of chain saws is the same for the number of employees; there are up to 10 employees.

Craig – all applications made in the hearing will need to be abided by.

A motion was made by Commissioner McCown seconded by Commissioner Houpt to close the public hearing.

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown to approve the SUP to allow Blue Ox to operate a plant of timber operations with the 13 conditions by staff. Commissioner Houpt – seconded and adding the condition of the MOU from the Town of Silt. In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING; CONSIDER A SPECIAL USE PERMIT TO ALLOW A COMMUNICATION FACILITY. APPLICANT IS DAYBREAK REALTY, LLC (ENCANA OIL AND GAS USA – OPERATOR) – CRAIG RICHARDSON

Craig Richardson, Fred Byers from EnCana and Michael Howard were present.

Michael Howard reviewed the noticing requirements and determined they were accurate and timely and the Board was advised that they were entitled to continue.

Chairman Martin swore in the speakers. Craig submitted the following Exhibits for the Record: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations; Exhibit D– Staff memorandum and Exhibit E – application.

Chairman Martin entered Exhibits A – E into the record.

Craig said this is from EnCana Oil and Gas USA, on behalf of Daybreak Realty, LLC who requests that the Board of County Commissioners (the BOCC) approve a Special Use Permit (SUP) to allow a “Communications Facility” on a property located approximately, six (6) miles south west of the Town of Parachute, Colorado. The Applicant is proposing to construct and operate one (1) 60 foot-tall self-supporting communication tower on an existing well pad. The proposed facility will provide a communication link from the EnCana office to the following facilities:

- High Mesa Water Plant
- High Mesa Compressor Station
- Orchard Compressor Station

STAFF RECOMMENDATION

Due to the limited nature of potential impacts to surrounding properties, Staff recommends the Board approve the request for a Special Use Permit to allow a “Communication Facility” on parcel no. 240719300162 with the following conditions:

- (1) That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
- (2) That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
- (3) That all proper building permits are obtained for the structures associated with the operation of the Communication Facilities.
- (4) The communication facilities must be available for future co-location and the denial of a landowner/lessor co-location on a site shall be based on technical reasons, not on competitive interests.

Discussion:

Commissioner McCown – everything needs to be relayed when the APD is submitted and asked if this is something that would fall under that category of needing approval.

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Fred Buyers, the applicant stated that in July 2007 the planner mentioned mitigation and they will minimize the impact to the neighbors. We will make sure there is no obstruction in height; they have to go up above any obstructions and yes they are aware of the height limitation.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing;

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In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the SUP for a communication facility adding No. 5 – the colors of the tower be compatible and painted such color.

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In favor: Houpt – aye McCown – aye Martin - aye

**BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT TO ALLOW A RESORT -
- BAIR RANCH APPLICANTS ARE JAMES AND DORIS BAIR – CRAIG RICHARDSON**

Craig Richardson, Stephen Isom, Architect and Planner, applicant Doris Bair and Michael Howard, were present.

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Michael reviewed the noticing requirements and determined they were complete and advised the Board they were entitled to continue.

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Chairman Martin swore in the speakers.

Craig submitted the following Exhibits: : Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E –Application; Exhibit F - Staff memorandum; Exhibit G – Letter from Eagle County Community Development Department dated November 8, 2007; Exhibit H – Letter from the Bureau of Land Management, dated November 23, 2007; Exhibit I – Email from Daniel Roussin, R 3 DCOT Traffic, dated November 21, 2007; Exhibit J – Letter from the Office of the State Engineer, dated November 5, 2007; Exhibit K – High Canyon Adventures website printouts, printed November 28, 2007; Exhibit L – Jim Rada dated 11-18 and Exhibit M – email from Steve Isom received today..

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Chairman Martin entered exhibits A – K into the record.

The Applicant is requesting approval of a Special Use Permit to allow a resort on a parcel of land of located east of the City of Glenwood Springs, Colorado. High Canyon Adventures currently operates an un-permitted resort on the subject property. Activities offered on-site include:

- Hunting
- Fishing
- Horse back riding
- Lodging
- Wedding Accommodations
- Corporate retreats
- Family gatherings
- Dining facilities
- ATV/Snowmobile tours
- Chuck wagon dinners
- Camping

The Existing Resort

The subject parcel consists of approximately 1116 acres. The property is more commonly know as Bair Ranch. Access to Bair Ranch is via CDOT right-of-way (I-70). Staff has not received comments from CDOT regarding this application. The un-permitted resort is not considered a legal non-conforming use and a Special Use Permit allowing for the existing use was never obtained. The Board may visit <http://www.high-canyon.com> to view the Resort’s website.

The subject property is currently improved with various inhabitable structures. The Ranch Headquarters Area is improved with a residential structure occupied by a member of the Bair Family. A Family Retreat Area is improved with a single inhabitable cabin and one (1) dilapidated original homestead cabin. As identified in the application the Spruce Creek Lodge Area has been improved with a two-story lodge containing three bedrooms and an additional cabin (Caribou Cabin). A Hunting Cabin Area consists of two (2) one story cabins, a travel trailer and the “Percy Cabin”. The Wapiti Cabin Area is improved with a total of five cabins.

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Many of the existing structures were constructed without obtaining required building permits. Staff is recommending that the Board of County Commissioners require the Applicant obtain the appropriate building and Individual Sewage Disposal System permits for the illegal structures that exist on the subject property prior to the issuance of the Special Use Permit if approved by the Board.

The Application does not address a fire protection plan. The subject property does not lie within a fire protection district within Garfield County. Staff would like the Applicant to demonstrate what measures are taken to protect the guest of the existing un-permitted resort in the event of a fire.

Additionally, the application does not demonstrate compliance with State regulations regarding a “Retail Food Establishment”. Chuck wagon dinners are offered on-site. An evening dinner ride includes a two-hour recreation ride and dinner. Garfield County Environmental Health Manager, Jim Rada identified the chuck wagon dinner as a Retail Food Establishment that may require State permitting.

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Staff would also like clarification regarding the water supply used on-site. A central water system may require state permitting. It is unclear how water is distributed to the existing lodging and accessory facilities.

However, the Plan identifies tourism as an integral component of the economy of Garfield County. The proposed resort caters to this component of Garfield County’s economy. Staff finds that the proposed resort is in compliance with certain elements of the Comprehensive Plan of 2000.

STAFF RECOMMENDATION

Staff finds that if the following conditions are met, the proposal could be in compliance with the Garfield County Zoning Resolution of 1978, as amended. Staff recommends that the Board of County Commissioners approve a Special Use Permit to allow a “Resort” on Parcel No. 211522200005 with the following conditions:

1. The maximum number of overnight guests staying at the resort shall be 48;

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2. Any lighting installed at the resort shall be directed downward and inward;
3. The Applicant shall provide a Water Quality Analysis for each of the six (6) wells located on the subject property demonstrating compliance with State drinking water standards;
4. The Applicant shall provide an approved water well permit from the Colorado Division of Water Resources, for the four (4) un-permitted wells identified in Exhibit J, a letter from Cynthia Love, Office of the State Engineer, allowing for the proposed uses prior to the issuance of this Special Use Permit;
5. The Applicant shall obtain building permits for all illegal structures located on the subject property prior to the issuance of the Special Use Permit;
6. The Applicant shall obtain ISDS permits for all un-permitted systems on the subject property prior to the issuance of the Special Use Permit;
7. The proposed improvements shall comply with all requirements identified in the Garfield County Zoning Resolution of 1978, as amended;
8. All food waste shall be contained within a bear-proof garbage receptacle;
9. The Applicant shall comply with Colorado Water Quality Control Division Policy Number WQSA-6: Multiple Individual Sewage Disposal Systems;
10. All conditions of approval shall be completed within six (6) months of the date of the Board of County Commissioners (B0CCC) approval, if conditions have not been met, at the Board's discretion an extension may be granted if requested by the Applicant prior to the expiration of the six (6) month time period, the Board may also require that the operation of a resort on the subject property cease and the Special Use Permit may be revoked;.
11. The Applicant shall provide written confirmation from the Bureau of Land Management regarding compliance of the conditions identified in the Perpetual Conservation Easement for the proposed improvements to the existing un-permitted resort, this letter must be provided to Staff prior to the issuance of the Special Use Permit;
12. The Applicant shall provide written confirmation from CDOT regarding the adequacy of the existing State Highway Access Permit or a copy of a new Access Permit approved by CDOT allowing for the proposed operation;

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Commissioner McCown – why would this not be a non-community water system? They are not serving the same people every day and will be necessary to be licensed by the State of Colorado.

Chairman Martin asked about the access by the railroad?

Craig – they have an agreement to go over and under the railroad – the permit is in place.

Steve Isom reviewed the conditions - No. 1 – agree; No. 2 – fine; No. 3 – water quality analysis is fine; the adjudication process is never seen by a state water engineer, they are separate things, we do have adjudications for all the water rights and that's been completed, so now that we have that we can go back and change the one well from the resource well allowing one acre to what is adjudicated and then we can take the three springs that service these three areas and go ahead and file a surface right for those three springs, but we had to get this adjudication first and also approval from the Board that it allowed this type of use; we have no problem going back and also do the water quality analysis on those three springs and the existing well. Now that we have adjudicated water right we can under a public system – we couldn't do that before.

Commissioner McCown mentioned they didn't have an option if they are going to be serving guests.

Steve – once we start that process there has to be a filing every six month. As number 5 of the building permits, we've been talking to the building official and got all the prices and have the application ready to go. We talked to them about the ISDS and what is required on number 6 and we will go ahead and complete that. Later on we asked for 9 months to get some of this done because of the time period during the winter. No. 7 – if we have to live with the regulations we will conform; No. 8 okay; No. 9 – it's a funny regulation and talked to the state of having this water quality under WQSA-6 and that's for where you have a development and have multiple septic systems all in parallel or series to deal with – this one we have sometimes a mile apart on these septic systems and don't think it's an applicable regulations. Steve pulled the regulations up and went through them and did not feel this is appropriate; it's cumbersome – all ours are quite isolated and separated; No. 10 – 6 months – we would ask for 9 months; No. 11 – the Bureau of Land Management – all our applications filed is exactly the conservation easements are on the land and we copied the verbiage off directly and we do not want to deal with the BLM, part of their letter deals with people going off this land and hunting on BLM lands and other impacts; they don't. They hunt on this property and if for any reason they decide to use BLM for hunting then they could a separate application and go meet with them; but I don't believe this SUP application should be subject to further do documentation or any kind of approvals from BLM. We had given BLM the synopsis of all the approvals on the property and that's what we put in our application. No. 12 – when the State of Colorado signed off on the access to this property, the original access was specific and it said the opening and the access at this point was for a bridge to the surface road and for Agricultural purposes only – that was changed back in April 22, 1992 with Nick Goluba attorney on it and was signed off by Gayle Norton, Raymond Slater, Timothy Hickavich; the attorney general and everybody in the State of Colorado signed off that this would changed to this opening is for bridge and surface road, a locked gate will be maintained at this opening; any public use of the bridge from people walking on it or coming from the rest area, that the intent of the language is to prevent patrons from public rest area and others uninvited and that was there for the public not to use the bridge and such language shall not be construed to prevent or restrict the use by bridge by Bairs, Bair's successors and interest of their invitees. It was very specifically handled that this would be a non-restrictive access from CDOT on this property.

Chairman Martin – this was quite a battle.

Steve – as you know we have given you from the Highway Department, Union Pacific has signed off on the access. So I would just assume 11 and 12 don't exist.

Commissioner Houpt – is there anyone else who oversees the conservation easement or manages it that there should be a letter from like an AVLTL. Who's managing?

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Doris – Eagle Valley Land Trust and on this end of it is just the BLM in Garfield County. Doris spoke with Cindy Cohagen and she didn’t have any issues. She had seen that and with Aspen Valley Land Trust. Chairman Martin – actually it doesn’t take in any property in Eagle County, it’s all on the Garfield County side where the historic ranch and everything else it including the hunting grounds and the old cabins.

Craig – No. 9 –from speaking with Jim Rada that’s a requirement if you’re going to have multiple septic systems on a lot you have to abide by this rule and I agree they have plenty of room to do so. It’s just on there for reference that they still need to be spaced and that will be approved by Jim Rada and Andy Schwaller at the time of ISDS – it’s not an additional requirement, unless they feel they are too close then they will address that at that level.

The testimony of record No. 11 and 12 have been satisfied.

Steve Isom stated for the record that no one could show up here and buy food. We are serving paying guests by a prearranged reservation from an outside caterer. They do have some events on site and for that we have a Colorado license. Commissioner Houpt said she would like to leave that in so our public health manager Jim Rada could respond.

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A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing.

In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown to approve the Special Use Permit to allow a resort with conditions 1 – 10 striking 11 and 12, in number 10 changing the date to “all conditions shall be completed within 9 months of the day of the Board of County Commissioner deem it legal and if so the applicant requests a 3 month extension so everything will still stay in the one year timeframe, we’ll just extend the first period to give them a little time to deal with the frost. Commissioner Houpt seconded.

In favor: Houpt – aye McCown – aye Martin, aye

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Steve said it took 1 ½ years to take this through water court and this is a non-tributary, non-impacting anyone else.

Chairman Martin noted there will be a hearing on this on Friday on Missouri Heights.

BUILDING AND PLANNING - CONSIDER A TEXT AMENDMENT TO THE ZONING RESOLUTION OF 1978, AS AMENDED TO ALLOW “SOLAR POWER GENERATING FACILITIES” AS A SPECIAL USE IN THE APPROPRIATE ZONE DISTRICTS. APPLICANT IS COLORADO ROCKY MOUNTAIN SCHOOL. –FRED JARMAN

Fred Jarman, Michael Howard, Scott Grosscup; Joe White, Mike Kennedy, Audin Shendler and Matt Jones, and were present.

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Michael Howard reviewed the noticing documents and advised the Board they were entitled to continue and this does not apply all across the County.

Michael informed the Board that this zoning change does not include all districts:

Michael – you are tied to this zoning for the application only and if you chose to apply a text amendment you need to instruct staff to proceed down that line.

Chairman Martin swore in the speakers.

Fred submitted the following Exhibits: Exhibit A – Garfield County Zoning Regulations; ExhibitB; Exhibit C – Staff memorandum; and Exhibit D – application; Colorado Rocky Mountain School (CRMS) has applied for a Special Use Permit (SUP) to construct a ground mounted Solar Power Generating System (SPGS) also known as a solar array on the CRMS campus in Carbondale. Presently, this type of system is not listed as a use in any of the County’s zoning districts; therefore, the Applicant has applied to amend the text of the Zoning Resolution to include the use as a Special Use in the Agricultural/Residential/Rural Density (ARRD). Additionally, the Applicant is pursuing a Special Use Permit for their specific project concurrently with this proposed text amendment. Exhibit E – Proof of Publication in the Post Independent by the applicant.

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Staff brought the proposed Special Use Permit Application to the Board of County Commissioners (BOCC) to determine if it should be referred to the Planning Commission prior to being heard by the BOCC. The Board decided not to refer the Application but also discussed the possibility of these types of facilities being permitted in other zone districts and also possibly as a Use-By-Right where appropriate. To that end, Staff has taken a broader approach to these points as well as the specific text amendment request by the Applicant.

The Applicant proposes to add the following use to the ARRD zone district as a Special Use and add its definition to Section 2.0 of the County’s Zoning Resolution:

Solar Electric Power Generating System. A ground mounted photovoltaic power generating system designed to generate more than 50kW of energy consisting of some, but not necessarily all, of the following components: Photovoltaic modules; array support structures, including footers; power conversion/ inverter system; balance of system components; ancillary metering and monitoring equipment; acceptable service panel for consumer use of photovoltaic power; AC grid connection; and security fencing.

Staff understands this use, as proposed by the Applicant, is meant to cover solar array facilities that are large and commercial in nature that create electricity for a variety of consumers rather than for personal use to power a single-family residence or principle use of a lot without commercial gain. However, Staff suggests the definition may be too specific which may result in being too restrictive because it is specific to the particular components on the proposed facility. As an alternative,

Solar Power Generating System. Also referred to as solar arrays, a device / system which converts the sun's radiant energy into thermal, chemical, mechanical, or electric energy. Such facilities are intended to create electricity to be delivered to a variety of consumers beyond the facility and are not constructed specifically for, or accessory to, the principal use of the subject property.

Staff believes this definition provides a broader ability for a multitude / variety of systems that may have varying design techniques to fall under this definition with the continued purpose of allowing a system that is intended to create energy from the sun.

While the Applicant proposes a definition of the use and requests it be included as a Special Use in the ARRD zone district, the Applicant did not suggest any standards / criteria that might be used by Staff and

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the BOCC to evaluate a project in order to deal with any impacts associated with a project of this type. To that end, the Board is required to address the following provisions so that appropriate standards are also put in place for this use, if necessary:

- A. *The Application shall demonstrate how the proposed project will not impact wildlife and domestic animals through the creation of hazardous attractions, alteration of existing native vegetation, blockade of migration routes, use patterns or other disruptions.*
- B. *The Application shall demonstrate how the proposed project will impact truck and automobile traffic to and from such uses and their impacts to areas in the County.*
- C. *That sufficient distances shall separate such use from abutting property which might otherwise be damaged by operations of the proposed use(s).*
- D. *The Application shall provide a plan for site rehabilitation after the use is terminated.*
- E. *The County Commissioners may deem necessary a financial security before a land use permit is issued. The Applicant shall then furnish evidence of financial security payable to, in a fashion acceptable, and in the amount calculated by the County Commissioners. The financial security shall be adequate to secure the execution of the site rehabilitation plan in workmanlike manner and in accordance with the specifications and construction schedule established or approved by the County Commissioners.*
- F. *The Application shall demonstrate that the facility shall be able to comply with the volume of sound standards set forth in the Colorado Revised Statutes.*
- G. *The Application shall demonstrate that the facility shall be operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located;*
The Application shall demonstrate how the proposed facility will be operated so that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard.
- H. *Any repair and maintenance activity requiring the use of equipment that will generate noise, odors or glare beyond the property boundaries will be conducted within a building or outdoors during the hours of 8 a.m. to 6 p.m.*
- I. *Any lighting of the facility shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.*
- J. *Such facilities shall not result in any structure exceeding the maximum height limit, setbacks, or lot coverage of the applicable zone district in which it is located.*

Based on these standards, Staff suggests that this use be allowed as a Special Use in the following zone districts:

- 3.01 A/I--Agricultural/Industrial
- 3.02 A/R/RD--Agricultural/Residential/Rural Density
- 3.07 C/L--Commercial/Limited
- 3.08 C/G--Commercial/General
- 3.09 O/S Open Space
- 3.10 R/L--Resource/Lands (all sub zones)
- 3.12 L/I--Light/Industrial
- 3.13 P/A--Public Airport
- 3.14 Drinking Water Constraint Zone
- 3.15 Commercial Water Constraint Zone

BUILDING AND PLANNING - SOLAR POWER GENERATING SYSTEM FOR PERSONAL USE

Staff examined this use as it also applies to Solar Power Generating System for personal use such as solar panels on roof-tops of individual single-family dwellings and / or principle uses of a lot. Staff believes these types of facilities are non-commercial in nature and personal to the use it serves on the same property. In this case, Staff finds these facilities should be considered as Accessory Uses / Structures to the Principle Use and would be a use-by-right in all zone districts in the County. There may be building code requirements but no use requirements. The Zoning Resolution already addresses this use as the following:

2.02.011 Accessory Uses: Incident only to a lawful use, any use, which complies, with all of the following conditions may be operated as an accessory use:

- (1) Is clearly incidental and customary to, and commonly associated with a lawful use;**
- (2) Is operated and maintained under the same ownership and on the same lot as the lawful use;**
- (3) Does not include structures or structural features inconsistent with a lawful use; and**
- (4) Does not include residential occupancy except by domestic employees employed on the premises and the immediate families of such employees.**

As a result, Staff suggests that no action is necessary by the BOCC regarding these personal facilities and that they would exist a use-by-right in all zone districts as accessory uses / structures.

STAFF RECOMMENDATION

Staff recommends the Planning Commission recommend the Board of County Commissioners approve the following:

- 1) The addition of "Solar Power Generating System" as a Special Use in Sections 3.01.03, 3.02.03, 3.07.03, 3.08.03, 3.09.01, 3.10.01, 3.10.02, 3.10.03, 3.10.04, 3.12.031, 3.13.04, 3.14.03, and 3.15.03 of the Zoning Resolution; Note – the Town of Carbondale submitted a letter for approval.
- 2) The addition of the definition for "Solar Power Generating System" to Section 2.00 of the Zoning Resolution; and
- 3) The addition of the Standards for a Solar Power Generating System to Section 5.00 Supplemental Regulations of the Zoning Resolution.

Brad Hendricks requested the Commissioners go back and consider all kinds of alternative energy. Commissioner Houpt agreed with that.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to
In favor: Houpt – aye McCown – aye Martin - aye

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A motion was made by Commissioner McCown that we [approve the zone text amendment with the 3 conditions](#) recommended by staff and the Planning Commission for [Solar Power Generating Systems](#) as a Special Use in sections as alluded to in the staff report.

Fred said it was only [3.02.03](#), just the ARRD Zone District.

In favor: Houpt – aye McCown – aye Martin - aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR A SOLAR POWER GENERATING FACILITY ON THE PROPERTY OF COLORADO ROCKY MOUNTAIN SCHOOL LOCATED AT 1493 COUNTY ROAD 106, CARBONDALE, CO. APPLICANT IS COLORADO ROCKY MOUNTAIN SCHOOL. – FRED JARMAN

Fred Jarman, [Michael Howard](#), [Scott Grosscup](#); [Joe White](#), [Mike Kennedy](#), [Audin Shendler](#) and [Matt Jones](#), and [Michael](#) were present.

[Michael](#) reviewed the noticing requirements and determined they were timely and accurate and advised the Board they were entitled to continue.

Chairman Martin swore in the speakers.

Fred submitted the following exhibits: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E –Application; Exhibit F – Letter from Balcomb and Green responding to Solar Power Facility standards (from the Text Amendment) dated 11-20-07;

Exhibit G – email from the applicant (CRMS) describing the relationship between Aspen Ski Company and CRMS dated 11-19-07.

[Chairman Martin entered Exhibits A – G into the record.](#)

Colorado Rocky Mountain School (CRMS) requests that the Board of County Commissioners (the BOCC) approve a Special Use Permit (SUP) to allow a “Solar Power Generating Facility” on a property located at 1493 County Road 106, Carbondale, CO. The Applicant proposes to build a solar power generating facility to power one of the school structures and to sell additional energy back to Xcel Power for distribution through its grid.

The project is associated with an application submitted by CRMS requesting a text amendment to allow for “*Solar Electric Power Generating Systems*” as a Special Use in the Agricultural/Residential/Rural Density (ARRD) Zone District. The BOCC will hear the related Text Amendment application at the December 3rd (2007) meeting prior to hearing this SUP application immediately after at the same meeting.

Although the application included a suggested definition, Staff recommended (and the Planning Commission agreed) a modified version that was broader while still clarifying what qualifies as a Solar Power Generating System. The definition reads as follows:

Solar Power Generating System. Also referred to as solar arrays, a device / system which converts the sun's radiant energy into thermal, chemical, mechanical, or electric energy. Such facilities are intended to create electricity to be delivered to a variety of consumers beyond the facility and are not constructed specifically for, or accessory to, the principal use of the subject property.

The text amendment also addressed Solar Power Generating Systems for Personal Use (for example, individual single-family dwellings and/or principal uses of a lot). Staff believes these types of facilities are non-commercial in nature and personal to the use on the same property. However, as the proposed project intends to

“...create electricity to be delivered to a variety of consumers beyond the facility and are not constructed specifically for, or accessory to, the principal use of the subject property...”

Fred - as stated in the above definition, the proposed project requires a Special Use Permit (SUP) prior to construction.

On November 14, 2007, the Planning Commission recommended the BOCC Approve the text amendment for “*Solar Power Generating Systems*” and will be heard as a public hearing before the BOCC on December 3, 2007. On the same date, the SUP application for the proposed project on the CRMS property will also be heard immediately after the text amendment application.

The Aspen Ski Company (ASC) and CRMS have partnered to establish a Solar Power Generating Facility on the CRMS property where ASC is responsible for the design and installation of the 147 kilowatt (kW) grid-tied, system.

In this partnership, CRMS is contributing land via a ground lease and ASC is investing the capital. ASC will construct and operate the system for 20 years at which point ownership will transfer to CRMS. During the 20 year ground lease, ASC will sell to CRMS all electricity consumed by the Jossman (Classroom) Building and the remainder to Xcel Energy. In addition to sales of electricity, ASC will also receive Renewable Energy Credits (RECs) from Xcel Energy for each kilowatt-hour (kWh) produced. As stated in correspondence received from the applicant, “Although, they [ASC] anticipate a modest return on investment, this project is motivated by ASC’s longstanding environmental commitment and its desire to see clean, renewable energy developed in Western Colorado.”

The project would be located at the northwest corner of the property behind the Jossman Building, which will be the primary user of the generated solar power generated from the facility (See Figure 1). The project area would measure approximately 154 x 273 feet, totaling about 42,042 square feet in area. However, the panels alone will cover less area totaling approximately 28,800 square feet or slightly over ½ an acre (See Figure 2). The facility will consist of 3 solar panel arrays with each consisting of 256 solar electric panels. The arrays will mount on a galvanized pipe/aluminum extrusion structure with the galvanized pipes set in concrete piers.

The application states that the impacts on the surrounding community will be minimal as the system will be located 150 feet from Delores Way. The system will operate during daylight hours and will be silent at night. Additionally, the system does not involve any hazardous materials.

STAFF RECOMMENDATION

Staff recommends the Board Approve the request for a Special Use Permit to allow a “Solar Power Generating Facility” on subject parcel no. **2393-331-00-012** with the following conditions:

That all representations made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered

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by the Board of County Commissioners;
The operation of this facility shall be done in accordance with all applicable Federal, State and Local regulations governing the operation of this type of facility;
That all vehicles hauling equipment and or material for the construction of the project needing oversize/overweight permits shall apply for such permits from Garfield County Road & Bridge Department. This shall apply to any loads over the posted ratings on County roads.
The project area shall be returned to its natural state upon removal of the facility.
The proposed project shall adhere to the review standards set forth in the associated Text Amendment for *Solar Power Generating Facilities* and as addressed in this report.

The Town of Carbondale did not comment but they did send a Resolution to the Board recommending approval.

Fred stated the Board would be entitled to impose a reclamation vegetation bond.

Commissioner McCown asked if we were going to white glove these kinds of energy projects – he was looking for a level of consistency. Is there a national standard that goes under these types of facilities?

Fred said he saw all kinds of structural support when doing the research.

Scott Grosscup – Condition No. 4 – staff recommendation suggests the current state or other use is not its’ natural state and when the solar ray comes down it could be converted to some other use.

Mr. Kennedy – this fits in with the mission of the goals of the school to be more energy efficient. It is pasture land but not productive pasture land; it is very much a partnership with the Town of Carbondale and the School. Aspen Ski Company is helping with the financing as a model of energy. They feel strongly this is an appropriate use and it is very close to the classrooms.

Commissioner McCown – do you see this as a pilot project and possible expansion if it is successful?

The answer was there is no expansion planned of this project at this time. Don’t anticipate have TV monitoring and a security controlled basis is required by Aspen Ski Company. As to security, this is very close to the dorms.

Scott – these will have concrete piers and a lot of grass under and the plan is to choose seeds that do not grow very high; mowing under is a possibility.

Brad Hendricks – neighbor for 35 years said the school is a good neighbors and he fully supports this project.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing. In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit for CRMS for a Solar Power Generating Facility with the modification of No. 4,”the current state or other use is not its’ natural state and when the solar ray comes down it could be converted to it’s present state or some other allowable use.

that the project area shall be returned to its natural state upon removal of the facility.”

In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A SPECIAL USE PERMIT FOR A TEMPORARY EMPLOYEE HOUSING FACILITY OPERATED BY BERRY PETROLEUM LOCATED APPROXIMATELY 12 MILES NORTH OF THE TOWN OF PARACHUTE AND WITHIN THE NORTH PARACHUTE RANCH. APPLICANT IS ENCANA OIL AND GAS (USA) INC. – FRED JARMAN

Fred Jarman, Chris Freeman from Berry Petroleum appearing on behalf of EnCana, and Michael Howard were present.

Michael reviewed the noticing requirements and determined they were accurate and timely and advised the board they were entitled to proceed.

Special Use Permit for 1 Temporary Employee Housing facility on COGCC approved well pads per §5.02.21.

Chairman Martin swore in the speakers.

Fred submitted the following exhibits for the record: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations; Exhibit D – Garfield Staff Memorandum; and Exhibit E –Application.

The Building and Planning Department received a Special Use Permit (SUP) application for one “Temporary Employee Housing” facility on property owned by EnCana USA, Inc and located on an approximately 45,000 acre property approximately 10 miles North of the Town of Parachute. The facility is to be located on the approved “B-10” COGCC well pad operated by Berry Petroleum.

More specifically, the Applicant requests approval for one Temporary Employee Housing facility to house personnel for the purpose of natural gas drilling operations. The site is located on Berry Petroleum’s B-10 well pad located off Wheeler Gulch Road and within EnCana’s North Parachute Ranch. The Temporary Employee Housing facility will be in use year round to accommodate those considered to be “essential personnel” to the drilling operations; however the housing facility will be at location for no more than one year. The maximum number of people to be housed at a facility will be 24.

Housing Structures

All of the installed facilities are required to meet all applicable building and fire code requirements. The units are to have up to 24 beds with occupancy not to exceed 24 people. The facility will have a minimum of 12,000 gallon potable water storage in four 3,000 gallon tanks. Sewage and Wastewater are proposed to be handled by a vault-and-haul system with a minimum tank size of 8,000 gallons (two 4,000 gallon tanks). Based on the State ISDS regulation requirements, Staff recommends that the Applicant provide a minimum of 75 gallons per person per day of storage capacity for wastewater collection. Electricity is to be provided by onsite diesel generators.

Water: The Applicant is proposing to haul potable water to the facility using water hauling contractors. The Applicant is required to use CDPHE-certified potable water haulers who are obtaining the water from an approved source. The Applicant is proposing to obtain potable water from a groundwater well in Mesa County. All water must be treated prior to delivery to the facility.

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The facility will have a minimum of 12,000 gallons of potable water storage. In addition, the facility is anticipated to consume 75 gallons of potable water per person per day which will provide a 6.7 day supply of potable water based on the Applicants estimated consumption rate. Staff recommends that the water system be designed to accommodate the maximum occupancy for the facility.

Sewage: Sewage and Wastewater are proposed to be handled by a vault-and-haul system with minimum tank capacity of 8,000 gallons. Based on the State ISDS regulation requirements, Staff recommends that the Applicant provide a minimum of 75 gallons per person per day of storage capacity for wastewater collection for the maximum occupancy for the facility. As taken from the Applicants’ calculation of the maximum number of beds for the facility, the facility is anticipated to handle up to 24 persons. As a result, the 8,000 gallon tanks are anticipated to provide a 4.44 day capacity. As the tanks are to be emptied every three and a half days, Staff finds that adequate sewage and wastewater storage is available for the facilities. In addition, the road which serves the proposed facilities are demonstrated to be in good repair and based on Staff observation, the roads are adequate for year-round access to the facilities by wastewater and sewage hauling vehicles.

Refuse: Each facility is to be served by at least one thirty-gallon, bear-proof refuse receptacle and be emptied by a refuse hauler at least once per week. Refuse is proposed to be disposed of at the Garfield County landfill.

Density: As all of these facilities are to be located within the Resource Land zone district and within a COGCC approved well pad, the density requirements do not apply to this application.

Proximity to Permanent Available Housing: The Applicant has stated that “presently, employees work 12 hour shifts for 7 successive days, after which the crews rotate and workers are off for 7 days. The proposed temporary housing quarters would house working crews during their 7-day work weeks, thereby substantially reducing daily vehicle trips up and down the mountain. One-way travel times between the Town of Parachute and Berry’s working locations are as great as two hours. The proposed temporary employee housing quarters would provide tired staff a safe alternative to driving down the mountain to housing in Parachute, Rifle, DeBeque, or elsewhere after their 12 hour work days/nights are complete.” It is Staff’s opinion that onsite housing will promote safety on the drilling rigs as well as reduce the overall amount of traffic on Garfield County and State of Colorado roadways.

Renewal: Since the proposed facility is to be served with a vault-and-haul sewage disposal system, the facility is not permitted to be on location for more than a cumulative of one year. To this end, this Special Use Permit is not eligible for renewal.

This is Berry Petroleum’s first permitted Temporary Employee Housing facility. The facility, as stated previously, is located on a COGCC approved well pad (see application for APD) and on land owned by EnCana USA, Inc.

Staff Recommendations: Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3) the fact that the Temporary Employee Housing facility will be situated on existing well pads with active gas operations, and 4) that the Temporary Employee Housing facility meets the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing on in the Resource Lands (RL) zone district with the following conditions:

That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.

That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.

Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.

Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.

Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.

All Special Use Permits for Temporary Employee Housing are subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.

Water and wastewater systems proposed to service Temporary Employee Housing must comply with all applicable state and local laws and regulations.

Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. For facilities serving twenty-four (24) people or less, the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.

In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface.

The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year; however, no single Temporary Employee Housing facility allowed under this Special Use Permit shall be onsite for more than a cumulative of one year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime

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through a public hearing called up by staff or the Board of County Commissioners.
Inhabitants of the temporary housing shall be applicant’s employees and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.

Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.

Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff’s office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid or electrical fires (Class A, Class B and Class C), carbon dioxide or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher.

Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.

The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff’s Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff’s Office and relevant Fire Protection District.

The applicant shall notify the County when site development begins for each facility. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.

No animals shall be allowed at temporary employee housing sites.

The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Housing is twenty-four (24).

Sewage systems shall to be installed and maintained in accordance with the Garfield County ISDS regulations with all pipes and connections water tight and lids kept securely in place at all times except during normal cleaning operations.

The facility shall have a minimum total capacity of 12,000 gallons of potable water storage.

The facility shall have a minimum total capacity of 8,000 gallons of sewage and wastewater storage capacity which shall be emptied a minimum of every three and a half days.

Wildlife-proof refuse containers must be provided for trash. At least one thirty (30) gallons (4 cubic yard) container shall be provided for each unit or the equivalent in a central trash collection facility. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids. Refuse shall be disposed of not less than once weekly.

Fred discussed Conditions 20 and 21; he added that the review for this SUP is for a one-year period. This was the direction of the Commissioners when developing these standards.

Commissioner McCown wants to revisit these and cited an example of what if the company had two more wells to drill and it would be expensive and time consuming to move those and then reinstall the temporary housing. Therefore, he would like to have a text amendment to address this.

Fred stated the purpose was to limit the use and suggested they could install an ISDS system if it were going to be longer.

Commissioner McCown noted the Commissioners are the ones who decide these issues.

Chris Freeman asked to amend the 13,000 and add 4,000 making it a 17,000 gallons wastewater system for the purposes of snow possibly preventing the 3.5 day time period for having it emptied. However, Chris wants to leave the potable water at 12,000 gallons.

Commissioner McCown questioned if the increase in the gallonage of waste water would also be justification to add additional days for emptying, suggesting 7 days versus the 3.5.

Chris agreed this would be great to have a cushion built in just in case.

Marsha Golden asked a question regarding the number of feet from a well pad for these temporary housing units and had they completed a study as to the effects on the health of these workers.

Chris stated that unless Jim Rada had done a study, they have not.

Chris answered 100 to 200 feet.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing. In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to move to approve a Special Use Permit for one Temporary Employee Housing facility for EnCana USA Inc. and operated by Berry Petroleum (B-10 well pad) with the conditions provided by Staff changing No. 21 to read 17,000 and emptying it every 7 days.

In favor: Houpt – aye McCown – aye Martin - aye

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EXECUTIVE SESSION - COUNTY ROADS AT I-70 AND CR 215 AND TO OBTAIN DIRECTION ON THE OIL AND GAS POSITION ON THE COLBURN WELL SITE IN RIFLE VILLAGE SOUTH

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A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session to discuss the aforementioned items. Motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

OIL AND GAS - COLBURN WELL PAD - DECISION

Action taken:

Don – as discussed before under the provisions in COGCC Rule 303.D 3 and 4, the County as the legal designee on any APD needs to request a public hearing based on the significant impacts on health, safety and welfare. Judy Jordan is looking for direction; should she by the 5th of December establish a public hearing and if you decide you wish her to do so, what are the significant impacts.
Commissioner Houpt – it’s her understanding the date of the 5th is still in place as the deadline regardless if negotiations are still going on. So, because of that it’s important that all of the parties continue negotiations and continue to meet to resolve this issue. Commissioner Houpt made a motion that we authorize our legal designee Judy Jordan to request a public hearing on February 25, 2008 in front of the Oil and Gas Commission on issues of access, what would be measured at the facilities, and make a point for using high density as the conditions of this permit.
Commissioner McCown – seconded. We will make our request.
In favor: Houpt – aye; McCown – aye; Martin - aye
Marsha Golden – what can we do in support of that?
Chairman Martin you can be identified as a potential witness and you can give testimony.
Don said for that purpose the closer this gets to the hearing date, she will be either contacted by the County Attorney’s office or Judy Jordan and she is also feel free to call us.

CR 215 Interchange and CSU Extension.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go back into Executive Session to discuss CR 215 Interchange and CSU Extension.
Motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action taken: None

ADJOURNMENT

Attest:

Chairman of the Board

DECEMBER 7, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
SPECIAL MEETING
GARFIELD COUNTY, COLORADO

The special meeting of the Board of County Commissioners began at 9:00 A.M. on Friday, December 7, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present was Don DeFord, County Attorney and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 9:00 A.M., this is a continuance from November 13, 2007.
BUILDING AND PLANNING - CONSIDER A PRELIMINAY PLAN APPLICATION AND A PLANNED UNIT DEVELOPMENT AMENDMENT FOR THE SPRING VALLEY RANCH PUD. APPLICANT IS SPRING VALLEY HOLDINGS, LLC. – FRED JARMAN
Fred Jarman, Jim Lochhead, Tom Gray, General Manager for Spring Valley Holdings, Mike Gamba and Bill Lorah were present.

Noticing had been accomplished at the last meeting, November 13, 2007.

Fred submitted the following exhibits for the record: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Garfield County Subdivision Regulations of 1984 as amended; Exhibit F – application to include (also in DVD form) – Spiral Bound Binder – Traffic Impact Report; Spiral Binder – Preliminary Plan Drainage Report dated March 9, 2007, binder #1 – March 2007; Binder #2 – March 2007; Binder #3 – March 2007; Binder #4 – March 2007; Exhibit G – Staff Memorandum; Exhibit H – Email from CDPHE dated 6-28-07; Exhibit I – Memorandum from the County Vegetation Director dated 7-19-07; Exhibit J – Memorandum from RFTA dated 7-20-07; Exhibit K – Letter from Spring Valley Sanitation District Engineer dated 7-31-07; Exhibit L – Letter from Don Helmich dated 8-2-07; Exhibit M – Letter from Bob and Teresa Peckham dated 7-29-07; Exhibit N – Letter from James Condon dated 7-31-07; Exhibit O – Current Community Housing Program required for 75 units in Spring Valley Ranch PUD dated 11-2005; Exhibit P – Letter from Jim Austin – dated 8-3-07; Exhibit Q – Letter from Wright Water Engineering to Craig Lis dated 8-20-07; Exhibit R – Letter from Division of Wildlife dated 7-21-07 (rec. 8-8-07); Exhibit S – Letter from the Glenwood Fire Department dated 8-30-07; Exhibit T – Letter from the Division of Water Resources dated 8-9-07; Exhibit U – Letter from Mountain Cross Engineering dated 9-5-07; Exhibit V – Letter from High Aspen Ranch HOA dated 9-5-07; Exhibit W – Email from County Housing Authority dated 9-4-07; Exhibit X – Supplemental Package from the Applicant received 9-4-07; Exhibit Y – Letter from Jim Austin; Exhibit Z – Letter from Michael Berkeley dated 9-11-07; Exhibit AA – Letter from DWR dated 9-7-07; Exhibit BB – Revised Staff Report to PC dated 9-12-07; Exhibit CC – Staff PC PowerPoint Presentation dated 9-12-07; Exhibit DD – Applicant’s PowerPoint Presentation dated 9-12-07; Exhibit EE – Applicant’s proposed changes to PUD conditions;

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Exhibit FF – Applicant’s proposed changes to PP conditions; Exhibit GG – Question submitted by Louis Veltus regarding Resolution 2000-95; Exhibit HH – CODT Permit; Exhibit II – Additional Supplemental from Applicant dated 11-6-07; Exhibit JJ – Letter from Marvin & Ester Claridge dated 8/1/07; Exhibit KK e-mail from Garco Housing Authority dated 12/06/07; Exhibit LL – Letter from John and Resa Wing dated 12/04/07; Exhibit MM – e-mail from Garco R&B dated 11/13/02; Exhibit NN – Letter from Carolos Cardenas dated 10/23/07; Exhibit OO – Letter from Mt. Cross Engineering dated 11/12/07; Exhibit PP – Letter from Jim Austin dated 11/09/07; Exhibit QQ – Letter from the Nieslanik Family dated 09/06/07; Exhibit RR – Letter from a group of neighbors received on 12/06/07; Exhibit SS Letter from a group of neighbors received on 12/06/07; Exhibit TT – Well Permits – Monitoring & Production Permits; Exhibit UU – Spring Valley; Exhibit VV – Staff presentation; Exhibit WW – Wafer Analysis and Exhibit XX – Letter Lou and Donnalyne LaGiglia dated 12/07/07

Planner Fred Jarman explained the approved plan today, the development plan submitted today, also showing how different they were from what they had previously. Fred presented a slide presentation. If you choose to make a decision today, he said we would suggest you make a decision on the zoning first, then the PUD and then follow that by the preliminary plan. This will require two separate motions because there will be two separate commission licenses. Fred moved through the project as though it was one.

County Road 115 (Red Canyon Road) via Highway 82, and

County Road 115 via County Road 114 (CMC Road) via Highway 82.

STAFF IS PROVIDING YOU WITH A STAFF REPORT WITH THE APPLICANT’S RESPONSES AND COMMENTS INCLUDED IN RED FOR YOUR REVIEW. ADDITIONALLY, THERE ARE SEVERAL SUPPLEMENTAL DOCUMENTS SUBMITTED BY THE APPLICANT THAT CORRESPOND TO THEIR RESPONSES

ADDITIONALLY, STAFF RECEIVED REVIEW COMMENTS FROM THE FOLLOWING ENTITIES WHICH ARE ALSO ATTACHED AS EXHIBITS SINCE THE INITIAL REVIEW

- LETTER FROM THE DIVISION OF WILDLIFE (EXHIBIT R)
- LETTER FROM MOUNTAIN CROSS ENGINEERING (ON BEHALF OF GARFIELD COUNTY AS EXHIBIT U)
- LETTER FROM THE DIVISION OF WATER RESOURCES (EXHIBIT T)
- LETTER FROM THE GLENWOOD SPRINGS FIRE DEPARTMENT (EXHIBIT S)
- LETTER FROM WRIGHT WATER ENGINEERS (EXHIBIT Q)
- LETTER FROM JIM AUSTIN (EXHIBIT P)
- LETTER FROM THE GARFIELD COUNTY HOUSING AUTHORITY (EXHIBIT W)
- LETTER FROM THE HIGH ASPEN RANCH HOA (V)

IN SUMMARY, THE APPLICANT HAS REVISED THEIR APPLICATION BASED ON THE COMMENTS PROVIDED BY THE COUNTY PLANNING STAFF MEMO AND THE PLANNING COMMISSION HEARING IN THE FOLLOWING MANNER:

- 1) REINSERTED THE 75 COMMUNITY HOUSING UNITS IN THE LOCATION THAT IS CURRENTLY APPROVED IN THE EXISTING PUD;
- 2) REDUCED THE FREE MARKET HOUSING FROM 502 UNITS TO 478 UNITS WHICH REDUCES THE OVERALL DENSITY FROM 11.84 TO 12.55 FREE MARKET UNITS (BY ELIMINATING THE PASTURE LOTS AND A VARIETY OF CABIN LOTS);
- 3) REVISED THE PHASING PLAN TO INCORPORATE EMERGENCY ACCESS ROADS IN ORDER TO PROVIDE ACCESS FROM EACH PHASE IF THE PROJECT DOES NOT REACH FULL BUILD-OUT TO THE SATISFACTION OF THE GLENWOOD FIRE DEPARTMENT;
- 4) REVISED THE PHASING PLAN TO INCORPORATE THE CONSTRUCTION OF THE FIRE STATION IN PHASE 2 AND PROPOSES TO CONSTRUCT THE COMMUNITY HOUSING UNITS IN PHASES 7 – 10;
- 5) INCLUDED THE PROVISION OF 24 RENTAL EMPLOYEE UNITS (DEED RESTRICTED FOR 20 YEARS)
- 6) THE APPLICANT WILL CONTRIBUTE ITS PRO-RATA SHARE TO PARTIALLY FUND IMPROVEMENTS TO THE RFTA PARK-N-RIDE THAT EXISTS ON THE SE CORNER OF SH 82 AND CR 114 BASED UPON TOTAL FUTURE RIDERSHIP ESTIMATED FOR THE PROJECT DIVIDED BY THE TOTAL PROJECTED RIDERSHIP ORIGINATING AT THE RFTA PARK-N-RIDE DESCRIBED ABOVE BY RAFTA.

THE PLANNING COMMISSION REQUIRED, IN ADDITION TO THE CONDITIONS SUGGESTED BY STAFF, THAT THE FOLLOWING ITEMS BE ADDRESSED PRIOR TO THE HEARING BEFORE THE BOCC REGARDING THE PUD AMENDMENT APPLICATION. THESE ARE FOLLOWED BY A STAFF RESPOSE.

Prior to the preliminary plan hearing before the Board of County Commissioners, the Applicant shall negotiate in good faith with the Garfield County Housing Authority regarding the location of the 75 Community Housing units or an offsite alternative affordable housing project. In the event no agreement is reached, the 75 community housing units shall be located as depicted on the supplemental plan.

Staff Response

Much discussion occurred at the Planning Commission regarding the provision of the 75 Community Housing units. As you will read in the supplemental information, no further discussions were able to occur between the County Housing Authority and the Applicant regarding the possibility of any new agreement to locate all or a portion of the units off site. As a result, it remains Staff’s opinion that the existing PUD and Comprehensive Plan require that these units be constructed on site.

The phasing of improvements to the intersection of Colorado State Highway 82 and Garfield County Road 114 shall be in accordance with the requirements of the Colorado Department of Transportation and shall be incorporated into the phasing plan for the project.

Staff Response

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The intent of this condition was to determine exactly when off-site road improvements (intersection of State Highway 82 and CR 114) were to occur pursuant to the Applicant's Traffic Impact Study (TIS). As you will read, the TIS identify short term and long term improvements). The Applicant states that they will occur when CDOT requires them and will get permits accordingly. CDOT has issued an access permit to the Applicant that covers all of the short term improvements and provides a threshold at 740 Design Hourly Volume (DHV) for all traffic at the intersection.

Based on this, Staff continues to be concerned that the improvements proposed in the TIS should be constructed so that they are in place when the impact occurs rather than wait for the impact to occur and then build the improvements. To do this, the Applicant should be required to point out in what phase these improvements would be constructed.

To that end, Staff believes the BOCC should contemplate a condition of approval that addresses this issue and suggests the following condition that has also been suggested by CDOT:

"That the Applicant shall tender a Traffic Impact Study (TIS) for the intersection of State Highway 82 and County Road 114 that specifically identifies the Design Hourly Volume (DHV) for all traffic at the intersection as well as the portion that is directly generated from the Spring Valley Ranch PUD. This TIS shall be submitted at the time of every new phase of development. If, at such time, the aggregate total DHV exceeds 20% of 740 DHV established in the existing CDOT permit, the Applicant shall be required to complete all long term improvements identified in the TIS submitted with this Application."

As the project is proposed, there has been no change to the phasing plan that indicates when the improvements are to occur. The BOCC should consider requiring points specific so that security could be obtained to ensure the improvements occur.

The Applicant shall construct interim improvements to CR114 to mitigate construction traffic impacts as part of Phase 2 in accordance with a plan approved by the Garfield County Road and Bridge Department prior to the preliminary plan hearing before the Board of County Commissioners.

Staff Response

This condition was the result of a specific concern raised by neighbors in the area because they were concerned about safety issues, traffic conflicts, and the road widths and grades on CR 114 as the project infrastructure was being constructed with large heavy trucks. The Applicant has provided three plans / profile sheets showing areas of focus but there was no information regarding any communication or approval by the County Road and Bridge Department as to the adequacy of the plan. This condition has not been met.

Prior to the preliminary plan hearing before the Board of County Commissioners, the Applicant shall provide a schedule showing the ownership and timing of conveyance of open space, trails, and 24 employee rental units.

Staff Response

The Applicant's response provides that either Aspen Valley Land trust (AVLT) or a privately created foundation will own the open space and trails and that the Spring Valley Club will own the 24 employee units. The response does not indicate when these items will be conveyed; Staff continues to suggest that they are platted with the first Final Plat. Staff also notes that the Applicant has not included any restriction that prevents others (guests / members) from using the employee units. Lastly, Staff is unclear as to what entity is the Club.

Prior to the preliminary plan hearing before the Board of County Commissioners, the Applicant shall submit a public access plan for the golf course, trails and convenience shopping.

Staff Response

This plan was submitted but Staff is unclear as to how the plan will be implemented as a practical matter.

The Planning Commission required, in addition to the conditions suggested by Staff, that the following items be addressed prior to the hearing before the BOCC regarding the preliminary plan Application. These are followed by a Staff Response.

Mountain Cross Engineering ("MCE") comments 1 to 13 and 15, except for 3 and 7, pertain to final plat conditions that will be fulfilled at the filing of each phase. With regard to comment 3, the community water system will be approved, permitted and operated pursuant to CDPHE regulations that will assure adequate water quality. With regard to comment 7, Applicant will prepare a traffic analysis on the identified intersections for submission to the BOCC prior to hearing.

Staff Response

The Applicant delivered their responses to Mountain Cross Engineering via email at 3:20 PM on Tuesday, November 6, 2007. Due to the very limited timing afforded and understanding that this memorandum had to be completed by Wednesday; no comments were available at the drafting of this memorandum. It is our hope that comments will be forthcoming at the time of the hearing.

Comments 14, 16 and 17 concern road engineering in the Mountain District, except for Sweetwater Draw. The Applicant will prepare design standards for road grades at intersections and switchbacks, and standards related to the location of guard rails for review and approval of MCE prior to the Board of County Commissioners hearing on the preliminary plan.

Staff Response

The Applicant delivered their responses to Mountain Cross Engineering via email at 3:20 PM on Tuesday, November 6, 2007. Due to the very limited timing afforded and understanding that this memorandum had to be completed by Wednesday; no comments were available at the drafting of this memorandum. It is our hope that comments will be forthcoming at the time of the hearing.

PROJECT HISTORY

Spring Valley Ranch PUD was approved in August of 2000 which established the zoning for the property as a Planned Unit Development. Subsequently, the Preliminary Plan for the development was approved in November of 2001. Since that time, there have been several reiterations of the project resulting in several amendments to the PUD as well as new Preliminary Plans approved by the BOCC. These iterations primarily included modifications to the project's phasing plan (incorporate trails, infrastructure, and open space), realignment of a portion of CR 114 through Lake Springs Ranch, consolidation of conditions of

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approval, and inclusion of amendments to Glenwood Springs Fire Protection contract for services. With all of these amendments to date, the Preliminary Plan will expire on November 5, 2007.

CURRENTLY APPROVED PUD

As a matter of background, most of the development is concentrated at the center of the property on a plateau above CR 115 in the area known as Spring Valley. Two entrances into the project are proposed: One about 1/4 mile east of the intersection of CR 114, and CR 115 (Main Entrance) and the other located west of the CR 115 and 114 intersections on CR 115 known as the Landis Creek Entrance. The property was rezoned in 2000 and consists of the following 13 separate zone districts. The matrix below is intended to show the breakdown of theses districts as well as any residential dwelling units associated with the zone district:

Zone District	Number of units	Number of acres	Percentage of total Acreage
Open Space/Agricultural (Including 2 Golf Courses)	0	1,273	21.4
Golf Clubhouse	0	22	.04
Residential Lots			
Ranch Lots	91	2,981	50.1
Meadow Lot	1	30	0.5
Estate Lots	134	700	11.8
Golf Lots	171	331	5.6
Cooperative Ownership Cabins	75	88	1.5
Duplex Townhomes	30	15	0.3
Commercial / Mixed Use (Village Center District)	75	48	0.8
Office	0	13	0.2
Metro (Fire/EMS stations)	0	6	0.1
Utilities	0	2	0.2
Institutional Facilities	0	11	0.2
Total	577	5,948	100%

[Note: Included in the total of 577 dwelling units are 20,000 square feet of commercial space and 75 Community Housing Units that are included in the RCMU (Village Center) District. Two (2) Fire/EMS stations are proposed within the Metro District.]

Proposed Amendments to the PUD and New Preliminary Plan

The Applicant proposes to amend the existing approved project in the following manner:

Project Component	Currently Approved PUD	Proposed PUD
Dwelling Units	502 Free Market & 75 AH	~~577 Free Market & 0 AH~~ 478 Free Market Units 75 Community Housing Units 24 Employee Housing Units
Gross Density	11.84 ac/du (FM units only)	~~10.31 ac/du~~ 12.44 ac/du (FM units only)
Golf Course	36 Holes	~~27 holes~~ 18 hole par 72 golf course 9 hole 3-par “barefoot” course
Equestrian Center	Yes	Yes
Neighborhood Commercial	20,000 sq. ft.	20,000 sq. ft. (relocated)

The Residential component will include the following types of lots / units:

- Mountain Lots: 90 lots that average 32 acres in size on central water and Individual Sewage Treatment Systems;
- ~~Pasture Lots: 22 lots that average 8 acres that will replace the “Village Center” in the currently approved plan served by central water / sewer~~

Applicant’s Response

The 22 Pasture Lots have been replaced with 75 Community Housing units as defined in the Community Housing Program of the current PUD.

- Ranch Lots: ~~445~~ 121lots averaging 5 acres on the middle bench served by central water / sewer;

Applicant’s Response

60 Cabin Lots have been replaced by 6 Ranch Lots which bring the Ranch Lot total to 121

- Estate Lots: 138 lots that average 2 acres on the middle bench served by central water / sewer;
- Cabin Lots: ~~492~~ 132 lots that average ¼ acre are on the middle-bench around the golf-course and close to the Village Center served by central water and sewer;

Applicant’s Response

60 Cabin Lots have been removed resulting in a total of 132 Cabin/Cottage Lots. The Applicant proposes to construct the improvements on the Cabin/Cottage Lots. The Cabin/Cottage Lots will offer a variety of product types at various price points: i) 18 “Camp” Cabins at 1,000 to 1,500 sq ft; ii) 37 “Village” and “Hillside” Cabins at 1,500 to 2,500 sq ft; iii) 49 “Golf” and “Hillside” Cottages at 2,500 to 4,000 sq ft; and iv) 28 Duplex Cabins (four of which will be employee rentals) in 14 buildings at 4,000 to 5,000 sq ft. Please refer to Exhibit 17 - PUD Zone District Map and revised Section 8 - Zone District Standards provided in the supplement to the Preliminary Plan Application.

- Lodge / Condominium Units: 19 units in the Village Center served by central water and sewer; and

Applicant’s Response

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The Condominium Units have been removed and replaced by 20 multi-family employee workforce rental units located in the Village Center and/or the Metro District Yard which the Applicant will construct as apartments and “room and board” accommodations.

➤ Employee Housing: The developer may provide a minimum # of unrestricted units to be located in the Village Center and / or the Metro District Yard.

Applicant’s Response

See above comments regarding four Employee Duplex Cabins and 20 multi-family, employee workforce rental unit as apartments or “room and board” units.

The other main components to the project include the following:

➤ Village Center: Originally located in the pasture in the lower valley floor near the intersection of CR 114 and CR 115, this has been relocated to the middle bench. This center is proposed to provide the following amenities for the residents:

➤ Restaurant/bar, fitness & spa facilities, party/event barn, kid’s camp/activity center, outfitters cabin and a general store/post office/ fueling station.

➤ Fire / EMS Department (As part of the Applicant’s proposed Fire/Metropolitan District) with space provided for a Sheriff’s Sub-Station and employee lodging.

➤ Common Community Recreation facilities that may include swimming pool(s), tennis courts, a fitness center and pedestrian, bike & equestrian paths.

Applicant’s Response

➤ Due to the conversion of the condominium units to employee housing, Applicant proposed 15 private guest rooms within the Village/Club district for use only by owners and their guests.

➤ Golf Courses. One 18-hole golf course, one walking (9 hole) Par 3 “barefoot” course, and practice facilities are planned for the project. The golf pro shop, starter pavilion and driving range will be located on a knoll in close proximity to the Village Center and the golf maintenance facility to provide easy access and adequate parking.

➤ Equestrian Center. The Equestrian Center will be located in the Open Space/Pasture or Open Space/Recreation District.

➤ Corporation Yard/Golf Maintenance. The Corporation Yard / Golf Maintenance facility will include: golf cart storage and maintenance facilities; vehicle maintenance for summer and winter road maintenance; equipment storage; a corporation yard for landscaping and maintenance needs; administrative offices; employee lodging; fueling station; and such other facilities as may be needed by the Metro District.

➤ Trails and Open Space System. The open space system forms the framework around which the development is planned. Trails will connect neighborhoods and other recreational amenities throughout the community as well as access the adjacent National Forest and BLM lands. Golf cart paths will double as cross-country ski trails during the winter months. Easements will be provided where trails cross private property. The trails within the community will be managed and maintained by the Metro District or the HOA. Certain trails will be closed during specific times of the year at the request of the Colorado Division of Wildlife.

➤ Landscaping. Native landscaping will be used when reasonable throughout the development. At lower elevations, cottonwood, oak and native shrubs will predominate. Spruce, aspen and alpine materials will predominate at the higher elevations. Design guidelines will emphasize the use of native vegetation and limit the amount of irrigated areas. Water conservation methods will be observed at all times.

Development Summary - Total acres = 5,948 - Total Dwelling units = 577 - Total Common Open Space = 1,547.84 acres or 26.02% of the PUD, comprised of:

- Useable Open Space = 410.2 acres
- Recreational Open Space = 337.8 acres
- Commercial Open Space = 252.9 acres
- Limited Use Open Space = 546.86 acres

Utilities and Infrastructure

Utility services to be provided to all of the residential districts, except Lot P23, within the Spring Valley Ranch PUD consist of the following:

1. Central Water Distribution System
2. Sanitary sewer system connecting to the Spring Valley Sanitation District Wastewater Treatment Facility
3. Electric
4. Telephone
5. Natural Gas

Except for the Public Service Company's regional transmission line and the existing Holy Cross Electric line in the lower valley, including the existing service to Lot P23, utilities shall be underground and service connections for utility systems shall be extended to the lot lines. The utilities will be constructed within road rights-of-way and other utility easements.

PROCESS

The county land use regulations do not offer an amendment process for physical changes to Preliminary Plans. Additionally, while the PUD provisions in the code provide for an amendment process that deals with zoning matters, any change to a Preliminary Plan requires the resubmittal of the entire project in the form of a new Preliminary Plan. In the present application, the Applicant has submitted a new Preliminary Plan as well as an amendment to the PUD intended to address the requests above.

As a matter of process, the Planning Commission and the Board of County Commissioners should make two separate motions; the first motion should address the amendment to the PUD while the second motion should address the (new) Preliminary Plan. The focus of this memorandum is intended to address points of concern related to standards and criteria required in the Zoning Resolution of 1978, as amended, the Subdivision regulations of 1984, as amended, and the Comprehensive Plan of 2000, as amended.

I. REVIEW AGENCY/PUBLIC COMMENTS

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The Applicant sent the proposal to the following review agencies whose comments are provided below and are incorporated in the memorandum where appropriate:

- A. Town of Carbondale: No Comments Received
- B. City of Glenwood Springs: No Comments Received
- C. RE-1 School District: No Comments Received
- D. Colorado State Forest Service: No Comments Received
- E. Spring Valley Sanitation District: Dean Gordon, P.E., with Schmueser Gordon Meyer is the project engineer for the Spring Valley Sanitation District which provided a wide variety of comments regarding the provision of central sewer service to the project. These comments are too numerous to incorporate here. Please see Exhibit K).
- F. Glenwood Springs Fire Department: Exhibit S
- G. Colorado Department of Transportation: No Comments Received
- H. Colorado Division of Wildlife: No Comments Received
- I. Colorado Division of Water Resources: Exhibit T
- J. Bureau of Land Management: No Comments Received
- K. Colorado Geologic Survey: No Comments Received
- L. Garfield County Road & Bridge Department: No Comments Received
- M. Colorado Department of Public Health & Environment: *It appears there will be a drinking water system that will require state approval. On the wastewater side, it looks like the bulk of the subdivision will be treated at the existing Spring Valley SD and the remainder will be ISDS at less than 2000 gpd. So my only comment is state approval will be required for the drinking water system. (See Exhibit H)*
- N. Roaring Fork Transit Authority: *There is no mention of public transportation throughout the proposal. The developer does propose to provide carpool incentives, repave and widen CR 114 from the SH 82 intersection up to the Colorado Mountain College (CMC) campus, and make some changes to the SH 82/CR 144 intersection, but there is no mention about how residents might be able to get down the hill without a car. The proposed improvements do not include a bike lane or pedestrian paths parallel to CR 114. In the past, CMC agreed to operate a van shuttle between SH 82 and the campus; however this service is now defunct. When the Bair Chase Development along the west side of SH 82 was still in motion, the developer agreed to partially fund improvements to the RFTA park-n-ride that exists on the SE corner of SH 82 and CR 114. Since that development has recently changed hands, RFTA asks that the new developer will also assist with funding improvements to the CMC Park-n-Ride. Additionally, RFTA is requesting that other developers in this area (i.e. Spring Valley Ranch PUD) also set aside some funds for park-n-ride improvements and other transit and pedestrian-oriented design alternatives, such as multi-use paths or painted lanes parallel to roadways. (See Exhibit J).*

Applicant's Response

The Applicant will contribute its pro-rata share to partially fund improvements to the RFTA park-n-ride that exists on the SE corner of SH 82 and CR 114 based upon total future ridership estimated for the project divided by the total projected ridership originating at the RFTA park-n-ride described above by RAFTA.

- O. Garfield County Vegetation Manager:
 - *Inventory and mapping-The applicant lists noxious weeds found on the property, however this information is not represented on a map, staff requests that the applicant provide a map of the project area with the Garfield County listed noxious weeds, and the State of Colorado listed noxious weed, Absinth wormwood (Artemisia absinthium).*
 - *Weed management-The Weed Management Plan is incorporated into the attachment entitled "Best Management Practices." The recommended herbicides, glyphosate and 2-4,D will have minimal results on most noxious weeds.*
 - *Revegetation and soils-The applicant has addressed revegetation and soil concerns.*
 - *Revegetation security-The applicant has not quantified the addresses surface area to be disturbed by new roads and utilities. Please provide this information so a revegetation security may be determined.*

The security shall be held by Garfield County until vegetation has been successfully reestablished according to the Garfield County Weed Management Plan Reclamation Standards.
 - *The globally rare plant, Harrington's penstemon (Penstemon harringtonii) may be present in the project area. Staff requests that the applicant contact a qualified plant ecologist or botanist to conduct field surveys to determine if Harrington's penstemon is located on the property. If present, the locations shall be identified in general terms as they pertain to building envelopes. In addition, an acknowledgement and reference to Harrington's penstemon in the covenants may help increase awareness of this plant and to alert property owners of its significance.*
 - *This plant is ranked globally as a G3 and statewide as an S3 by the Colorado Natural Heritage Program (CNHP). This means that the plant, according to CNHP is "vulnerable through its range or found locally in a restricted range (21 to 100 occurrences). This plant is found exclusively in Colorado and is known from 74 occurrences in Eagle, Garfield, Grand, Pitkin, Routt, and Summit counties and is found primarily in dry, sagebrush-dominated communities between 6,400 and 9,400 ft. (1,951 and 2,865 m) elevation. USDA Forest Service Region 2 has designated P. harringtonii a sensitive species; it is also included on the Bureau of Land Management Colorado State Sensitive Species List. It is not listed as threatened or endangered under the Federal Endangered Species Act, nor is it currently a candidate for listing.*

Applicant's Response

Applicant will provide an appropriate weed inventory and management plan as part of its Final Plat application for each phase of the development in accordance with the Garfield County Subdivision Regulations.

- P. Garfield County Housing Authority: Exhibit W

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- Q. Garfield County Sheriff Department: No Comments Received
- R. Mountain Cross Engineering: Exhibit U

II. RELATIONSHIP TO THE COMPREHENSIVE PLAN

The Proposed Land Use Designation map contained within the Comprehensive Plan of 2000 designates the subject property as Planned Unit Development. Staff finds the project generally conforms to the County's Comprehensive Plan with the following exceptions:

As background, the Comprehensive Plan presently shows the property is located in Study Area I and is designated "PUD" on the proposed land use districts map. (The County designates properties as "PUD" on the map when a rezoning to PUD is approved.) Initially, the Applicant requested to amend the PUD by eliminating the required 75 on-site "Community Housing Units" and increase the 502 free market units to 577 free market units. Based on the following, Staff found this request would render the project to be out of general conformance with the County's Comprehensive Plan; however, the Applicant has revised their request to leave the 75 Community Housing Units in the project which adequately addresses the goals, objectives, and policies of the Housing component of the Comprehensive Plan.

Applicant's Response

The Applicant believes the application as originally submitted is in conformance with the Comprehensive Plan. However, to address the staff comments, Applicant proposes in its application Supplement to eliminate 60 Cabin Lots on the Middle Bench and replace the proposed 22 Pasture Lots with the 75 Community Housing units in accordance with the adopted PUD (no net increase in density). In addition the Applicant proposes to deed-restrict 24 units for employee rental housing. The Applicant, therefore, proposes to reduce the number of free market units to 478, which is 24 units less than the market-rate density of 502 units in the approved PUD.

The Property's Comprehensive Plan Designation is the Approved PUD

As a PUD is approved, the terms of that PUD become the regulations of the County and development for that property is regulated to those terms. In this case, the presently approved PUD includes the provision of 75 Community Housing Units as a requirement of the PUD which means they are, in fact, required by County zoning. Therefore, because the Comprehensive Plan now designates this property as "PUD", the terms of its approval (including the 75 Community Housing Units) is required by the Comprehensive Plan and allows it to meet the goals, policies, and objectives of the Comprehensive Plan.

The approved PUD includes 75 units of "Community Housing," which are governed by standards contained in the 2005 PUD conditions approved by the BOCC (Exhibit [x] in the Supplement binder). To meet the goals, policies and objectives of the Comprehensive Plan, Applicant proposes in its Supplement to eliminate 53 Cabin Lots on the Middle Bench and replace the proposed 22 Pasture Lots with the 75 Community Housing units in accordance with the adopted PUD (no net increase in density).

The Approved PUD requires 75 Community Housing Units

Once the Board of County Commissioners (BOCC) approved the PUD, all of its terms and conditions become County regulations. As a result, they are now required as part of the PUD. Initially, the Applicant argued that the 75 Community Housing Units were an offering as part of the original PUD and never required due to the low density of the project. Staff disagrees, in that, while they may have never been originally required, they were offered by the developer to be part of the Zoning in the PUD and are now required by that PUD. Further, the property was designated PUD at the time the original Comprehensive Plan designations were established because the PUD (albeit, an older version) was already in place when the Comprehensive Plan was crafted.

Essentially, the Developer proposed (and the Board of County Commissioners agreed) that these 75 Community Housing Units were necessary to best meet the employee generation of the project. As a result, the PUD was approved with the units being required as part of the zoning. As a result, Staff finds the 75 units are not optional; they are now required by County Zoning in this existing PUD. The Applicant has agreed to include the 75 Community Housing Units within the PUD which satisfies the housing goals, objectives, and policies of the Comprehensive Plan.

Applicant's Response

Please refer to Response above.

Project Results in an Increase in Density

Section 4.07.15.02(1) of the County's PUD regulations require that *all Planned Unit Development proposals and Planned Unit Development Amendment requests which results in an increase in density, must provide that at least 10% of the housing mix are affordable housing units. Providing 10% affordable housing units will not, by itself, be sufficient to fulfill the PUD requirement for a mix of housing.*

The initial proposed PUD amendment resulted in an increase in density and would have been required to provide 10% of the housing to be affordable housing units as there was an increase in free market residential density from 502 free market units to 577 free market units. However, the Applicant has reduced the free market density which alleviates this issue. See their response below:

Applicant's Response

3. Applicant proposes in its Supplement to reduce the number of free market units to 478, which is 24 units less than the market-rate density of 502 units under the approved PUD.

A. Housing Goals

- ***To provide all types of housing that ensures current and future residents equitable housing opportunities which are designed to provide safe, efficient residential structures that are compatible with and that protect the natural environment.***

Staff Response

In their original Application, the Applicant proposed to eliminate all of the 75 Community Housing Units presently required in the development. The Application stated that *the Developer may provide a minimum # of unrestricted units to be located in the Village Center and / or the Metro District Yard.* Outside of that optional / permissive offering, the development did not provide "all types of housing that ensures current and future residents equitable housing opportunities." However, the Applicant amended their Application to address this issue and as a result, Staff finds this housing goal has been met.

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Applicant's Response

4. In order to meet the above Housing Goal, Applicant proposes in its Supplement to re-incorporate the 75 Community Housing units in the location and under the terms of the Community Housing Plan adopted by the BOCC in the current PUD and to eliminate the 22 Pasture Lots proposed in that location. Applicant also proposes to provide employee housing as follows: i) replace the 19 for-sale market-rate multi-family condominium units in the Village with 20 multi-family or "room and board" units in the Village and/or Metro District Yard, that would be deed restricted as rental units available only to the project's employees with rent increases limited to CPI for 20 years; thereafter the units may be rented or sold at market; and ii) to build and deed restrict 2 improved Duplex Cabin Lots as 4 rental units available only to employees of the project with rent increases limited to CPI for 20 years; thereafter the units may be rented or sold at market. To create more diversity in housing type and price, the Applicant proposes Zone District text that would limit size and type of residential improvements built by the Applicant in the Cabin District (R/C) to: i) 18 "Camp" Cabins at 1,000 to 1,500 sq ft; ii) 37 "Village" and "Hillside" Cabins at 1,500 to 2,500; iii) 49 "Golf" and "Hillside" Cottages at 2,500 to 4,000 sq ft; and iv) 28 Duplex Cabin units (four of which will be employee rentals) in 14 buildings at ±4,000 to ±5,000 sq ft. Additionally, Applicant already restricted in its Application the FAR for different single-family detached market-rate residences in the project's Residential Zone Districts in order to encourage the construction of a mix of housing sizes and prices.

➤ ***Housing at cost of no more than 30% of gross median income.***

Staff Response

The Applicant initial proposal was to eliminate all of the 75 Community Housing Units presently required in the development. As a result, that proposal did not provide any housing at a cost of no more than 30% of gross median income. However, the Applicant has revised their Application with the following that meets the intent of this goal:

5. To provide housing that can be purchased or rented for an annual payment of not more than 30% of annual AMI in Garfield County, Applicant proposes in its Supplement to provide a total of 99 attainable residential units of which 24 will be for rent and 75 for sale as described in Responses 1 through 5 above, and to sell and/or rent a portion of such units in a manner which meets this goal.

Encourage mix of housing types within a development.

Staff Response

Initially, the Applicant proposed to eliminate all of the 75 Community Housing Units presently required in the development. Further, the Application stated that the Developer may provide a minimum # of unrestricted units to be located in the Village Center and / or the Metro District Yard. The only "mix" of housing types proposed are the condominium type housing units in the lodge units. Otherwise, all of the other units are single-family units on varying lot sizes. Staff interprets this goal to mean the provision of multi-family units which may also include rental units. However, the Applicant has revised their housing mix such that they meet this housing goal.

Applicant's Response

6. To encourage a mix of housing types within the project, Applicant proposes in its Supplement to provide a wide mix of housing types, sizes and prices as described above, particularly Responses 1 and 4.

➤ ***Deed restrictions placed on the title to fix increase in value of a home.***

Staff Response

Originally, there were no provisions in the development to place deed restrictions on any of the units to fix the increase in value of a home. However, the Applicant has revised their Application to meet this goal in the following way:

Applicant's Response

7. To limit increases in home values and assure a mix of attainable housing in the project, Applicant proposes in its Supplement to deed restrict: i) the 75 Community Housing units to annual appreciation of 3%; ii) the 20 multi-family units to rentals only for project employees with rent increases limited to CPI for 20 years; and iii) the 4 Duplex-Cabins units to rentals only for project employees rent increases limited to CPI for 20 years. The Applicant no longer proposes to contribute funds to the Housing Authority, but instead will provide the units as described above.

HOUSING OBJECTIVES

2.1 To encourage adequate, integrated housing at a reasonable cost to residents throughout Garfield County.

Staff Response

Initially, the Applicant proposed to eliminate the 75 Community Housing Units and instead, make a contribution to the County Housing Authority. No such agreement had been reached that would equitably replace or equal the 75 "roof tops" currently required in the PUD. However, the Applicant has revised their Application to meet this objective in the following way:

Applicant's Response

8. To meet this Housing Objective, Applicant proposes in its Supplement to provide a total of 99 attainable residential units of which 24 will be for rent and 75 for sale as described in Responses 1 through 8 above.

HOUSING POLICIES

2.1 The County, through the development of regulations, shall provide for low and moderate income housing types by allowing for mixed multi-family and single-family housing in appropriate areas throughout the County.

Staff Response

As discussed, the Developer of the existing PUD proposed (and the Board of County Commissioners agreed) that 75 Community Housing Units were necessary to best meet the employee generation of the project. As a result, the PUD was approved with the units being required as part of the zoning. As a result, Staff finds the 75 units are now required by County Zoning in this existing PUD. By adding the 75 units into the PUD, they have become regulations and meet the very intent of this policy. Eliminating them altogether does not meet this housing policy. The Applicant revised their Application to include these as well as a variety of units which meets this policy:

Applicant's Response

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9. To meet this Housing Policy 2.1, Applicant proposes in its Supplement to provide a total of 99 attainable residential units of which 24 will be for rent and 75 for sale as described in Responses 1 through 8 above.

HOUSING PROGRAMS

- 2.1 The County, by encouraging developers and landowners to use the Planned Unit Development regulations and other innovative tools, shall establish housing standards appropriate for the proposed scale of development which provide a wide range of housing types and costs.

Staff Response

The Applicant has met this in the following manner:

Applicant's Response

11. To comply with Housing Programs 2.1, Applicant proposes in its Supplement to provide a total of 99 attainable residential units of which 24 will be for rent and 75 for sale as described above. Applicant also will construct a mix of Cabin/Cottage units as provided in Response 5. Additionally, Applicant already restricted in its Application the FAR for different residential zone districts in the project's Zone District Text in order to encourage the construction of a mix of housing sizes and prices as described above, particularly in Response 4.

AMENDMENT TO EXISTING PLANNED UNIT DEVELOPMENT

Zoning Resolution §4.04 Consistency with the Master/ Comprehensive Plan: No PUD shall be approved unless it is found by the County Commissioners to be in general conformity with the County's Master/Comprehensive Plan(s). When appropriate, an application for an amendment to the Garfield County Master/Comprehensive Plan may be a part of a PUD Application. Any Application for Master/Comprehensive Plan amendment must be approved by the Planning Commission, prior to its recommendation on the PUD Application and may occur at the same meeting. Applications for Comprehensive Plan amendment shall include justification for the amendment based upon the criteria for establishing the land use designations in the Master/Comprehensive Plan.

Staff Response

Staff finds the proposed amendment to the PUD is in general conformance with the Housing component of the County's Comprehensive Plan.

Applicant's Response

12. To comply with the Housing component of the County's Comprehensive Plan, Applicant has included and proposes to provide a mix of housing types, sizes and prices as provided above, particularly in Response 4.

Zoning Resolution §4.06 Internal Compatibility of Planned Unit Developments: It is recognized that individual land uses, regardless of their adherence to all the design elements provided for in this section, might not exist compatibly with one another. Therefore, a proposed PUD shall be considered from the point of view of the relationship and compatibility of the individual elements of the Plan, and no PUD shall be approved which contains incompatible elements internally or with neighboring property.

Staff Response

The Spring Valley Ranch PUD is generally secluded within a property that will have very little visual impact on its surrounding area. The PUD amendment proposes to relocate the village center out of the lower valley at the intersection of CR 114 / 115 to an area on the middle bench more central and focal to the development. In its place, the developer proposes to develop 22 "pasture lots" averaging about 8 acres. Staff suggests that those 22 lots be eliminated out of the pasture altogether and relocated into the middle bench area so that they are less intrusive and leave the integrity of the existing undeveloped agricultural pasture intact.

Zoning Resolution §4.07.02 Standards and Requirements: The number of off-street parking spaces for each use in each PUD shall not be less than the requirements for like uses in other zoning districts, except that the County Commissioners may increase or decrease the required number of off-street parking spaces in consideration of the following factors:

- 1) Estimated number of cars owned by occupants of dwellings in the PUD;***
- 2) Parking needs of non-dwelling uses;***
- 3) Varying time periods of used whenever joint use of common parking areas is proposed.***

Staff Response

The Applicant requests a modification in the required off-street parking calculations given the recreational and second-home nature of the project. The Applicant has proposed parking standards that deviate slightly from the County standards. However, they balance the overall project goals and objectives as well as the Comprehensive Plan policies toward minimizing the environmental impacts with the anticipated land uses.

A. Residential (except group quarters) – 1 space per 600 square feet of floor area

Applicant proposes:

- Pasture, Mountain & Ranch Districts - one space per bedroom with a minimum of two enclosed spaces and a maximum of six exterior/uncovered spaces;
- Estate District – one space per bedroom with a minimum of two enclosed spaces and a maximum of four exterior/un-covered spaces;
- Cabin District – one space per bedroom with a minimum of two enclosed spaces and a maximum of two exterior/un-covered spaces.

We believe that this is a typical ratio for residential parking spaces. The Garfield County regulation of 1 space per 600 s.f. of residential floor area would create an undue burden for larger homes and even smaller homes where the focus is to minimize the levels of disturbance, impervious surfaces, and environmental degradation.

B. Residential – group quarters – not applicable

C. Retail and service commercial – 1 space per 250 s.f. of floor area.

Village/Commercial District – One enclosed parking space per bedroom. Minimum of one parking space for every 800 square-feet of habitable finished floor space for other uses. Employee, overflow and event parking will be provided as needed in the

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Light Industrial Zone District (L/I) and the Open Space/Golf District (OS/G). With the Village Center concept, the variety of uses, and the seasonal nature of many activities, co-location and sharing of parking among various uses is appropriate.

Golf Course – Minimum of 40 parking spaces. Employee, overflow and event parking will be provided as needed in the Open Space/Golf District (OS/G) for the

Village/Commercial District (V/C) and the Light Industrial Zone District (L/I). 40 spaces for the 18-hole course is a conservative estimate for an 18-hole private golf facility with approximately 15,000 rounds per year. Given the time and physical restrictions on the number of players, approximately 20 foursomes can be accommodated in any single day. 40 spaces are more than ample for this limited number of rounds per day. These spaces will be located at the Pro Shop/Starter house and Clubhouse sites. Golf cart shuttle service will be provided from the Clubhouse and the Village.

Light Industrial District – Minimum of one parking space for every three employees, plus minimum of one parking space for every staff bedroom. Employee, overflow and event parking will be provided as needed in the Light Industrial Zone District (L/I) for the Village/Commercial District (V/C) and the Open Space/Golf District (OS/G). With the Village Center concept, the variety of uses, and the seasonal nature of many activities, co-location and sharing of parking among various uses is appropriate.

Zoning Resolution 4.07.03: The PUD shall meet the following site plan criteria unless the applicant can demonstrate that one or more of them is not applicable or that a practical solution has been otherwise achieved.

(1) The PUD shall have an appropriate relationship to the surrounding area, with unreasonable adverse effects on the surrounding area being minimized.

Staff Response

Most of the project will not be visible from the immediate public view or neighboring properties with the exception of the pasture lots. The project is physically located in an area surrounded by a variety of residential scenarios that include 35-acre exempt lots to 2 and 5-acre single-family lots, as well as undeveloped ranch land, BLM and USFS lands. The overall density in the current application is within the proposed Comprehensive Plan Area 1 limits and is therefore appropriate to the area and the adjacent land uses. Furthermore, the Spring Valley Ranch PUD is designed to avoid impacts to neighboring properties. Staff agrees that the low density nature of the development (particularly on the valley floor where most neighboring properties are located), the integration of agricultural and equestrian uses, and the design emphasis on maintaining the open characteristics of the area, view sheds and wildlife habitat, assure that the development will be compatible with the surrounding area.

(4) The PUD shall provide Common Open Space adequate in terms of location, area and type of the Common Open Space, and in terms of the uses permitted in the PUD. The PUD shall strive for optimum preservation of the natural features of the terrain.

Staff Response

The PUD meets or exceeds the requirements for open space. As mentioned above, Staff finds that a significant feature to the property is the pasture in the lower valley floor that has been primarily left undeveloped with the exception of 22 “pasture lots.” Staff finds this standard could be better met if those lots were relocated to areas internal to the developed area of the PUD on the middle bench.

Applicant’s Response

13. To comply with the requirements of the Comprehensive Plan established in Section VI (A) of Staff’s Comments above, Applicant has replaced the 22 Pasture Lots with 75 units in accordance with the Community Housing Program in the approved PUD.

(5) The PUD shall provide for variety in housing types and densities, other facilities and Common Open Space.

Staff Response

The Applicant has revised their plan to meet this standard in the following way:

Applicant’s Response

14. To provide a variety in housing types and densities, Applicant proposes in its Supplement to construct detached and attached rental and for-sale residences as Cabins, Cottages, duplexes, apartments and “room and board” facilities in a mix of size and price as described above, particularly in Response 4.

Zoning Resolution §4.07.10 Standards and Requirements: If any zone district within the PUD is proposed to contain time-share or fractional ownership units, or other similar interest in property, the provisions for such ownership shall be those that are approved by the Board of County Commissioners at the time the property is zoned PUD.

Staff Response

The Applicant states that “the Zone District Text (Section 8 of Binder 1) provides for potential one-quarter share fractional ownership in the Residential/Cabin District, and for multi-family or lodge units in the Village/Commercial District. Cabins, multi-family or lodge units may be divided into fractional one-quarter share interests and any such division shall be exempt from compliance with County subdivision or other regulation.” Staff is uncertain that the “division” is exempt pursuant to the County’s Resubdivision Regulations as follows:

7:10 The redivision into separate interest of any lot, block, parcel or multiple-dwelling unit, or the major relocation of or addition to any roads within a subdivision, shall be considered a resubdivision and shall be governed by the Subdivision Regulations.

7:20 The redivision into separate interests of large tracts or blocks of land, designed with the intention of resubdivision and so indicated on a recorded plat, may not be required to comply with those provisions of the Subdivision regulations, which the Board determines are satisfied by reference to Preliminary Plan or Final Plat approval for the original subdivision.

7:30 The redivision, through conversion into condominiums, apartments or other multiple-dwelling units may not be required to comply with those provisions of the Subdivision Regulations which the Board determines are satisfied by reference to Preliminary Plan and/or Final Plat approval for the original subdivision, provided the proposed conversion will not substantially increase land use density.

Applicant’s Response

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15. Applicant submits that a fractional interest is legally not a “subdivision” or a “resubdivision”. A fractional interest is a joint tenancy or tenancy in common or other common interest in the same unit, which is considered as one unit and is assessed, taxed and otherwise treated as such. Therefore, the above-referenced provisions of the County regulations do not apply. In any event, the specific recognition of the creation of fractional interests as requested in the zone text would cover this issue, as it would give specific County approval of the creation of fractional units as part of the zone district text for the PUD. Consistent with the staff position, this would become a County “regulation” and would supersede any contrary general County regulation.

Zoning Resolution §4.07.11 through .15 Standards and Requirements: AFFORDABLE HOUSING

Staff Response

Staff has presented a full discussion of this issue in the previous section of this memorandum. As a result of the Applicant’s revisions, the proposal meets the PUD regulations pursuant to housing.

(b) A development schedule indicating the approximate dates when construction of the various stages of the PUD can be expected to begin and be completed;

Staff Response

The Application contains a phasing plan that shows the project will be developed in 11 phases. (See Exhibit 21 for the proposed phasing of the development plan.) Exhibits 19 & 20 also show the water and sewer infrastructure phasing. Exhibit 22 provides the proposed estimated development phasing schedule. The phasing shows that the Estate Lots are to be improved at the same time the middle bench lots and lower valley floor lots with Phase I beginning in April 2008 and the final phase possibly starting in 2023 (a 15 year time span).

Zoning Resolution §4.09.03 Standards and Requirements: Each stage within a PUD shall be so planned and so related to existing surrounding and available facilities and services that failure to proceed to a subsequent stage will not have a substantial adverse impact on the PUD or its surroundings.

Staff Response

Staff finds that the provision of water / wastewater lines through the phases appears to be adequate, however, it is unclear how the Applicant proposes to deal with long dead-end road segments were one phase ends and the next has yet to be constructed. The County’s regulations require cul-de-sacs be limited to 600 linear feet unless the Applicant can demonstrate the need for 1) reasons related to topography and 2) it can be proved that fire protection and emergency egress and access is provided as a part of the longer design. The following will illustrate the issue:

The dark lines show the road sections to be constructed in Phase I. They do not connect, are well beyond 600 linear feet, and would both dead end providing no alternative way out of the development in the event of a natural disaster (wildfire / debris flow). The Applicant has not shown how these issues have been accommodated so **that failure to proceed to a subsequent stage will not have a substantial adverse impact on the PUD or its surroundings. This standard has not been met.**

Applicant’s Response

17. The applicant agrees that the originally proposed Phasing Plan did not provide for adequate emergency ingress/egress in the event that subsequent phases of the development were not to occur. Therefore, included in the supplement to the Preliminary Plan Application as Exhibit 21 are: i) a revised Phasing Plan that depicts the extension of emergency access easements; and ii) a letter from the fire chief of the Glenwood Springs Fire Protection District, Mike Piper, in which he indicates his support and approval of the proposed emergency access easements.

Staff also points out key off-site improvements that are currently required in the existing phasing plan followed by proposed changes with this PUD Amendment (in bold):

Phase	Improvements	Schedule
I	Improve CR 114 from where the existing asphalt ends at CMC to the MAIN ENTRANCE on CR 115 and improve CR 115 from the intersection of CR 114 and CR 115 east to the intersection with Black Kettle Court (Road to the Metro District) Proposed to be Phase 2	Start in April 2007 and complete in November 2008 April 2008 through 2014 depending on market conditions (to be completed w/in 20 months)
III	Improve CR 115 from intersection of CR 115 and CR 114 to the Landis Creek entrance. Proposed to be Phase 7	Start in April 2007 through April 2009 depending on economic and marketing conditions April 2009 through 2019 depending on market conditions (to be completed w/in 20 months)
VIII	Improve CR 114 from CMC to intersection with State Highway 82 Proposed to be Phase 9	Start in April 2009 through April 2014 depending on economic and marketing conditions April 2010 through 2021 depending on market conditions (to be completed w/in 20 months)

Applicant’s Response

18. An updated estimated development schedule is provided in the supplement to the Preliminary Plan Application as part of Exhibit 21. This updated schedule identifies the proposed phasing of specific improvements such as the fire station and the required emergency access roads. The Schedule provided above presupposes the development of the project in accordance with the estimated construction schedule

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provided by the prior owner. Clearly, the dates in the original Schedule were not met because the project was not built, and, therefore, the old dates are not relevant. The application to amend the existing approvals maintains substantially the same timeline as the existing approvals based upon the phasing of the project. Applicant is not requesting any significant change in the construction schedule for the Improvements.

Staff continues to find the proposed phasing plan to be very general with no real commitment on when key components (such as Village Center, Fire Station, Metro District Facilities, trails, equestrian facilities, etc) are constructed due to the caveat “depending on market conditions” and the assumption that a Final Plat for Phase I is approved prior to April 2008. Of course, if a final plat is not approved within 1 year of Preliminary Plan Approval, the Preliminary Plan can be extended for 1 year and the project continues to linger on without any development which has been the case for many years. The BOCC has the authority to completely dissolve a PUD if the phasing plan becomes outdated. Because the project has had a very long history of “approvals” and “amended approvals” simply to “float” the paper project along, the phasing schedule be more concrete where if the project is not under development, then the PUD and Preliminary be rescinded automatically. Perhaps this will encourage either 1) the development to actually occur or 2) allow the Board to rescind the approvals thus far.

Applicant’s Response

19. Applicant intends to develop Spring Valley Ranch under this application, if approved, or the current approvals. This application is not for a “paper” subdivision. It is for a project which is more attuned to current market demands while at the same time reducing the subdivision impacts on water, traffic and environmental disturbance relative to the existing approvals. The Ranch was once approved for more than 2,000 residential units. It is probably fortunate that those approvals were not realized. The prior delays that produced “approvals” and “amended approvals” resulted from prior owner’s bankruptcy and not from a nefarious scheme to “float” along a paper subdivision. The phasing of the project is a product of the Ranch’s size. The Ranch is a very large, 6,000 acre property. Development of a phased project of this scale takes years, which is why County regulations allow for a 15 year build-out. Private facilities, such as the golf course, village, gym, lockers, swimming pool and equestrian center, are marketing amenities which will be constructed over time based upon contractual relationships between the Applicant and the buyers of lots. The timing of their construction would be an inappropriate condition of approval.

Staff finds this to be important because of the lack of interest / complacency the continued reiterations have created among review agencies who are tired of reviewing the same project (5 large binders) every few years just so the developer can float the “approvals along.” Staff feels the same is true for the neighborhood. Not only that, there has been concern that the farther out the project goes, so to any road improvements to CR 114 which may need immediate attention. Why should the County improve sections of CR 114 when the developer is required to make those improvements with their development? This question continues to perplex Staff.

Applicant’s Response

20. The paucity of responses from review agencies is more likely a result of their having nothing to say, than their lack of interest. This application proposes minimal changes within the agencies’ areas of authority. Most changes reduce impacts and, therefore, require no comment. The County has the obligation to maintain its roads with or without the project. If there is no project, there will be no developer funded improvements to CR 114, CR 115 and the intersection of CR 114 with SH 82, which currently suffer from deficiencies that were not caused or created by the project.

You will recall the dismay of residents in the area being very concerned about the existing condition of CR 114 from CMC up to the project and in the general area of the project on CR 114 and CR 115. They raised the issue that as long as the developer continues to push out their project and loose phasing plan, the required improvements also get pushed out meanwhile the road continues to deteriorate. The County’s position was that rather than put monies into the roads today only to have them redone in a few years was money wasted. In fact, that is what has happened. The County has chip-sealed the section from CMC to the intersection of CR 114 and 115 last summer at a cost of \$150,000.00 that has a life of 5 years. In theory, the existing phasing plan had these improvements starting in April 2007 and the proposed phasing plan has these improvements beginning in April 2008 if the amendment is approved. This is tax payer monies spent only to be torn up in two years. This needs to be fully explored by the Planning Commission and the BOCC.

Applicant’s Response

21. Please refer to response 20 above. In addition the updated Phasing Plan and estimated development schedule provided in the Supplement to the application provide a reasonable sequencing of the phasing of the infrastructure and residential units which assures that all lots within a final plat will be serviced. The development, marketing and sale of lots in the Project will occur over time during which market conditions will undoubtedly vary. Therefore, the range in dates included in the estimated development schedule allows for a certain level of market responsiveness that is both appropriate and necessary with a project of this size. Furthermore, the phasing of the improvements to CR 114 and CR 115 is consistent with the traffic burden that the Project will put on these roads as homes are built. While the County must continue to maintain CR 114 and 115 prior to the completion of the Applicant’s improvements, the County will also be responsible for the maintenance of these routes after the improvements have been made. Cars have very little impact on road deterioration. The greatest destructive impact on asphalt is transport truck traffic which will be at its highest volume during the early years of the Project. Improving CR 114 and 115 once transport truck traffic has subsided will lengthen the life of the road surface and reduce the County’s future maintenance costs.

Amendments to a PUD

§4.12.03 Standards and Requirements: All those provisions of the Plan authorized to be enforced by the County may be modified, removed or released by the County, subject to the following:

(1) No modification, removal or release of the provisions of the Plan by the County shall affect the rights of the residents, occupants and owners of the PUD to maintain and enforce those provisions at law or in equity; and

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(2) No substantial modifications, removal or release of the provisions of the Plan by the County shall be permitted except upon a finding by the County, following a public hearing called and held in accordance with the provisions of Section 24-67-104, C.R.S., that the preservation of the entire PUD does not affect in a substantially adverse manner either the enjoyment of land abutting upon or across a street from the PUD, or the public interest, and is not granted solely to confer a special benefit upon any person.

Staff Response

Staff finds the requested modification to the PUD specific to the elimination of the 75 AH units substantially adversely affects the public interest due primarily to the project's inability to offset / mitigate employee generation from 1) construction of the recreation / second home type residences, 2) operation and maintenance of these homes, and the employees needed for the project's amenities (golf course / restaurant / spa, etc.)

In Staff's view, the State of Colorado's average household size is 2.43 persons according to the US Census Bureau's "2004 American Community Survey." At full build-out, this project could contain as many as 1,402 residents which is larger than the Town of Parachute's 2004 population (County Housing Assessment 2006).

While the project is billed as a low density project, it will still be the largest development in Garfield County history. Even so, the developer requests eliminating its current requirement to provide affordable housing to off set the impacts this development will create regarding the jobs necessary to build, operate, and maintain this community. In Staff's view, the elimination of 75 "roof-tops" will substantially adversely affect the public interest. As a result of the revision below, Staff finds the proposal meets this standard.

Applicant's Response

22. To comply with the County requirements to amend a PUD, the Applicant proposes in its Supplement to construct the 75 Community Housing units in accordance with the currently approved PUD and to provide 24 additional rental units for project employees as provided above, particularly Responses 1 through 8.

III. RESPONSE TO RESOLUTION 2005-83 – PUD AMENDMENT

As you will remember, the last iteration of review by the County on this project was primarily an exercise to review and consolidate certain conditions of approval from a variety of Resolutions into one resolution that would contain all obligations for this development. The BOCC approved the request which resulted in a set of conditions for the PUD as well as a separate list of conditions for the Preliminary Plan. What follows are the Applicant's response to these existing conditions. The entire list is at the end of this memorandum for your review. What follows here are only the conditions that the Applicant wishes to specifically address or amend while still agreeing to comply with all the other conditions.

5.0 Access agreements for out parcels need to be included in any preliminary plan submittal and the proposed covenants need to be changed to address these agreements.

Staff Response

All accesses to out parcels are depicted on the B sheets of Exhibit 26.

7.0 That all of the proposed Development Phasing Schedule be modified to require the final platting of all phases within 15 years of the platting of the first phase and that the completion of construction periods may be less as required by the applicable subdivision improvements agreement.

Staff Response

The Phasing schedule in the Preliminary Plan application demonstrates compliance with this condition. See Exhibit 21 of Binder 4. Staff finds that the phasing plan actually contains a significant caveat that essentially states the following:

"Notwithstanding any dates to the contrary, the Final Plats for all lots in all phases must be approved no later than 15 years after the date of the approval of the Final Plat for Phase 1. Each phase must be developed sequentially in a manner to insure the installation of the appropriate infrastructure and other related improvements for each phase consistent with the requirements of the Garfield County Zoning Resolution and Subdivision Regulations."

Applicant's Response

23. Applicant's caveat does not derogate Applicant's obligation to comply with County Resolutions or Regulations in any way. The caveat actually assures compliance with the requirements of the Garfield County Zoning Resolution and Subdivision Regulations which provide that: i) final plats for all lots be approved within 15 years after the date of approval of the Phase 1 Final Plat; and ii) final plats must be sequenced in a manner which assures availability of infrastructure and other related improvements for all lots within each phase.

8.0 All trails and open space shall be included as part of phase I. All infrastructure and public utilities may be phased in accordance with the phasing plan set forth in Exhibit 21 of Binder 4.

Staff Response

The Applicant requests a change to this condition. The Applicant requests to amend this condition such that "Phase 1 will consist of the development of small marketing/ entry gate structures. As such the proposed Phase 1 uses will not benefit from the construction of trails and the additional platting of open space. Trails and open space parcels will be platted in accordance with the proposed phasing plan included in Exhibit 21 of Binder 4."

The requirement to include trails and open space in the first phase was debated heavily and subsequently required by the BOCC on the basis that the first resident to the last resident should be able to enjoy these amenities and so there weren't trails to nowhere and that the open space could be used at the beginning of the development. Staff continues to recommend the Applicant be bound by this condition as written.

Applicant's Response

24. Applicant requested a change in this condition for three reasons: 1) the creation of open space lots and trail easements which are not coterminous with Phase 1 or Phase 2 requires extraordinary engineering and survey efforts, expenses and costs which would otherwise not be applicable to the preparation and recordation of a final plat for Phase 1, which contains no residential parcels other than the existing Ranch House, or Phase 2, which is the first phase containing new residential lots; 2) recordation of open space

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parcels and trail easements which are not within the boundaries of a final plat for a phase would create undue economic and legal burdens over the remainder property on which final plats have not been recorded; and 3) since the internal trails and open space are for the use of the owners of property within the Project, no public benefit is served by requiring these dedications prior to the recordation of the final plat that included such dedications. The protections that the BOCC intended to provide for prospective buyers from these premature conveyances are already controlled by Colorado and Federal laws and disclosure requirement, not to mention the potential liability for misrepresentations. Under Colorado and Federal law, Applicant cannot legally represent to prospective buyers within any phase that Project facilities, including trails, will be constructed, unless Applicant either constructs or shows reasonable evidence that such facilities will be constructed by the date promised. Likewise, Applicant cannot legally represent to buyers within any phase that Project that open space will be created and made available, until and unless Applicant has dedicated such open space. Applicant requests that the trail easements and open space dedications be recorded with the final plats in which such open space parcels or trail easements is incorporated so long as the cumulative acreage of dedicated open space complies with the Garfield County open space requirements. For these reasons Applicant requests that this condition not be imposed upon the Project.

9.0 Based upon the representations of the applicant, accepting the provisions of the letter of Mr. John R. Schenk, dated September 12, 2000 (see attached Exhibit 'B'), the following conditions are imposed;

9.1 The Covenants, Codes, & Restrictions (CCRs) for the Village Center shall provide that the Chenoa (Spring Valley Ranch) Home Owners Association will be the governing authority with all appropriate enforcement powers for operation and control of the Village Center, including all commercial and residential areas, as well as open space.

Staff Response

The Applicant states that this condition no longer applies because the Village Center has been relocated to the center of the property and is no longer adjacent to the Berkley property. Staff does not understand the thinking behind their response and would ask for further clarification.

Applicant's Response

25. Applicant proposes to re-incorporate the 75 Community Housing units as provided in the current PUD. Therefore, Applicant will comply with provisions of this condition with respect to the Community Housing units, to wit: "all dwelling units and lots which protrude into the meadow area adjacent to the Lake Springs Ranch PUD should be relocated and contained within the area as shown on the August 3rd drawing provided by Spring Valley Development to Berkeley." However, the provisions of this condition which pertain to the regional park (proposed as open space), Commercial component of the Village Center (proposed away from the Berkeley's in a central location within the Project) and Church/Cemetery parcel (proposed as open space) are no longer applicable, as these uses and/or parcels are either not near the Berkeley's property or not included in the Application. Further, the governance and management of the Community Housing Program has not been determined. A homeowners association, which exclusively represents the interest of the residents in the Community Housing units, is the probable governing body. As neither the Berkeley's nor the owners within the Lake Springs Ranch PUD own property within the Community Housing district and, therefore, would not be subject to the CC&R's, their inclusion in the association would be inappropriate.

9.2 These restrictions, based upon the letter of Mr. John R. Schenk, (see Exhibit 'B' attached), shall be included in the restrictive covenants binding upon such lands and running to the benefit of the owners of the Chenoa (Spring Valley Ranch) PUD and the owners of the Lake Springs Ranch PUD and duly recorded of the Clerk and Recorder of Garfield County.

Staff Response

The Applicant states that this condition no longer applies because the Village Center has been relocated to the center of the property and is no longer adjacent to the Berkley property. Staff does not understand the thinking behind their response and would ask for further clarification.

Applicant's Response

26. Please see Response 25 above. Additionally, since the concerns of the Berkeley's and their Lake Springs PUD have been rendered moot by the relocation of the Commercial uses, the inclusion of the owners of the Lake Springs Ranch PUD as a party to CC&R's, which pertain solely to the 75 Community Housing units, is no longer necessary, nor would such inclusion be appropriate or acceptable to the future owners of the Community Housing units.

16.0 No short term rental (daily or weekly) of the Wilderness Cabins will be allowed.

Staff Response

The PUD plan has changed where the Applicant has eliminated the Wilderness cabins. The proposed cabin lots located near the village center will comply with this condition.

PRELIMINARY PLAN REVIEW

The following portion of this memorandum provides an analysis of the proposed Preliminary Plan. It is meant to serve as a review of the standards and criteria that may have not been adequately addressed in the Application. It has been formatted such that the standard is in bold italics followed by a Staff Response.

A. Soils / Site Geology

The Application contains a geologic / soils analysis prepared by CTL/Thompson, (Geologists and Geo-Technical Engineers) on behalf of the Applicant who have examined the entire property in order to identify known geologic hazards and suggest mitigation measures if necessary. As a result of their review, they state, "We discovered no geological or geotechnical constraints at Spring Valley Ranch PUD that would preclude development for the intended residential use. The subsoil conditions are, in general, favorable for the proposed development." There have been three separate reviews of the property by CTL/Thompson that continue to confirm their analysis and findings.

From these analyses the potential geologic hazards that have been identified fall into three categories:

- Potentially Unstable Slopes (PUS)
- Potential Debris / Mud Flow Hazard
- Potential Rockfall Hazard

The Applicant proposes to mitigate these hazards in the following manner:

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A. *Potentially Unstable Slopes*

The geologic investigation conducted by CTL/Thompson identified potentially unstable slopes as those areas with slopes steeper than 30% (Garfield County PUD Regulations-slopes over 40% should be avoided), which are not uncommon in the Roaring Fork Valley. From the standpoint of slope stability, where potentially unstable slopes might affect development, development will focus on enhancing or strengthening the slope stability where and when mitigation is necessary. Homeowners will be advised in the Design Guideline Documents that a detailed site specific geology/geotechnical investigation should be performed based on their specific home design and specific footprint location within the pre-determined building envelope. Homeowners are required to submit an engineer's Soils and Foundations Report prior to obtaining a building permit. CTL/Thompson believes there are no "unbuildable" lots and that any adverse geologic conditions on any lot can be mitigated. Common methods of enhancing slope stability that will be addressed in the final design for each future residence include:

1. Avoid or minimize the removal of the natural soils at the base of slopes that would remove materials supporting the natural slopes and therefore potentially reduce the stability of these slopes.
2. Avoid or minimize the placement of fills at the tops of unstable slopes that would add weight and therefore increase the downward driving force that could reduce the stability of the natural slopes
3. Improve site drainage to reduce water infiltration into the ground at potentially unstable slope areas
4. Where development will encroach on areas near stability/failure equilibrium, proactive mitigation such as slope retention (soil nails, tieback anchors, retaining walls) and/or subsurface drainage systems will be used to mitigate slope stability concerns.

All homeowners will be required to submit an Engineer's report and recommended mitigation measures to both the Design Review Board and Garfield County Building Department prior to being issued a building permit. The Engineer's recommended mitigation measures will be based upon the specific home design and specific location within the building envelope.

B. *Potential Debris / Mud Flow Hazard*

Debris or mud flow hazards have been identified on existing debris (alluvial) fans and in existing drainage channels. The degree of potential hazard due to debris or mud flows is directly related to the magnitude of the flood potential within each debris fan or drainage channel. The drainage report, prepared by Gamba & Associates, is contained in Appendix S. The drainage report provides calculations for the peak flows within each significant drainage channel generated by both the 25-year and the 100-year storm events. The magnitude of the potential debris flow within each potential hazard area is determined by applying a debris "bulking" factor to the peak flow calculations. Debris and mud-flow will be mitigated where necessary by constructing the following common mitigation measures:

1. Debris Detention Structures
2. Debris flow conveyance channels
3. Debris flow energy dissipation or impact / diversion structures

Any residential development within a debris or mud flow hazard area will be mitigated by the construction of either a debris flow detention structure or a diversion conveyance channel. Due to the relatively smaller magnitude of debris and mud flow events associated with this site, roads and utility infrastructure will require little or no debris flow mitigation. In those specific roadway and utility locations where mitigation of the debris flow is necessary, the debris flow hazard will be mitigated by one or more of the above described methods during each phase of construction.

C. *Potential Rockfall Hazard:*

According to the CTL / Thompson Geologic Evaluation report, the rate of overall degree of rockfall hazard is low to moderate, as is common throughout the Roaring Fork Valley. Rockfall hazard mitigation methods consist of the following:

1. Stabilization or removal of the rockfall source by rock bolting, grading, and scaling
2. Protection of the development improvements (residences, roadways, above ground utility structures) by construction of impact structures such as mechanically stabilized earth walls or catchment structures

Any residential development, roadways, or aboveground utility infrastructure within a rockfall hazard area will be mitigated by one or more of the methods described above in the normal course of geotechnical review prior to each phase of construction.

The report does recommend that an engineer's Soils and Foundations Report be obtained prior to obtaining a building permit. The Applicant states that the PUD has been designed to avoid most known geologic and geotechnical constraints, severe or unstable slopes and other geologic hazards. Where it was not possible to avoid, site specific mitigation measures could be employed that are typical and similar to conditions encountered elsewhere in the Roaring Fork Valley. Staff referred the Application to the Colorado Geologic Survey (CGS); however, no comments were received.

B. *Wildlife*

The Application contains an analysis prepared by Rocky Mountain Ecological Services Inc. of the wildlife using the property, habitat characteristics, and potential impacts by the proposed development. This analysis can be found in Binder 2, Appendix E. Some of the key findings include the following:

- 1) *T&E Species:* There are no federally threatened or endangered species listed under the Endangered Species Act known to occur or utilize habitats within the Spring Valley Ranch.
- 2) *Impacts to Mule Deer Habitat:*
 - i. Development of the Spring Valley Ranch will have minimal impacts to deer range around the mountain lots, but indirect effects of dogs, noxious weeds, and traffic would compound habitat losses. Impacts to deer range in the area of the golf course lots will have more significant direct losses of habitat through conversion to homes, landscaped yards, roads and golf course features. Because of the ability for deer to habituate to human activities, deer use in these areas will likely continue, but with decreased herd sizes and increased stress levels. Deer damage to landscaping and golf course features is almost guaranteed.
 - ii. Dogs will generally decrease habitat effectiveness, but if dogs were going to be allowed only in specific areas of the Ranch, then allowing dogs in the higher development density areas and not the mountain lots or meadow lots would be preferable as the lower home densities in the mountain and pasture lots would

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allow for more greater habitat effectiveness for mule deer, and controlling dogs in these areas would greatly benefit continued habitat effectiveness. Strict dog control policies and incorporation of a mitigation plan are recommended to minimize impacts and to possibly improve remaining habitats in the area of the Spring Valley Ranch development.

3) *Impacts to Elk: The property lies within the larger winter range habitats of Missouri Heights. Large elk herds are known to move throughout the Missouri Heights area during the winter months, taking advantage of different ranges during intermittent snowfall and snowmelt events. The Spring Valley Ranch is unique as it also provides elk calving range as well.*

i. *Winter Range Impacts*

➤ *The Spring Valley Ranch development layout in the mountain lot areas leaves quite a bit of potential elk winter range mostly intact on the steeper south facing slopes. Elk have been observed utilizing these slopes, and the light level of development on these slopes should not impair most elk use in these areas. Harassment by dogs and human activity though, would likely reduce the habitat effectiveness of these areas.*

➤ *The development of the higher density golf course lots and development of the lower benches to a relatively high homesite density would likely preclude most long-term and substantial elk foraging opportunities in these areas. However, the presence of the golf course in this area may encourage elk lingering in this area. This is because the application of fertilizers increases the nutritional quality of foraging in- and immediately adjacent to- golf course greens. This increased elk use of the golf course area may cause an “attractive nuisance” issue, where elk are drawn to the golf course area, and are then harassed or bothered by humans and dogs from the area. Because the golf course will be placed in elk winter range, elk damage to golf course greens and rough areas will likely occur. Elk migration and movement through this area would still likely occur, as the home densities would still allow areas where elk could pass through the area.*

➤ *The dense oakbrush provides screening that would allow elk, for the most part, to feel safe enough to pass through the subdivision. However, the proposed level of development of this area would exclude the existing elk lingering and foraging use patterns that currently occur. As winter progresses, elk will continue to filter through the property more quickly, and move to lower elevations in the Roaring Fork Valley.*

➤ *During construction, the increased traffic and noise from construction activities would likely frighten elk and preclude most of the elk use in these higher density areas. CDOW has had numerous incidences of contractors bringing dogs to work, only to let the dogs run loose and harass wildlife. Without significant supervision by Spring Valley Ranch staff, this could become an issue and have further negative impacts on elk.*

➤ *Approximately 1,700 acres of elk winter forage habitats will be negatively affected by the development. As stated above, this does not mean that some level of elk use would not continue, but rather, long-term elk foraging opportunities in this area would be diminished, and elk movements through this area would be modified and changed to avoid human activity as much as possible. Within this area, approximately 230 acres would be converted to a golf-course with surrounding vegetation. In these areas, elk may be attracted to these habitats for watering and grazing.*

➤ *Elk will likely move through the subdivision during the nighttime hours to graze in hay meadows and surrounding slopes, but will still likely graze on the steep slopes. During the daytime hours, elk will likely bed down in the denser areas of oakbrush as they traditionally have done, but only as long as dogs and people do not bother or approach the elk.*

➤ *Elk can become habituated to vehicle traffic, but people walking along trails or dogs-off-leash can quickly discourage elk from using an area. Because elk are very habitual, they will likely show up in the area during the early winter as they move out of the high country onto their traditional winter ranges.*

ii. *Production Range*

➤ *Production (calving) habitats exist on the Spring Valley Ranch for elk. These habitats are generally found along the higher elevations of the property, where aspen and coniferous vegetation are more prevalent. Although the mapped production area encompasses much of the steep, shrubby hillside areas, the highest elk production will be within and adjacent to aspen stands, springs, seeps and water bodies. This is because nursing cow elk require significant amounts of drinking water. Therefore, elk production areas as mapped are likely concentrated too much on the south facing shrubby slopes, and actual elk production areas are likely higher on the property, more towards the northern boarder and within the more forested habitats on the property.*

➤ *The proposed development of the mountain lots will have direct and indirect impacts to elk calving areas. These impacts will come from the direct conversion of suitable habitats to roads and homesites, as well as the indirect impacts from traffic, use of trails, and dogs within this area. For the most part, homes are clustered close to roads, minimizing indirect habitat loss, and are of a very low density. However, elk calving activities are extremely sensitive to human activities (Phillips and Alldredge 2000).*

➤ *Homes scattered within the mountain lots located within the forested habitats will likely preclude some elk calving. This is not to say that elk calving will cease, but homes that are consistently used and/or have dogs within/around the home during the calving season will decrease the ability for cow elk to feel safe enough to calve near a consistently-used residential home. This will cause cow elk to seek out areas further away from the development, and may put additional stressors on calving elk, and may increase some level of calf abandonment or decreased fecundity (Phillips and Alldredge 2000, Morgantini and Hudson 1980, Kuck et al. 1985).*

In order to mitigate some of the impact to Mule deer and Elk, this report suggests the following measures be adhere to in the development of this property:

A. *Lighting*

Because the area will likely receive use by mule deer and elk during the night, nighttime lighting of the property and excessive lighting of roads (beyond what is required for safe driving conditions) is not

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recommended in order to allow big game use of the area. Further, lighting of existing winter range beyond the building envelope areas is strongly discouraged (for instance; from bright backyard lights illuminating hay meadows or hillsides). Tall vegetation should be allowed or supplementally planted 10' off of roadsides in areas where headlights from vehicles illuminate winter range areas in order to minimize unintended "spotlighting" of foraging game at night. Determination of these areas would likely need to occur after the development is mostly complete.

B. Roads

Along the existing and new roads that would occur in this area, the following requirements should be followed:

- *Fences along the roads should not be allowed.*
- *Cut and/or fill slopes along the roads should be designed to facilitate wildlife movement; this includes using native plant materials that mimic local native vegetation species and distribution.*
- *Large or extensive retaining walls (defined as slopes greater than 70°) should be minimized, or if needed, retaining walls longer than 60' in length should have "steps" or other features to allow wildlife to cross the area if engineering allows such features.*

C. Trails

The following trail closures should be implemented and enforced by an HOA:

- *The Landis Creek trail and its extensions through the upper lot areas should be closed during the sensitive elk calving and raptor nesting season (May 1 through June 30).*
- *Trails outside of the core golf course area lots, along the "Middle Bench" should be closed during the sensitive deer and elk winter season (December 1 through March 31).*
- *Improved cart paths around the golf course and core residential development areas may be maintained year-round.*
- *Dogs must be on a leash year-round.*

D. Fences

In order to continue the effective use of the area by big game animals, fencing that would inhibit big game movement is strongly discouraged. Decorative fencing that is not designed to allow wildlife passage is strongly discouraged as well. Additionally, existing fencing that is not necessary for ranch operations should be removed as soon as possible. Fencing that is needed to keep pets and children adjacent to the houses are allowed (and encouraged) as well as to keep neighboring livestock from using the Spring Valley Ranch.

Any fences intended to keep pets or children adjacent to the homes are acceptable, other fences to delineate the subdivision should comply with the following specifications:

- *Fences should consist of two rails, with the upper rail 44 inches above the ground, and the top of the bottom rail 24 inches above the ground. This will allow adult animals to easily jump over fences, even in deep snow, and will allow calves and fawns to crawl under or pass through the rails.*
- *For barbed wire fences, middle wires can be smooth woven wire. The bottom wire should be at least 16" off the ground, 20" would be better, but this may be too high to keep cattle calves from crawling under.*
- *Buck and rail fences are practically impossible for big game species to cross, therefore buck and rail fences are strongly discouraged.*
- *Prior to construction, snow fencing or silt fencing shall be erected at the edge of the building envelopes to contain disturbance to native vegetation by indirect construction activities (i.e. trampling of vegetation by equipment, etc.).*

E. Landscaping & Revegetation

As the area is used as winter range (and critical winter range), reclamation of road cuts, infrastructure routes and open spaces will need to occur using similar native plant species and vegetation profiles. Revegetation should also occur as soon as possible, however planting in the spring after big game have left the area would be best as newly planted materials would likely be browsed first, and plants with little time to set roots will likely be pulled up by grazing big game.

Noxious weeds should be treated bi-annually in order to minimize their spread and impact on winter range and increase the success of revegetation activities. Revegetation along roadsides should not include trees and tall shrubs (such as chokecherry or Gambel's oak) within 10 feet of the road to improve visual detection of wildlife along roadsides and to minimize road kill. Local native grasses, forbs and low shrubs may be planted along roadsides to keep wildlife habitat conditions as viable as possible.

F. Domestic Dogs

Dogs can have a significant impact on wildlife and the ability for wildlife to effectively use otherwise available habitats. Dogs can chase and kill wildlife, or so exhaust and injure wildlife that wildlife dies later. Larger mammals such as deer and elk are especially vulnerable during the winter/early spring, when their energy reserves are depleted, food resources are most limited, and most of the adult females are pregnant. Young wildlife are also vulnerable to attack and harassment by dogs. Even if not chased by dogs, wildlife tends to avoid areas where dogs are kept outside, which has the effect of creating a barrier to wildlife movement and reducing the available habitat. Domestic dogs, unless they are seeing-eye dogs or assistance dogs for the disabled, should be prohibited outside of residential areas and never be allowed to run free.

As this area is a very important big game winter and summer range habitat, it is inevitable that dogs allowed outside of fenced yards, even under leash control, will escape control and chase and likely injure wildlife. To minimize the impacts of dogs on wildlife, the following recommendations are presented:

- *As required by Garfield County, dogs will be limited to one per dwelling unit (plus young up to 3 months old). This restriction should also apply to cats.*
- *Dogs should not be allowed outside of fenced yards during the winter months (November 15 through March 15), unless under leash control.*

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- Any fenced enclosures constructed for the overnight maintenance of dogs or cats must be within the building envelope.
- Loose dogs should be prohibited. This includes dogs owned by contractors, subcontractors, delivery personnel, home owners and their guests. Loose or uncontrolled dogs can have a significant impact to big game through direct and indirect mortality, increased stress, and displacement from preferred ranges. Control of dogs is vital when living within elk and deer range. In the past, CDOW has had numerous reports of dogs brought to construction sites by workers which chase and harass wildlife.
- Due to the location of this ranch within sensitive wildlife habitat areas, construction workers should not be allowed to bring dogs on site.
- Mountain lots should be considered for a year-round dog prohibition. This area provides large expanses of continuous wildlife habitats, and dogs could have impacts far beyond that of the impacts from roads and homes. Elk calve in this area from late May through late June, and dogs could cause calf abandonment, calf death, and dogs themselves could also be attacked by cow elk protecting calves.

Stray or loose dogs may be controlled by CDOW or Garfield County, which could include destruction of dogs chasing wildlife, as permitted by Colorado law. Under Colorado law, persons who are not in compliance with this dog policy will be responsible for any and all costs the CDOW or Garfield County may incur due to control of loose dogs on the property. If home owners knowingly permit illegal dog activity on the property, those persons will be financially responsible for costs of controlling dogs. CDOW and County representatives may be granted access to the property to enforce any of the dog restrictions and other wildlife restrictions set within these recommendations. CDOW enforcement may include the capture or destruction of any dogs running at large on the property, regardless of where the dogs may have originated. One possibility is of putting in a “dog park” on the property, away from the best big game habitats. This could assist with keeping dogs from running loose on the property, chasing wildlife, and otherwise harassing big game, or precluding habitat use through barking and “intimidation” of wildlife. This would also provide homeowners a place where dogs could run free and play without fear of harming wildlife or running off.

G. Domestic Cats

Domestic cats can have significant impacts on local breeding bird, small mammal, amphibian, and reptile populations in area habitats. Keeping cats indoors will protect a major component of the potential non-game wildlife use in the area.

H. CDOW Indemnification

As the property occurs within mule deer and elk winter ranges, there will be damage and use of the landscaping by foraging big game. The property owners should be informed of this and agree to indemnify CDOW from wildlife damage and not seek funding for game damage reimbursement from CDOW.

I. Bears

Black bears are very common in the area from spring (April) through fall (late November). There are existing problems with bears, garbage, and people in Garfield County and some bears have shown signs of habituation and aggression towards residents. Areas near the Spring Valley Ranch are considered to be “bear-human conflict areas” by CDOW. The Gambel’s oak, serviceberry and chokecherry stands on the property provide extensive black bear fall foraging areas. The proposed development of the area will convert areas of the property to non-habitat conditions. However, bear use of these areas will likely continue. With the residential and golf course setting, it is inevitable that garbage and food sources will become available to bears, and human/bear conflicts will likely occur. These conflicts, however, can be minimized by implementation of appropriate mitigation measures. The following measures should be implemented to reduce potential bear problems:

- There should be no dumps that have edible materials associated with the construction and post-construction activities. Construction workers and contractors should be notified and educated about the importance of keeping trash, food and drink items properly disposed of to discourage bear activities in the area.
- Residential garbage should be placed in bear-proof dumpsters, individual bear-proof trash containers, or kept in trash cans inside closed buildings. Trash cans should not be left outside overnight prior to trash collection, as bears quickly become habituated to these schedules.
- Because of the layout of the subdivision, there is an opportunity to install bear-proof centralized trash stations which will decrease the number and availability of trash cans for bears to rummage through.
- Pets should not be fed outside. Bowls of pet food left around buildings will attract bears and other predators (e.g. coyotes or red fox) and nuisance species (e.g. skunks, raccoon, woodrats) of wildlife.
- Birdfeeders and hummingbird feeders need to be brought in during the evenings, and removed altogether during the fall months (September through late November). Catchment basins should be used underneath bird feeders to catch seed. Bears are known to visit birdfeeding sites where seeds have accumulated on the ground.
- Nut, fruit, or berry producing trees or shrubs should not be used in landscaping in order to minimize an attractant for bears around homes and developed areas.
- Instead of lever-action door handles, round door knobs should be used, as bears can open lever-action door handles.
- Compost piles shall be forbidden.
- Homeowners should be educated about bears and other local wildlife via a homeowner’s brochure, such as that produced by the CDOW.

J. Birds

Many sensitive bird species utilize the area; therefore the following recommendations are presented:

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- *Pet cats should remain indoors, as cats will readily prey upon these species and can have a significant impact on bird use in the area and on bird populations.*
- *Bird feeders are discouraged due to the heavy black bear use in the area. Bird feeders can be used in the winter (from mid November through mid March), as bears are hibernating during this time.*
- *Prior to initiation of construction, a qualified biologist will be retained by Spring Valley Ranch to conduct a raptor nesting survey. If an active raptor nest is found during the survey, heavy construction (e.g. earth moving and exterior house construction, use of cranes, etc.) should be prohibited within a radius of either 300 feet (if nest is in a conifer) or 400 feet (if nest is in a cottonwood or an aspen) until the young have fledged or the nest naturally fails. The typical fledging date for the area would be around July 1.*
- *All bird feeders, including hummingbird feeders, should be hung away from any window or deck, be at least 10' from the ground, and be suspended between two trees or posts.*
- *Any seed feeders should have a seed catchment pan to catch discarded seed.*

K. *Golf Course & Open Space Management*

Spring Valley Ranch should consider incorporating the following:

- *All persons within the Spring Valley Ranch development should be prohibited from chasing, scaring, frightening, disturbing, or otherwise harassing wildlife as part of effort to force wildlife off golf courses, open space areas, or conservation easement areas on the Ranch.*
- *Golf course staff will have the right to locally restrict wildlife from golf course tees, greens, landscaping clumps, and other sensitive areas by using temporary fencing and other passive means. Any fencing erected will not restrict free movement of wildlife but will be used only in small, isolated areas to help direct wildlife and/or people.*
- *A Best Management Plan for the golf course will be implemented to apply the proper procedures for the application of fertilizers, herbicides, insecticides and any other chemicals. Drainage has been designed to ensure that water quality measures are in place to prevent adverse impacts to streams, riparian corridors, ponds, wetlands or other sensitive areas.*

Based on this exhaustive list of suggested recommendations, Staff is unclear as to how the Applicant has addressed these comments and incorporated them into the development plan.

Applicant's Response

27. The recommendations in the Wildlife Report will be incorporated into the CC&Rs for the Project. Specific CC&R provisions that incorporate these recommendations are included in the Summary of CC&R Provisions in Binder 3, Appendix 1.

C. *Domestic Water Supply*

The Applicant proposes to construct a central water supply system to provide potable and fire protection water to all lots within the entire development. The water will come from wells drilled on the property as well as from existing reservoirs and surface water for irrigation purposes. Physically, this system is generally comprised of a 12-inch distribution line located primarily in the road right-of-ways. Due to elevation gain / loss, some areas would be required to have booster pumps to maintain water pressure particularly for fire protection at the hydrant. The system will include two water storage tanks: a 1-million gallon water tank in the Landis Creek Canyon serving the middle bench and a 500,000 gallon tank to serve the upper Mountain Lots. The Application contains extensive information regarding the legal water supply. A report found in Appendix C of Binder 2 states the following:

The water supply will be obtained from existing and proposed wells and springs located on the SVR property, and from surface water under senior decreed irrigation water rights in Landis Creek. Extensive engineering investigations confirm that surface and groundwater resources are physically available for the development, and that well diversions will not have a long term negative impact on the water balance of the Spring Valley aquifer.

The water supply for the development is authorized by Water Court decrees approving water rights, changes of water rights and two plans for augmentation. These existing decrees provide a legally adequate water supply for the entire residential development, commercial uses, golf course, and related potable and agricultural open space irrigation, as shown in the project plans. Augmentation water necessary to offset any out-of-priority depletions under the augmentation plans will be provided pursuant to contracts with the Basalt Water Conservancy District. Irrigation of the golf course and agricultural open space will occur under senior water rights, and will be supplemented by groundwater as necessary.

Ultimately, this report in the Application states the following conclusions:

- A. *On behalf of Garfield County, in 2000 Colorado River Engineering, Inc. reviewed the water supply for the Spring Valley Ranch. Exhibit S. This report concludes that "[o]ur review of available data and reports has indicated that the proposed water supply plan can provide a reliable water supply given the PUD water demand levels, available water rights, and physical supplies available from surface and groundwater sources."*
- B. *Also in 2000, the Colorado State Engineer reviewed the physical and legal water supply for the project and concluded that "the proposed water supply can be provided without causing material injury to decreed water rights and is adequate so long as: (1) the claimed water rights are dedicated to the project, and (2) the plan for augmentation is operated according to its decreed terms and conditions." Exhibit T.*
- C. *The water requirements for the Spring Valley Ranch PUD are less than the water requirements of the PUD as currently approved and as reviewed by the County and the State in 2000. The projected consumptive use associated with the current development plan for the Spring Valley Ranch PUD (not including agricultural irrigation in the Lower Meadow) is 545 acre-feet per year, as compared with 974 acre-feet per year under the currently approved plan that was analyzed in 2000. With the elimination of a golf course, the development is able to support continued irrigation of the valley floor. This irrigation component allows a "buffer" of water supply that can be used, or reduced, depending on climatic conditions and project water demand, to assure the continued sustainability of the aquifer, and a dependable water supply for the*

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development. Therefore, a physically sufficient water supply, sustainable over the foreseeable future, exists to support the proposed residential and commercial development of the Spring Valley Ranch PUD.

- D. This conclusion is supported by extensive geological and hydrological investigation. In addition, all of the required water rights are owned by Spring Valley Holdings, and augmentation plans have been approved and decreed by the Water Court. These augmentation plans provide for a full legal water supply to the development while assuring that no injury is caused to any other water rights.*

The entity that will own and operate the system will be the Landis Creek Metropolitan Districts Nos. 1 and 2. A copy of the approved Service Plan is contained in Binder #1, Section 6.0. At the outset, the Application states that the Applicant “will provide construction funding through its development and construction funding sources and in accordance with the Subdivision Improvement Agreement that will be executed by the Applicant and Garfield County at the applicable Final Plat Approval. As explained in the Service Plan, “The Service District will be responsible for, or contracting for, managing the construction and operation of facilities and improvements needed for the PUD.” The Service Plan also provides that the Landis Creek Metropolitan District No. 2 as the Service District will initially own and operate certain public facilities and infrastructure throughout the PUD. Landis Creek Metropolitan District No. 1, as the Financing District, will generate the tax revenue sufficient to pay the costs of the capital improvements as described herein and associated operations and maintenance.”

Staff referred this Application to the Colorado Division of Water Resources to be reviewed by the State Engineer. As of the drafting of this memorandum, no formal comments were received; however, the State Engineer did indicate they requested additional information from the Applicant which was not provided to date. As a result, the State Engineer verbally opined this development (as currently proposed) would result in material injury to decree water rights. As the Planning Commission is aware, Staff cannot recommend a project move forward without a Letter of No Material Injury” form the State Engineer as water is one of the most critical components to the project.

Applicant’s Response

28. As stated in the application, both the State and the County engineers previously found the physical and legal water supply to be adequate. No change has been made to the legal water supply, as none is required. As also stated in the application, the water requirements for the amended plan are substantially less than the currently approved plan. Therefore, there is no reason to expect that the agency recommendation should be any different. Applicant will work with the State to answer any questions.

D. Waste Disposal

The Application proposes to handle waste water generated from the development in two ways: a central collection / treatment system provided by Spring Valley Sanitation District and Individual Sewage Treatment Systems (ISTS).

More specifically, the Application proposes to serve the following lots with a central system that will be located in the road right-of-ways:

- Residential/Pasture District (except Lot P23 – the existing ranch house),
- Residential/Ranch District
- Residential/Estate District
- Residential/Cabin District
- Village/Commercial District
- Light Industrial District
- Open Space/Golf District

The Applicant proposes that sewage disposal for the Residential/Mountain District and Lot P23 of the Residential/Pasture District will be provided by Advanced Treatment (ISTS) systems. In this case, Design Guidelines will require that each ISTS be designed by a registered engineer on the basis of a site-specific geological and geotechnical site evaluation. The designs must be approved by the engineer for the Landis Creek Metropolitan District, as well as Garfield County. Landis Creek Metropolitan District for the operation, maintenance and monitoring of the system after the Advanced Treatment ISTS is constructed.

The central sewer collection and treatment will be provided by the Spring Valley Sanitation District as the property has been annexed into the district and the facility has been constructed and is fully operational to handle an average daily flow of approximately 500,000 gallons per day and currently operates at 40,000 gallons / day. The Applicant estimates that the maximum hydraulic loading on the wastewater treatment plant from the project at full development and occupancy will be approximately 234,045 gallons per day (46.8% of capacity).

Staff referred the Application to the District and received the following comments:

1. *The Spring Valley Sanitation District (SVSD) will provide wastewater treatment services to this proposed P.U.D. This review is limited to those issues associated with wastewater collection, transmission and treatment of the areas of the project proposed to be sewered. This project was reviewed previously by SVSD several years ago. It is our understanding that the site layout from a wastewater collection perspective has changed significantly since then.*
2. *This review is limited to a preliminary plan level of detail and is intended to review intent and adequacy of the overall design proposed. At the Final Plat stage, a review of engineering details will be provided.*
3. *All facilities constructed must meet the rules and regulations of SVSD.*
4. *At 200 scale, these drawings are very difficult to review from an intent standpoint.*
5. *The District Rules and Regulations require 50 scale drawings at Preliminary Plan stage.*
6. *It is difficult to go between the overall sheets and the plan and profile sheets. Provide a key map on each overall sheet.*
7. *It is difficult to follow from one plan and profile sheet to another. Provide match lines on plan and profile sheets.*
8. *The force main and pressure sewer system designations are not consistent between overall sheets and plan and profile sheets.*

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9. *In prior agreements, Spring Valley Ranch (SVR) has been designated for 646 EQR's. Based on the districts standard design of 350 gpd per EQR, this equates to 226,100 gpd. The report indicates an anticipated flow-rate of 234,045 gpd, equivalent to 669 EQR's. Explain calculated flow rate.*
10. *The rules and regulations require a Design Report as a basis for EQR determination. No report is included in the submittal package. Applicant should submit such a report as the basis for both EQR's and the wastewater contribution calculations.*
11. *SVSD Rules and Regulations require that a Design Report accompany the Preliminary Plan drawings as a basis for the design of infrastructure facilities. No such report was included in the application materials.*
12. *Gravity sewer lines were sized, but there was no basis provided for the sizing.*
13. *There were two lift stations indicated on the drawings. The detail drawings provided for the lift stations were generic with no detail. There was no basis provided for sizing.*
14. *There was no sizing provided for or a basis of sizing for force mains from lift stations. The only representation found was on the generic detail for a 4" force main.*
15. *There are a number of multiple user pressure sewer systems proposed in this system with the intent to transfer ownership to SVSD at completion.*
16. *The only currently approved supplier of pressure sewer systems in the district is E-One. While the district may consider other suppliers, it was unclear from the drawings who the proposed manufacturer would be for the systems.*
17. *There was no design report as a basis for sizing of the individual force mains. If SVSD were to assume ownership of the mains after completion and construction, then an integrated design for each system is required.*
18. *The design slopes were based on a center of manhole dimensions, whereas the invert elevations used were at the edges of the manhole. Actual line slopes of sewers would therefore be different than shown on the drawings. Please clarify.*
19. *There appear to be a number of areas where steep slopes transition to flat slopes in manholes, possible creating an energy dissipation requirement. Please clarify.*
20. *SVSD requires that facilities be located within roadway corridors for ease of future operation and maintenance activities. Exceptions may be considered upon a case by case basis. Generally, there are significant portions of this system which are not located within roadway corridors.*
21. *It generally appeared that 30' easements were proposed for sewer lines outside roadway corridors. Confirm intent.*
22. *If sewer lines outside roadway corridors are approved, it will be necessary to show adequate access to all off-road lines and manholes. Such access was not indicated on the drawings, noting there were many sewer runs which were either steep or with significant side slopes which would likely prevent the access to maintenance equipment. Graded access would be required along all easements.*
23. *A water/sewer crossing detail was not found.*
24. *There appeared to be some sewer runs which exceeded the district's limitation of 400'.*
25. *The detail for gravity sewer lines did not include an allowance for bedding beneath the pipe.*
26. *Trench details for force mains and pressure sewer lines were not included.*
27. *There was no drawing which showed water and sewer mains on the same page. It was not possible to determine if there were any conflicts between the two utilities.*
28. *Show all water line and storm sewer/ culvert crossings on profiles.*
29. *Show conflicts between deep utility systems which will require additional facilities in the field.*

Staff regrets that as of the drafting of this memorandum, there are no comments to provide from a County Engineering review.

Applicant's Response

29. Prior to commencing construction of any component of the sewage collection system, Applicant will meet all regulations and conditions of the Spring Valley Sanitation District.

E. Internal Roads

The Application proposes a private internal road network throughout the entire PUD with two main access points that connect to the County's road system. Generally, the road network is a large looped road system that meanders through the middle bench area and through the mountain lot area where one could access one side of the development to the other using three distinct routes.

In a traditional subdivision, because the trips generated from this development are approximately 3,915 ADT, the road system would be required to be built to the Major Collector standard (trips above 2,500) which requires 80-foot ROW. In this case, the Applicant is proposing a lesser design defined as "Collectors" and "Minor Roads" with 60 and 50 foot ROWs respectively with asphalt or concrete surfaces. See the following page that shows the general breakdown of the road design.

As the matrix shows, there are also 40 cul-de-sacs designed throughout the road system. The County can, by virtue of the PUD, approve modifications to the subdivision standards. As you are aware, the cul-de-sac regulations cap lengths at 600 linear feet in order to encourage designs that provide alternate methods of egress / access in the event of a natural disaster / wildfire so that residents are not trapped in an area. This development has 40 cul-de-sacs that are well beyond 600 linear feet. In these cases, Staff relies on the emergency service providers (primarily Fire District and Sheriff) to provide opinions on the road systems. The Glenwood Fire Protection District reviewed the road system and provided the following comment:

The County Sheriff reviewed the proposal and provided the following comment:

Staff regrets, as of the drafting of this memorandum, there are no County engineering review comments to provide on the revised road network from an engineering perspective. Staff does understand the Applicant's intent to reduce the road network footprint regarding cur and fill disturbance.

Applicant's Response

30. The earthwork calculations for all roads in the proposed plan result in the following quantities: cut of 706,820 cubic yards and fill of 308,733 cubic yards. The earthwork calculations for all roads in the approved development plan result in the following quantities: cut of 1,057,744 cubic yards and fill of

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471,960 Cubic Yards. The proposed plan provides for a 33% reduction in cut quantities and a 34% reduction in fill quantities when compared to the approved plan and, therefore, requires far less disturbance and adverse environmental impact.

F. Off-site Traffic Impacts

The Application contains a Traffic Impact Analysis (TIS) prepared by Felsburg, Holt & Ullevig prepared for the Applicant that provides an analysis of the traffic generated from this development and its impact to the County and State road system in the general area of the project. The analysis concluded that (as a full-time residential development) the project would generate 3,915 daily trips.

The report concluded the following findings and recommendations:

1. *The primary access to the development will be CR 114. Several improvements are recommended to this road east of its intersection with SH 82. The two travel lanes will be widened to 12 feet each with four-foot shoulders on each side. The unpaved portion of CR 114 approaching Spring Valley Ranch as well as CR 115 within the development will be paved with improved shoulders. Analysis of the long range future peak hour volumes results in a volume/capacity of 0.48 for CR 114 indicative of LOS E.*
2. *In the short range future the following improvements are needed at the intersection of SH 82 and CR 114:*
 - i. *Add a westbound to northbound right acceleration lane to separate right turning vehicles from the other movements at this intersection. With this improvement the intersection is projected to operate at level of service B during the morning peak hour and LOS C during the evening peak hour.*
3. *The following improvements should be made near the intersection of CR 114 and the frontage road in the short range future:*
 - i. *Add a second westbound lane approaching the frontage road and SH 82;*
 - ii. *Add a second lane for northbound traffic on the frontage road approaching CR114; and*
 - iii. *Signs requiring motorists to not block the frontage road intersection should be added to the north, east, and south legs. With these improvements, all turning movements at this intersection will operate at LOS D or better during the peak hours.*
4. *In the long range future, the following improvements are needed at the intersection of SH 82 and CR 114:*
 - i. *Add a second left turn lane on SH 82 to the southbound approach to CR 114. This will require adding a second receiving lane on CR 114 to the west of the frontage road. With this improvement, this intersection is anticipated to operate at LOS B during the AM peak hour and LOS D during the PM peak hour, given the long range traffic forecasts for both second home community and full time community.*
5. *The following improvement should be made to the intersection of CR 114 and the frontage road in the long range future:*
 - i. *Add a second lane in the eastbound direction, east of the intersection to accommodate the additional receiving lane required to accommodate the dual southbound left turns at the intersection of SH 82 and CR 114. With this improvement, unsignalized movements at this intersection will operate at LOS E or better during the peak hours.*

As you may recall, the presently approved Preliminary Plan (Resolution 2005-84) requires the following conditions of approval regarding off-site road impacts to CR 115 and 114 as well as the intersection of CH 82 and CR 114:

- 3.0 ***The applicant shall make application the Colorado Department of Transportation, pursuant to Section 2.3(12)(b) of the State Highway Access Code, for a permit for the reconstruction of an existing access at the intersection of CR 114 and State Highway 82. Such application and approved permits shall be tendered as a part of the approved phasing plan and shall be included with the applicable final plat document, specifically the subdivision improvements agreement that includes security for the intersection improvements.***
- 4.0 ***The Applicant shall make the improvements to County Roads 114 and 115 as proposed in the application, at their own expense, regardless of cost, and consistent with the phasing of the improvements proposed in the application.***

The Applicant continues to commit to these conditions with this revised Preliminary Plan. You may also recall the current Preliminary Plan approvals include provisions / conditions for the possibility of the relocation of a portion of CR 114 as it enters the project through Lake Springs Ranch PUD. This possible realignment is shown on the right. The Applicant continues to commit to the conditions of the realignment; however, they request that the improvement occur in Phase II rather than Phase I as currently required.

Applicant's Response

31. Phase 1 of the currently approved Preliminary Plan contains 50 residential units and certain common facilities. Phase 2 of the Application is more or less the equivalent to Phase 1 of the existing Preliminary Plan. Therefore, Applicant proposes to comply with these conditions in Phase 2. Phase 1 of the Application contains only the project's entrance, Information/Sales office and Lot P23 (the existing Spring Valley Ranch House). It does not include any other residential units and, therefore, will have virtually no impact on traffic on SH 82, CR 114 or CR 115.

G. Fire Protection

The property is not located in a fire protection district but has entered into a contract with Glenwood Springs Fire Protection District for EMS and fire protection services since 2000. Basically, this agreement requires the Applicant to construct a fire station on the property, pay for fire fighting equipment, provide Staff, and make a payment to the District every year. This documentation can be found in Binder 1, Section 11. It is unclear when Applicant is to construct and staff the fire station.

The Application also contains a wildland fire report prepared by Anchor Point Group which specializes in Fire Management. The report was produced in order to provide an evaluation of the wildfire threats on the property and provide adequate mitigation for those threats. Their report stated that their goals were to

- A. *Reduce the risk of catastrophic wildfire;*

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- B. *Provide development options for the mitigation of wildfire, ensure compliance with local fire district code requirements;*
- C. *Develop an integrated management approach that encompasses all natural communities represented at Spring Valley Ranch; and*
- D. *Provide a tool to help residents of Spring Valley Ranch understand the complexity of the ecosystem and more effectively protect their property from potential wildfire.*

The report concluded that *vegetation management is needed throughout the upper montane zone of the western slope of the Colorado Rocky Mountains to return forests and rangelands to an ecologically sustainable condition and to reduce the potential for catastrophic wildfire and insect epidemics.*

Vegetative conditions at the Spring Valley Ranch property are significantly divergent from their historic norm. A comprehensive evaluation of wildfire hazard within Spring Valley Ranch was conducted; findings should be integrated into the overall restoration prescriptions being developed for the property. Project-wide vegetation restoration treatments include the maintenance of meadows, strategic fuel breaks to reduce vegetation density primarily through selective cutting to remove undesirable species and retention of mature healthy plants, and implementation of prescribed burning where feasible.

Other recommended actions include the utilization of ignition resistant construction for all homes built in the development, in combination with individual defensible space. Glenwood Springs Fire Department is the authority having jurisdiction and dictates water supply requirements. Other infrastructure recommendations are proposed to meet adopted code compliance.

Regarding the Preliminary Plan requirements, the following standards apply:

9:71 Subdivision fire protection plans shall be reviewed by the appropriate fire protection district to ensure that all lots have primary and secondary access points to escape fire entrapment.

Staff Response

The Applicant has had the Glenwood Springs Fire Chief review the internal road system as well as by Lou Vallario, Sheriff of Garfield County, who has responsibility for wildfire protection. Chief Piper and Sheriff Vallario both conclude that the Spring Valley Ranch PUD meets this requirement. Letters from both Mike Piper and Lou Vallario regarding the proposed road system and road design standards are included in Appendix M.

9:72 Where a central water system has fire hydrants, all fire hydrants shall meet the specifications for the appropriate fire protection agency, particularly with regard to thread size on the fire hydrants.

Staff Response

The Applicant states that all fire hydrants installed will be in accordance with the fire hydrant specifications of the Glenwood Springs Fire Department, the Authority Having Jurisdiction (AHJ).

9:73 Where there is no central water system available, a centrally located fire protection storage tank shall be designed to meet the fire protection needs of the subdivision and be approved by the appropriate fire district.

Staff Response

The proposed water system includes the construction of a 1,000,000-gallon water storage tank and a 500,000-gallon storage tank. The Applicant states that these proposed water storage tanks will meet or exceed the fire protection standards of the “Authority Having Jurisdiction”

Applicant’s Response

32. A letter from Mike Piper, the Fire Chief of the Glenwood Springs Fire Protection District, is included in the supplement to the preliminary plan application. Chief Piper states that the proposed on-site water storage meets or exceeds the water storage requirements of the International Fire Code and the Glenwood Springs Fire Protection District.

9:74 Water used for fire protection purposes does not have to be potable water and may be from a source separate from the domestic supply.

Staff Response

In addition to the proposed water storage tanks, four existing or proposed irrigation system reservoirs will be made available to the fire district via the installation of dry hydrants.

H. Drainage

The Application contains a drainage analysis prepared by Gamba & Associates and is contained in Appendix S. The analysis points out that the majority of the property is tributary to the Roaring Fork River basin via Red Canyon Creek and Cattle Creek. A small portion of the property along the northern boundary is tributary to the Colorado River through Glenwood Canyon. The report ultimately concludes that “these hydrologic calculations demonstrate that the post-development peak rates of runoff for the 100-year storm event can be mitigated to levels below the pre-development conditions for the Spring Valley Ranch PUD by constructing the storm water mitigation measures as proposed herein.”

More specifically, the analysis in the Application contains the calculations for the sizing of storm water detention structures that have been designed to adequately mitigate the increased post-development peak rate of runoff to levels equal to or less than the historic peak rates of runoff for the 100-year storm event. Moreover, the analysis states that “all areas subject to inundation are within either a drainage easement or a drainage structure within a road right-of-way. The location and size of proposed culverts bridges, ditches and channels is provided in Appendix S and the Drainage System section (D Sheets) of Binder 4, Exhibit 26.”

Staff regrets, at the time of the drafting of this memorandum, Staff cannot provide any review opinion of the County contract engineer as to the adequacy of the design with regard to the County’s regulations.

33. Following the review of the drainage analysis by the County’s consulting engineers, Applicant will respond to any of questions or concerns regarding the compliance of the drainage system’s design with County regulations.

I. Noxious Weed Management / Revegetation

The County Vegetation Manager provided the following points of concern with the proposal:

- *Inventory and mapping-The applicant lists noxious weeds found on the property, however this information is not represented on a map, staff requests that the applicant provide a map of the*

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project area with the Garfield County listed noxious weeds, and the State of Colorado listed noxious weed, Absinth wormwood (*Artemisia absinthium*).

- *Weed management-The Weed Management Plan is incorporated into the attachment entitled “Best Management Practices.” The recommended herbicides, glyphosate and 2-4,D will have minimal results on most noxious weeds.*
- *Revegetation and soils-The applicant has addressed revegetation and soil concerns.*
- *Revegetation security-The applicant has not quantified the addresses surface area to be disturbed by new roads and utilities. Please provide this information so a revegetation security may be determined.*

The security shall be held by Garfield County until vegetation has been successfully reestablished according to the Garfield County Weed Management Plan Reclamation Standards.

- *The globally rare plant, Harrington’s penstemon (*Penstemon harringtonii*) may be present in the project area. Staff requests that the applicant contact a qualified plant ecologist or botanist to conduct field surveys to determine if Harrington’s penstemon is located on the property. If present, the locations shall be identified in general terms as they pertain to building envelopes. In addition, an acknowledgement and reference to Harrington’s penstemon in the covenants may help increase awareness of this plant and to alert property owners of its significance.*
- *This plant is ranked globally as a G3 and statewide as an S3 by the Colorado Natural Heritage Program (CNHP). This means that the plant, according to CNHP is “vulnerable through its range or found locally in a restricted range (21 to 100 occurrences). This plant is found exclusively in Colorado and is known from 74 occurrences in Eagle, Garfield, Grand, Pitkin, Routt, and Summit counties and is found primarily in dry, sagebrush-dominated communities between 6,400 and 9,400 ft. (1,951 and 2,865 m) elevation. USDA Forest Service Region 2 has designated *P. harringtonii* a sensitive species; it is also included on the Bureau of Land Management Colorado State Sensitive Species List. It is not listed as threatened or endangered under the Federal Endangered Species Act, nor is it currently a candidate for listing.*

J. Minerals / Separated Estate

It was unclear from the documentation if the owner of the surface of the project also owns the minerals underneath. This needs to be clarified.

Applicant’s Response

34. As shown on the title commitment, Appendix N, there are no separate mineral interests other than federal patent reservations.

K. Required Development Fees

The Applicant is responsible for either providing a School Site Land Dedication or fees in lieu of those lands to be calculated at the time of final plat.

Applicant Responses to Resolution 2005 – 84 (Preliminary plan)

As you will remember, the last iteration of review by the County on this project was primarily an exercise to review and consolidate certain conditions of approval from a variety of Resolutions into one resolution that would contain all obligations for this development. The BOCC approved the request which resulted in a set of conditions for the PUD as well as a separate list of conditions for the Preliminary Plan. What follows are the Applicant’s response to these existing conditions. The entire list is at the end of this memorandum for your review. What follows here are only the conditions that the Applicant wishes to specifically address or amend while still agreeing to comply with all the other conditions.

5.0 The alignment of CR 114 is contingent upon application by Lake Springs Ranch for the realignment of CR 114 thru the Lake Springs Ranch and approval of such application by the County. The following conditions of approval shall apply only if Lake Springs Ranch obtains approval for the realignment of CR 114. Otherwise, the current conditions of approval related to CR 114 in its existing alignment shall apply, the applicant shall not show the realigned road on its final plat, and the preliminary plan shall be automatically and without further action amended to delete the realigned road and the following conditions of approval:

Staff Response

The Applicant requests that “in the event that Lake Springs Ranch obtains approval for the realignment of CR 114 in accordance with condition 5.09 (below) the applicant will comply with this condition.”

5.01 Because the proposed realignment of CR 114 will travel through Lake Springs Ranch, the Applicant shall obtain a right-of-way for CR 114 from the owners of the affected property prior to any approval of a final plat which right-of-way shall be dedicated to Garfield County. This shall be shown on all final plat documents as appropriate.

Staff Response

The Applicant requests that “in the event that Lake Springs Ranch obtains approval for the realignment of CR 114 in accordance with condition 5.09 (below) the applicant will comply with this condition.”

5.02 If the proposed realignment of CR 114 is approved for both Spring Valley Ranch and Lake Springs Ranch, prior to construction of the realigned CR 114, the owners for Spring Valley Ranch shall submit a Road Vacation Application, executed by the owners of both Spring Valley Ranch and Lake Springs Ranch under the County Road Vacation Policies.

Staff Response

The Applicant requests that “in the event that Lake Springs Ranch obtains approval for the realignment of CR 114 in accordance with condition 5.09 (below) the applicant will comply with this condition.”

5.03 Because Spring Valley Sanitation District has made certain real improvements that are located within CR 114 as it is currently located, the Applicant shall enter into an agreement with Spring Valley Sanitation District regarding the improvements that have been installed within the existing CR 114 alignment so that there will be no disruptions to service a provided by the District and that costs for relocation of certain improvement, if necessary, shall be addressed in the agreement. This signed agreement shall be provided to Staff at time of the final plat.

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The Applicant requests that “in the event that Lake Springs Ranch obtains approval for the realignment of CR 114 in accordance with condition 5.09 (below) the applicant will comply with this condition.”

5.04 Because the majority of the proposed realignment of CR 114 lies within the boundaries of the Lake Springs Ranch property, any approval for the realignment of CR 114 for Spring Valley Ranch shall not be considered approved unless a similar approval is obtained by Lake Springs Ranch.

Staff Response

The Applicant requests that “in the event that Lake Springs Ranch obtains approval for the realignment of CR 114 in accordance with condition 5.09 (below) the applicant will comply with this condition.”

5.05 Spring Valley Ranch, in the design and reconstruction of CR 114, shall comply with the standards and criteria included in resolution 2002-109 as those conditions relate to shoulder width (6 feet), surfacing and ditch design.

Staff Response

The Applicant requests that “in the event that Lake Springs Ranch obtains approval for the realignment of CR 114 in accordance with condition 5.09 (below) the applicant will comply with this condition.”

5.06 Prior to approval of a new alignment for CR 114, Spring Valley Ranch shall submit a plan for the intended use of the old CR 114 Right-of –way. Such plan shall be approved by the owners of Lake Springs Ranch and provide for proportionate cost sharing. If the plan proposes to leave the old CR 114 right-of-way as is for a period of at least one year, the owners of Spring Valley Ranch shall provide a weed management plan for that Right-of-way. If the plan for the new CR 114 Right-of-way requires reclamation, the owners of Spring Valley Ranch shall submit 1) a plant material list, 2) a planting schedule, 3) an estimate in terms of acres or square feet of the area to be reclaimed, and 4) a re-vegetation bond or security before final BOCC approval.

Staff Response

The Applicant requests that “in the event that Lake Springs Ranch obtains approval for the realignment of CR 114 in accordance with condition 5.09 (below) the applicant will comply with this condition.”

5.07 The revegetation security provided to Garfield County shall be held by Garfield County until vegetation has been successfully reestablished according to the Reclamation Standards in the Garfield County Weed Management Plan. The Board of County Commissioners will designate a member of their staff to evaluate the reclamation prior to the release of the security.

Staff Response

The Applicant requests that “in the event that Lake Springs Ranch obtains approval for the realignment of CR 114 in accordance with condition 5.09 (below) the applicant will comply with this condition.”

5.08 The Reclamation Plan anticipated in condition 5.07 above shall include 1) a plant material list (to conform with the surrounding native vegetation), 2) a planting schedule, 3) a map of the areas impacted by soil disturbances (road cuts) and an estimate of surface area disturbed, and 4) a revegetation bond or security as part of the relevant subdivision improvements agreements.

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Staff Response

The Applicant requests that “in the event that Lake Springs Ranch obtains approval for the realignment of CR 114 in accordance with condition 5.09 (below) the applicant will comply with this condition.”

5.09 The Subdivision Improvements Agreement (SIA) for Phase 1 of Spring Valley Ranch PUD shall provide that the Phase I improvements to CR 114 need not be commenced until 2 years after the date of the SIA for Phase 1, or the approval of the application by the Lake Springs Ranch developers to realign CR 114. In the event the end of said 2-year period falls between October 1 – March 31, the Applicant may commence construction as soon as practicable when weather conditions permit. Security for the Phase 1 improvements to CR 114 shall be in place at the same time as other improvements set forth in the improvements agreement for Phase 1. The phasing schedule set forth in Exhibit 21 of Binder 4 is hereby amended to provide for the potential construction of Phase 1 improvements to CR 114 in accordance with this Condition 5.0.

Staff Response

Phase 1 in Applicant’s proposed amendment to the approved Spring Valley Ranch Preliminary Plan and PUD consists solely of security and administrative building(s) and open space, which will have very limited impact on CR 114 traffic levels. Residential and commercial uses begin in Phase 2. Consequently, Applicant proposes to include improvements to CR 114 in the Subdivision Improvements Agreement (SIA) for Phase 2. Improvements to CR 114 will be made, but need not be commenced, until 2 years after the earlier to occur of: i) date of the SIA for Phase 2, or ii) the approval of the application by the Lake Springs Ranch developers to realign CR 114. If the end of said 2-year period falls between October 1 and March 31, the Applicant may commence construction as soon as practicable when weather conditions permit. Security for the Phase 2 improvements to CR 114 shall be in place at the same time as other improvements set forth in the SIA for Phase 2. The phasing schedule set forth in Exhibit 21 of Binder 4 provides for the construction of Phase 2 improvements to CR 114 in accordance with this Condition 5.0.

6.0 A maintenance and repair plan for the internal private road system must be included in the covenants of the master homeowners association.

Staff Response

The Applicant suggests that roads may be maintained by either the Landis Creek Metropolitan District or the Home Owners Association. In the event that the roads will be maintained by the Home Owners Association, a maintenance and repair plan for the internal private road system will be included in the covenants of the master homeowners association.

9.0 The dam break failure analysis for an enlarged Hopkins Reservoir must be incorporated into the drainage plan and subdivision improvements in a manner adequate to prevent damage or potential loss of life or structures within the subdivision, prior to the approval of the first final plat.

Staff Response

The Applicant asserts that a dam break failure of Hopkins reservoir will not affect any improvements proposed in phase 1 of the development. Therefore, the dam break failure analysis for an enlarged Hopkins Reservoir will be incorporated into the drainage plan and subdivision improvements agreement for Phase 2 and will be incorporated into subsequent phases as applicable.

20.0 Owners of existing permitted domestic wells in use for a single-family residence as of October 29, 2001 that are located on the properties that are contiguous to the boundaries of the Districts and therefore within the service area of the Districts to connect to the central potable water supply system of the Districts in the following conditions:

Staff Response

The Applicant suggests the water supply report included in Appendix C incorporates an analysis of the potential service to the existing residences currently served by these wells if necessary. This analysis demonstrates that the applicant has adequate physical and legal water necessary to serve the existing residences currently served by these wells. Applicant will comply with this condition.

21.0 Individual well development shall be prohibited for new residential development.

Staff Response

The Applicant suggests that they will comply with this condition for all proposed residential lots with the exception of lot P23 (Existing Ranch House) and OSR Parcel E (the proposed security and administrative build(s)) which will be served by individual wells.

27.0 Prior to the first final plat, the applicant’s engineer shall confirm that all nodes with residual pressure of less than 20 psi (pounds per square inch) will not affect the fire hydrants or individual residences.

Staff Response

Phase 1 in Applicant’s proposed amendment to the approved Spring Valley Ranch Preliminary Plan and PUD consists solely of security and administrative building(s) and open space, which will have very limited impact on CR 114 traffic levels. Residential and commercial uses begin in Phase 2. Consequently, prior to the second final plat Applicant’s engineer shall confirm that all nodes with residual pressure of less than 20 psi (pounds per square inch) will not affect the fire hydrants or individual residences.

PLANNING COMMISSION RECOMMENDATION

Based on the forgoing, in September 12, 2007, the Planning Commission unanimously recommended the BOCC approve the amendment to the PUD and the Preliminary Plan with the following findings and the conditions listed below.

Conditions for the PUD Amendment

As the project is currently proposed, the Planning Commission recommends the Board of County Commissioners APPROVE the request to amend the Planned Unit Development with the following conditions:

- 1.0 The following conditions consolidate, amend, and restate as appropriate the conditions contained in the various resolutions approving, extending or amending the PUD for Spring Valley Ranch in Resolutions 2000-95, 2003-19, 2003-99 and 2005-83. They supersede and replace all of the conditions of approval in said resolutions, and the conditions of approval set forth in said resolutions shall be null and of no further force or effect.
- 2.0 All representations of the applicant, either within the application or stated at the meeting before the Planning Commission or in the hearing before the Board of County Commissioners, shall be considered conditions of approval, including at a minimum, but not limited to the following:

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- 3.0 The following conditions included in the letter received from Nick Adeh of NA consulting dated June 13, 2000, are to be adhered to as a conditions of approval:
- 3.1 Construct the west entrance to County standards as a paved road and stop CR115 paving at this intersection.
- 3.2 The remaining segments of the CR 115 that are beyond the property frontage must remain unpaved and rough as is.
- 3.3 Install selective signage on CR 115 just west of the PUD to discourage use of Red Canyon Road as an alternative access to State Highway 82.
- 4.0 During construction, the applicant will be responsible for all dust mitigation caused by the project on on-site and off-site roads.
- 5.0 Access for out parcels shall be shown on the applicable final plats.
- 6.0 The monitoring plan for the best management practices shall be controlled/ implemented by the Home Owner's Association or another body capable of managing the plan.
- 7.0 All of the proposed Development Phasing Schedule be modified to require the final platting of all phases within 15 years of the platting of the first phase and that the completion of construction periods may be less as required by the applicable subdivision improvements agreement.
- 8.0 All infrastructure, public utilities, trails and open space shall be phased in accordance with the phasing plan set forth in Exhibit 21 of Binder 4.
- 9.0 Based upon the representations of the applicant, accepting the provisions of the letter of Mr. John R. Schenk, dated September 12, 2000, the following conditions imposed:
- 9.1 The Covenants, Conditions and Restrictions (CCRs) for the Community Housing component of the project shall provide that a Home Owners Association will be the governing authority with all appropriate enforcement powers for operation and control of the Community Housing component.
- 10.0 Future use of additional wells (Gamba wells) requires the development of water rights and well permits if required by the appropriate state agency.
- 11.0 All conditions of the Division of Water Resources shall be met. Those conditions include but are not limited to: (1) the claimed water rights are dedicated to the project, and (2) the plan for augmentation is operated according to decreed terms and conditions.
- 12.0 Available surface water supplies shall be used to their fullest extent to provide the irrigation supply to the golf courses in order to minimize groundwater withdrawals. A groundwater monitoring plan shall be developed to monitor future water levels near the Spring Valley Ranch wells. The monitoring plan shall include water level measurements in the production wells and other wells at the PUD that can be used as monitoring holes. The monitoring plan shall include measurements made with enough frequency to observe seasonal groundwater fluctuations and long term groundwater trends. Results of the monitoring program shall be available to the public.
- 12.1 There will be an additional monitoring well developed or identified that is at least 2000 feet from the production wells. Either a new well or an off-site well meeting those criteria could meet the criteria. All of the monitoring reports will be available to the public.
- 13.0 The domestic water system must be constructed and operated in accordance with the Colorado Department of Public Health and Environment regulations and standards.
- 14.0 The Applicant shall comply with the following conditions relating to wildlife:
- 14.1 Dogs: Dogs shall be allowed on each residential, commercial and/or industrial lot pursuant to Section 3.17 of the Applicant's proposed covenants unless Garfield County Zoning and Subdivision regulations are more restrictive.
- 14.2 Seasonal Use Restrictions: The seasonal use restrictions proposed by the applicant in the submittal shall be conditions of approval.
- 14.3 Educating Residents: Consistent with the provisions in the CDOW Letter of August 31, 1999, the Applicant shall provide an informative brochure at the first Final Plat which is intended to be provided to residents at the time of conveyance of each lot.
- 14.4 Additional Commitments: The Wildlife Mitigation Plan proposed by the Applicant shall be made a part of the proposed covenants.
- 14.5 Fencing: Fencing shall be allowed pursuant to Section 3.24 of the proposed covenants.
- 14.6 Horses and Livestock: As per the Applicant's submittal, horses shall be permitted pursuant to Sections 3.17 and 3.24 of the proposed covenants.
- 14.7 Building Envelopes: Building envelopes shall be represented by the Applicant on the Preliminary Plan Application consistent with this PUD Application.
- 14.8 Wildlife Mitigation: A Wildlife Mitigation Plan will be implemented through the Applicant's proposed covenants and deed restrictions as a condition of any Final Plat approval.
- 14.9 Bears/Trash Removal: The Applicant shall comply with Section 3.14 of the propose covenants submitted by the Applicant.
- 14.10 Riparian/Wetlands: The provisions listed in the CDOW letter of August 31, 1999, and Section 4.3.4 of Appendix E of the submittal (Wildlife report) shall be conditions of any approval.
- 14.11 Raptor Survey: At the time of the first Final Plat, the Applicant shall demonstrate compliance with Section 4.3.3 of the "Wildlife Use, Impacts, and Mitigation" report submitted by the Applicant.
- 15.0 No new wood burning open hearth fireplaces shall be allowed within the development.
- 16.0 No short term rental (daily or weekly) of the Cabins located near the Village Center will be allowed, except for Club members and their guests.
- 17.0 Prior to the preliminary plan hearing before the Board of County Commissioners, the Applicant shall negotiate in good faith with the Garfield County Housing Authority regarding the location of the 75 Community Housing units or an offsite alternative affordable housing project. In the event no agreement is reached, the 75 community housing units shall be located as depicted on the supplemental plan.
- 18.0 The phasing of improvements to the intersection of Colorado State Highway 82 and Garfield County Road 114 shall be in accordance with the requirements of the Colorado Department of Transportation and shall be incorporated into the phasing plan for the project.

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- 19.0 The Applicant shall construct interim improvements to CR114 to mitigate construction traffic impacts as part of Phase 2 in accordance with a plan approved by the Garfield County Road and Bridge Department prior to the preliminary plan hearing before the Board of County Commissioners.
- 20.0 Prior to the preliminary plan hearing before the Board of County Commissioners, the Applicant shall provide a schedule showing the ownership and timing of conveyance of open space, trails, and 24 employee rental units.
- 21.0 Prior to the preliminary plan hearing before the Board of County Commissioners, the Applicant shall submit a public access plan for the golf course, trails and convenience shopping.

Conditions for the Preliminary Plan

As the project is currently proposed, the Planning Commission recommends the Board of County Commissioners APPROVE the request for the Preliminary Plan Application with the following conditions:

- 1.0 The following conditions consolidate, amend, and restate as appropriate the conditions contained in the various resolutions approving, extending or modifying the preliminary plans for Spring Valley Ranch in Resolutions 2002-07, 2003-98 and 2005-84. They supersede and replace all of the conditions of approval in said resolutions, and the conditions of approval set forth in said resolutions shall be null and of no further force or effect.
- 2.0 All representations of the applicant, either within the application or stated at the meeting before the Planning Commission or in the hearing before the Board of County Commissioners, shall be considered conditions of approval, including at a minimum, but not limited to the following:
- 3.0 The applicant shall make application to the Colorado Department of Transportation, pursuant to Section 2.3(12)(b) of the State Highway Access Code, for a permit for the reconstruction of an existing access at the intersection of County Road 114 and State Highway 82. Such application and approved permit shall be tendered as a part of the approved phasing plan and shall be included with the applicable final plat documents, specifically the subdivision improvements agreement that includes security for the intersection improvements.
- 4.0 The applicant shall make the improvements to County Roads 114 and 115 as proposed in the application, at their own expense, regardless of cost, and consistent with the phasing of the improvements proposed in the application.
- 5.0 The alignment of CR 114 is contingent upon application by Lake Springs Ranch for the realignment of CR 114 through the Lake Springs Ranch and approval of such application by the County. The following conditions of approval shall apply only if Lake Springs Ranch obtains approval for the realignment of CR 114. Otherwise, the current conditions of approval related to CR 114 in its existing alignment shall apply, the Applicant shall not show the realigned road on its final plat, and the preliminary plan shall be automatically and without further action amended to delete the realigned road and the following conditions of approval:
 - 5.01 Because the proposed realignment of CR 114 will travel through Lake Springs Ranch, the Applicant shall obtain a right-of-way for CR 114 from the owners of the affected property prior to any approval of a final plat which right-of-way shall be dedicated to Garfield County. This shall be shown on all final plat documents as appropriate.
 - 5.02 If the proposed realignment of CR 114 is approved for both Spring Valley Ranch and Lake Springs Ranch, prior to construction of the realigned CR 114, the owners of Spring Valley Ranch shall submit a Road Vacation Application, executed by the owners of both Spring Valley Ranch and Lake Springs Ranch under the County Road Vacation Policies.
 - 5.03 Because Spring Valley Sanitation District has made certain real improvements that are located within CR 114 as it is currently located, the Applicant shall enter into an agreement with Spring Valley Sanitation District regarding the improvements that have been installed within the existing CR 114 alignment so that there will be no disruptions to service a provided by the District and that costs for relocation of certain improvements, if necessary, shall be addressed in the agreement. This signed agreement shall be provided to Staff at the time of the final plat.
 - 5.04 Because the majority of the proposed realignment of CR 114 lies within the boundaries of the Lake Springs Ranch property, any approval for the realignment of CR 114 for Spring Valley Ranch shall not be considered approved unless a similar approval is obtained by Lake Springs Ranch.
 - 5.05 Spring Valley Ranch, in the design and reconstruction of CR 114, shall comply with the standards and criteria included in Resolution 2002-109 as those conditions relate to shoulder width (6 feet), surfacing and ditch design.
 - 5.06 Prior to approval of a new alignment for CR 114, Spring Valley Ranch shall submit a plan for the intended use of the old CR 114 Right-Of-Way. Such plan shall be approved by the owners of Lake Springs Ranch and provide for proportionate cost sharing. If the Plan proposes to leave the old CR 114 Right-Of-Way as-is for a period of at least one year, the owners of Spring Valley Ranch shall provide a weed management plan for that Right-of-Way. If the Plan for the new CR 114 Right-Of-Way requires reclamation, the owners of Spring Valley ranch shall submit 1) a plant material list, 2) a planting schedule, 3) an estimate in terms of acres or square feet of the area to be reclaimed, and 4) a revegetation bond or security before final BOCC approval.
 - 5.07 The revegetation security provided to Garfield County shall be held by Garfield County until vegetation has been successfully reestablished according to the Reclamation Standards in the Garfield County Weed management Plan. The Board of County Commissioners will designate a member of their staff to evaluate the reclamation prior to the release of the security.
 - 5.08 The Reclamation Plan anticipated in condition 5.07 above shall include 1) a plant material list (to conform with the surrounding native vegetation), 2) a planting schedule, 3) a map of the areas impacted by soil disturbances (road cuts) and an estimate of surface area disturbed, and 4) a revegetation bond or security as part of the relevant subdivision improvements agreements.
 - 5.09 The Subdivision Improvements Agreement (SIA) for Phase 2 of Spring Valley Ranch PUD shall provide that the Phase 2 improvements to CR 114 need not be commenced until 2 years after the earlier of i) the date of the SIA for Phase 2, or ii) the approval of the application by the Lake

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Springs Ranch developers to realign CR 114. In the event the end of said 2-year period falls between October 1 – March 31, the Applicant may commence construction as soon as practicable when weather conditions permit. Security for the Phase 2 improvements to CR 114 shall be in place at the same time as other improvements set forth in the subdivision improvements agreement for Phase 2. The phasing schedule set forth in Exhibit 21 of Binder 4 is hereby amended to provide for the potential construction of Phase 2 improvements to CR 114 in accordance with this Condition 5.0.

- 6.0 The internal private roads will be maintained by either the Landis Creek Metropolitan District or the Homeowner's Association. In the event the roads are maintained by the Homeowners Association, a maintenance and repair plan for the internal private road system must be included in the covenants of the master homeowners association.
- 7.0 The Applicant and Mrs. Veltus shall negotiate in good faith for the creation of a new road easement through the Applicant's property on reasonable terms and conditions. Such easement shall be identified on the final plat but shall not require a PUD amendment.
- 8.0 The dam break failure analysis for an enlarged Hopkins Reservoir must be incorporated into the drainage plan and subdivision improvements agreement for phase 2 and incorporated into subsequent phases as applicable in a manner adequate to prevent damage or potential loss of life or structures within the subdivision.
- 9.0 The Applicant shall upgrade the electrical utilities consistent with a contract with Holy Cross Electric, at the developer's expense.
- 10.0 Prior to the recordation of the final plat that includes Lots R 92, 94 and 95, the Applicant shall install piezometers along the hillside in the location of Lots R 92, 94 and 95 to monitor groundwater conditions. This information shall be submitted to the Colorado Geologic Survey for their review and comment. The design for the development of such lots shall take this information into consideration, including the potential of a comprehensive solution and/or individual lot drainage mitigation.
- 11.0 Plat notes and covenants shall indicate that all lots require a site specific geological and geotechnical analysis prior to any construction.
- 12.0 The design guidelines shall include Best Management Practices which minimize directly connected impervious areas for storm water runoff within individual lots as part of the first final plat and all subsequent plats.
- 13.0 Prior to the approval of any Final Plat, the Applicant shall submit to the Garfield County Vegetation Management Office a Noxious Weed / Revegetation Plan which shall include a noxious weed inventory of the area of the property covered by the plat. That Plan shall also include a specific planting schedule, along with the quantification of the acres or square footage of surface to be disturbed and re-vegetated needs to be developed. Additionally, the Plan shall include reclamation cost estimates for seeding, mulching and other factors that may aid in plant establishment as part of any final plat application and include revegetation security to hold until vegetation has been successfully reestablished according to the County's reclamation standards. Finally, this Plan shall include a Soil Management Plan to be developed for the project and submitted with any final plat application.
- 14.0 As part of all final plats, construction plans shall delineate all wetland areas and all wetland areas shall be clearly marked and fenced prior to construction.
- 15.0 As per Section 4:34 of the Subdivision Regulations, Preliminary Plan approval shall be valid for a period not to exceed one (1) year from date of Board approval, or conditional approval, unless on extension of not more than one year is granted by the Board prior to the expiration of the period of approval.
- 16.0 School Site Acquisition Fees shall be paid at the time of final plat as per Section 9:81 of the Garfield County Subdivision Regulations, as amended.
- 17.0 The Homeowners Association must hire at least a Class C operator to operate and maintain the proposed Ranch Lot ISDS systems prior to issuance of the first ISDS system permit. If proof of the employment of such a person is not provided to the Planning Department prior to the issuance of said ISDS permit, the Building Department shall not issue the ISDS permit or any subsequently requested ISDS permit.
- 18.0 Prior to the approval of the final plat of each phase, the Spring Valley Sanitation District shall certify that sufficient capacity is available to provide for the development in such phase.
- 19.0 Owners of existing permitted or adjudicated water supplies in use for a single-family residence as of October 29, 2001 that are located on the properties that are contiguous to the boundaries of the Districts and therefore within the service area of the Districts to connect to the central potable water supply system of the Districts in the following conditions:
 - 19.01 Each dwelling unit served by an existing permitted or adjudicated water supply shall be entitled to one tap for the provision of one EQR from the central potable water system;
 - 19.02 Such owners shall be subject to the same rules, regulations, and policies as all other residential users on such systems;
 - 19.03 Such owners shall be charged in-District fees, charges, and rates even though they are out of the Districts;
 - 19.04 In the event that such an owner's permitted or adjudicated water supply becomes unable to produce the quantities required for permitted domestic water use, not due to the admitted or judicially determined negligence of the owner, such owner shall not be required to pay a tap fee or for a physical connection at the time of connection to the water supply system;
 - 19.05 The main infrastructure and distribution systems for the water supply system have been installed and tested and operational;
 - 19.06 Such owners may choose to connect to the water supply system at any time after the system is installed and operational and shall connect to such system on any appropriate primary distribution line and SVD shall use all reasonable efforts to locate such distribution lines in a manner that, to the extent feasible and practical, it will accommodate a connection by such owners;

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- 19.07 Such owners shall be responsible for all costs associated with constructing and extending the necessary water lines to connect to the water supply system's primary distribution lines;
- 19.08 Such owners may keep their existing permitted or adjudicated water supply in operation, the water court decrees that will legally support such service must be issued in Case Nos. 98CW254 and 255 in Water Division No. 5; and
- 19.09 Such owners will be responsible for securing any necessary rights-of-way from their property to the district boundary and SVD or the District will provide the appropriate rights-of-way, within the District boundary.
- 20.0 With the exception of Lot P23 and OSR Parcel E, individual well development shall be prohibited for new development.
- 21.0 The Applicant shall work with the water district providing potable water service to the development to adopt a water usage rate structure that encourages conservation.
- 22.0 Well water usage for agricultural and golf course purposes shall be allowed to supplement surface water sources in the event of a shortage of surface water supplies.
- 23.0 Valid well permits must be obtained for all of the wells included in the water supply plan and copies submitted to the Planning Department prior to Final Plat approval.
- 24.0 Subject to the terms hereof, the Applicant shall provide a nonexclusive easement to allow for the conveyance of water piped from the BR Hopkins Spring located on Spring Valley Ranch PUD property to a point where the water from the BR Hopkins Spring is used on the LaGiglia property. The easement is not required to follow the historic pipeline corridor and it can be relocated to a preferred location mutually agreed to by the parties who have a right to the BR Hopkins Spring and any property owner whose property the new pipeline may cross. This easement to the BR Hopkins Spring shall be designed to allow access to the spring of an adequate width in order to perform improvements to and maintenance on the spring and any portion of a pipe conveying water. This easement shall be depicted on the final plat for review. Further, the Applicant shall be required to present the terms of the easement to the Planning Department for review at final plat and then subsequently recorded in the Office of the County Clerk and Recorder and cross referenced by reception #, book and page on the final plat.
- 25.0 All lots that require booster pumps shall be noted on any final plat and in the covenants. Unless otherwise required by the water district, all lots that require pressure reducing valves shall be noted on any final plat and in the covenants.
- 26.0 Prior to the second final plat, the applicant's engineer shall confirm that all nodes with residual pressure of less than 20 psi (pounds per square inch) will not affect the fire hydrants or individual residences.
- 27.0 The covenants or bylaws for the development shall obligate the Homeowners Association to require the development's private security company to enforce the at-large dog and cat restrictions included in the covenants.
- 28.0 The following plat notes will be included on any final plat:
- 28.01 All exterior lighting will be the minimum amount necessary and all exterior lighting will be directed inward and downward, towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.
- 28.02 Colorado is a Right-to-Farm State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. All must be prepared to encounter noises, odor, lights, mud, dust, smoke, chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.
- 28.03 All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is A Guide to Rural Living & Small Scale Agriculture put out by the Colorado State University Extension Office in Garfield County.
- 29.0 All construction for the Spring Valley Ranch PUD shall be in accordance with the International Fire Code.
- 30.0 The Applicant shall address the comments prepared by Mountain Cross Engineering on behalf of the County in the following manner:
- 30.01 Mountain Cross Engineering ("MCE") comments 1 to 13 and 15, except for 3 and 7, pertain to final plat conditions that will be fulfilled at the filing of each phase. With regard to comment 3, the community water system will be approved, permitted and operated pursuant to CDPHE regulations that will assure adequate water quality. With regard to comment 7, Applicant will prepare a traffic analysis on the identified intersections for submission to the BOCC prior to hearing.
- 30.02 Comments 14, 16 and 17 concern road engineering in the Mountain District, except for Sweetwater Draw. The Applicant will prepare design standards for road grades at intersections and switchbacks, and standards related to the location of guard rails for review and approval of MCE prior to the Board of County Commissioners hearing on the preliminary plan. .
- 30.03 With regard to Comment 18, Applicant will study the need for additional mainline PRV's in the final design, and shall include a note on the final plat as necessary on all lots in that phase requiring an individual PRV.
- 30.04 With regard to Comment 19, Applicant will grade and maintain an unpaved access concurrently with the installation of the off-road water lines, which will be depicted on the final design drawings. An appropriate easement will be shown on the final plat. These accesses will be used for construction and ongoing operations. Winter maintenance and repair will require track-

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equipment.

- 30.05 With regard to Comment 20, the access roads to both water storage tanks will be depicted on the final design drawings. Appropriate easements will be shown on the final plat.
 - 30.06 With regard to Comment 21, Applicant’s final engineering and construction drawings will provide for a foundation that protects the Tank’s structural fill and foundation from erosion.
 - 30.07 With regard to Comment 22, Applicant will provide for a cleanout of the low-pressure main sewer line in its final engineering and construction drawings for the sewer system.
 - 30.08 With regard to Comment 23, in conjunction with final design the Applicant will address of any byproducts generated by the MIOX disinfection system, including any state and federal requirements.
- 31.0 Prior to final plat, the Applicant shall meet the requirements set forth in the Spring Valley Sanitation District’s “Will Serve” letter dated August 4, 2006, regarding the Spring Valley Ranch Project, which is included in Binder 3 Appendix H of the Application.

Discussion:

Tom Gray – General Manager Spring Valley Ranch, to my right Jim Lochhead and Mike Gamba on my left. Why did we file an amendment at all? We already had existing approval and it is really because we believe that we could create a far better community and reduce the impacts of the existing project. He gave a slide presentation. Based upon the golf course and the road alignments we’ve reduced environmental disturbance; basically the grading by 35%. We have cut back the water use by about 41% and we have reduced traffic by about 26%. We believe that through our wildfire management and fuel management programs it will decrease the wildfire risk in the area. We moved the village up into the community. That will also be available to our neighbors in the area if they want to come up and use the convenient shopping. We have increased diversity in the housing product and price points on the project and we have reduced the market rate density. Important issue here is the operating costs because after the developer finishes the owner has to start paying for things. By reducing the golf course, centralizing the village, consolidating the Metro district (at the bottom of the hill), and we have also created some on-site employee rental housing. We will make temporary improvements to County Road 114 to mitigate construction traffic. We will also repair the pot holes, and we are still planning on paving County Road 115. We have moved the fire station up into the center of the property to coordinate to the metro district and also with the volunteer staff that will support the full time staff. We are building about 104 residences from about 1,200 square feet to 3,500 square feet. We are trying to create a diversity of the housing stock in addition to the custom lot product that people build on themselves. In Phase I we would be dedicating the 800 acres of Spring Valley Meadow as permanent open space. We have dedicated public trails within the Meadow. The Meadow to us is the iconic image of Spring Valley. On the property we will have monthly guided nature hikes and walks, there will be a semi-private equestrian center where one can rent a stall and about 100 scheduled golf course tee-times for local residents per month. He displayed the zoning map and pointed out the main thing the map shows, which is the various zoning districts that have been organized together in the clusters rather than scattered. He showed where building envelopes were located and talked about a number of phases up in the mountain district that is relatively small. The purpose of that is they have a very difficult infrastructure cost in that area. They have no idea how fast these lots would absorb and they created the number of phases so that they wouldn’t have a tremendous front end low trying to develop 20 lots. That would mean extending a lot of utilities and roads prior to sale.

Jim Lochhead said he would venture to say this is the most studied water system that has come before you. Everything has been found both in the physical and legal stand point to be adequate both in the State and from the consultant’s reports. In terms of physical water supply, the water supply comes from three basic different sources. The project does own all of the senior water rights in the Spring Valley area. There is an existing agricultural system in place that irrigates both the middle bench and the meadow area. Previous plan was not to irrigate the meadow however, they would like to continue to irrigate the meadow. There will also be wells located in the middle bench area and we will have wells in the bottom area. There is a diverse source of supply for water that I think mitigates some of the concerns that are there. Gamba and Associates did a hydro geologic study of the water supply in the area. That study was peer reviewed by HDR Water Consultants. A water balance analysis was done for the entire system. Basically I’m not aware of any piece of evidence that is in the record that would indicate anything other than there is an actual water supply for this project. Just in the last few days we have received a number of well permits from the State that takes care of that issue. For the record I want to mention those and put into the records. We have two monitoring well permits, permits for well ASR 13 which is 100 gallons a minute, ASR 14 which is 100 gallons a minute, ASR 16 which is 50 gallons per minute, SVH 6 which is 100 gallons per minute, SVR 17 which is 75 gallons per minute, SVR 18 which is 300 gallons per minute, SVR 19 which is 300 gallons per minute and SVR 20 which is 75 gallons per minute. This was entered as Exhibit TT.

Bill Lorah – Consultant – You need two things for your water, physical supply and a legal right to take it. He explained how the water drains through Red Canyon which is about 15 square miles. It turns out the development consists of about 60% of the entire basin. He talked about the precipitation that falls on the 15 acres; 15 square miles is about 20,000 acre feet per year. About 25% soaks into the ground, no major streams up there. The water goes into the ground and recharges the local aquifers. The development will have two basic water systems, one is the potable water system which serves the houses and shows the diversions at about 380 acre feet per year. Most will return back to the system through the waste water treatment plant. This also includes 44 acres of irrigation of lawns and gardens around the houses. He talked about depletion for the portable system. The non-portable is basically for the golf course, some open space and a few ponds on the property. Here you have less return flow because of the irrigation and the total depletion to the system is about 220 acre feet. A lot of the depletions we are talking about were also historically depleted through the agricultural activities on the ranch. So these are not necessarily brand new depletions. He talked about allowed depletions through contracts and decrees. One of the water rights we have to deal with right now is the irrigation to Grand Junction. The big insurance policy for water up there is the big 300 feet deep reservoir. This is basically the valley bottom. There are probably about a dozen large capacity wells already drilled there and our wells permits when it says 300 gallons per minute, those are in the bottom. We have pump tested those wells and that aquifer is really a wonderful resource. There is more than adequate recharge to supply everything historic plus the proposed new depletions. There will be a minimal impact including other developments that are proposed up there. There is no way you could totally deplete that Spring Valley aquifer. Most of the neighbor’s wells are not drilled into the deep big aquifer, they are on the small aquifers on the sides of

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the hills. When you pump the lower aquifer there will not be any affect on the higher aquifers. The recharge we believe is more than adequate.

Tom Gray – Let’s assume all this science despite all its peer review turns out it is not really the way this works underneath here and somehow the aquifer in which our well is meeting the neighbors well is tapped and goes dry through no fault of ours. This issue was raised at the Planning Commission and we said we have always had a condition in the project that said we’d hook everyone up to the Landis Creek Metro District water supply. The question was if my well goes dry what is that going to cost me? We will hook you up to the system with no cost. Dave Hadden – High points: Trip reduction is 26%, this is the traffic generated by the project. The construction of the road improvements they would be timed to correspond with the recording of the final plat. Those final plats will be determined by market conditions and when the home is built. Finally the most important improvements will be built and open to traffic before the homes that were approved are occupied and therefore generating trips. During the construction there will be short climbing lanes so traffic can go around the trucks going up the hill. During the project, while we are building it, there will be repairs to the pot holes and whatever damage is caused by the trucks. Permanent improvements cost on CR 114 is about \$6 million for the reconstruction of the lower mile; the steep part will have a climbing lane. So it will be a three lane section, three twelve foot lanes with six foot paved shoulders. He continued to explain the lanes, bicycle paths etc. He also explained how County Road 115 from Landis Creek cost about \$1 million dollars; same type of construction and the same type of improvements, and continued to explain lanes and shoulder types. Intersection at 82 is operating at level of service B and in the future he showed the growth CDOT has forecasted along 82. Access permit at 82 and 114 was filed and received October 30th. This is the initial for Phase I of the approved project. He discussed there wasn’t County participation in the improvements that are required nor was funding required and it was discussed with Fred Jarman. CDOT wanted more control over the ultimate improvement so that it better responds to future traffic conditions. He showed the intersection and how they would improve it. Also stated the permit, as it is written, once the traffic from the project increases above 20% of what was applied for then we have to get a new permit with further improvements.

Mike Gamba talked about internal road designs. The engineering basis for the design criteria that we used on all of the internal roads is American Association of State Highway Transportation Officials and that is basically the engineer’s bible of road design criteria. Those designs have been reviewed by Chris Hale, the County’s Engineering Consultant as well as Mike Piper, the Glenwood Fire Chief and Lou Vallario the Garfield County Sheriff. This plan, compared to the approved plan, there was a focus on modifying the plan so that it better conformed to the topography up there thereby substantially reducing the over all earth work and disturbed area on the side. As a result the internal roads they oftentimes have the slower design speed. Instead of going 36 mph through the ranch you may be going 20 mph, etc. You would typically have safer conditions for wildlife, children, bikers, etc. Another issue we looked at is to try to mitigate construction traffic and during construction we are going to implement a traffic management plan that will not allow a contractor to have as many trips as they want up and down CR 114 including their actual work force. We are trying to provide incentives for people to car pool, they will coordinate delivery of supplies so that it does not happen in peak hours and they will modify the shifts of the construction so that people aren’t approaching or leaving the site during the a.m. and p.m. peak hours on County roads. They plan to offer shopping to the neighbors so they do not need to come down the hill thus reducing traffic. Finally we propose to restrict the hours of heavy trucks and equipment on County Road 114. There will be a prohibition on any construction traffic using Red Canyon Road. All these will be written into our contract with the contractors and enforced through that contract. We will proportionally participate in improvements to the RFTA park-n-ride at the intersection of 82 and 114.

Eric Petterson – Wildlife Management – Rocky Mountain Ecological Services, provided a slide presentation. Unique to this project is that there have been two other wildlife consultants who prepared reports for this and I felt that both of those reports did a good job of assessing the current/existing conditions on the side so I incorporated those reports by reference. I prepared a new impact assessment report because of the changes in the plan. Spring Valley asked me to discuss what I would term as their best management practices for the project on how they would like to approach minimizing impacts to wildlife and habitat. The project has quite a bit of open space remaining on the property after development. There will be no construction outside of the building envelopes; Spring Valley Ranch has incorporated a wildlife fencing policy across the property to allow for movement within the property. They have also incorporated some fairly robust pet management including leash laws, pet restrictions and also unique to this project that I really think is a good program is the 2% transfer tax to be used on the property for habitat improvement and wildfire management. In the plan they have attempted to minimize impacts to the elk calving habitat on the north end of the property. They will have seasonal closures of trails in the upper areas to minimize potential impacts to disturbance of fawning and calving areas, seasonal closure of trails adjacent to deer/elk production habitat, closure of all trails generally from sunset to sunrise, no motorized vehicles on trails, except for maintenance and emergencies. He talked more about the 2% fee and how they plan to use it. He explained it is already in place in Eagle County and continued to go through what they would do to help wildlife. Commissioner Martin asked if the management practice permitted hunting? It is prime hunting. Are you going to curtail all hunting?

Eric – My recommendation was to incorporate some kind of hunting program into the property to keep it from becoming an elk refuge where you would have quite a bit of damage and it would also limit his ability to manage elk herds.

Commissioner Martin – Who is going to collect this fee or tax on transfer of sales, who is going to administer the tax and who is going to distribute it and account for it? Go ahead with your presentation first.

Chris Wait with Anchor Point – Anchor Point also conducted a wildfire plan for all of the Glenwood Springs Fire Protection District and this plan therefore is in concert with what you have essentially as a County wildfire plan as well. It is possible with good guidelines to reduce the spread of fire in an area if it is designed appropriately regardless of the people. To protect residents, neighborhoods, maintain the value of the property and do that through the management of fuels takes quite a bit of science behind these recommendations. Wildfire mitigation in particular has to be managed in perpetuity and there are wonderful guidelines in the CCR. One of the most important elements is educating the homeowners. Good wildfire mitigation also enhances wildlife habitat. The Fire Chief is in support as well as the County Sheriff. There is a plan in the CCR for annual updates and then an update every three years as phasing occurs. Responsibility is both through the Metro District and in participation with the Fire District. The fire station on site will be equipped appropriately and trained. Regarding the golf course, it was leveraged to create a

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fuel break from the southwest to the northeast which is essentially uphill. Instead of creating an administrative fuel break we incorporated the road, over lot thinning, the golf course itself and then a thin fuel break down to the bottom. A healthy riparian corridor is also a fuel break. By improving the riparian or the wet areas by eliminating some of the invasive species in there we create additional fuel breaks. We used many tools to create a net effect of fuels reduction in such a way that hopefully it will never be obvious to the development. He addressed an educational plan for the homeowners for lots that have exhibited the most extreme fire behavior. Those landowners will have the option to either limit the fuel, reduce the fuel and therefore reduce the overall hazard or if they elect not to do that there will be more intensive building requirements, construction material requirements for those homes and that will be in concert with the International Wildlander Interface Code. The sprinkling of occupied structures over 500 feet essentially eliminates the possibility of a structure fire being the catalyst of starting a wild land fire which is one of the more likely scenarios for the area.

Tom Gray gave a quick review of the open space and trails and spoke as to when this open space gets created and when these trails are put in place? The first thing that will be done in the project is the permanent dedication of Spring Valley Meadows. Phase I is just the entrance of the property and then the dedication of the Meadow, which will keep it from ever being subdivided and also provide for trail easements in the Meadow for public use. Based upon my experience it will be where most of the people will want to go walking or hiking. We are going to maintain the agricultural use and the grazing in that Meadow. It's historic, it's pastoral, and it's really part of the characteristic of the area.

Commissioner McCown asked if he had heard the comment that there would be no livestock on the project.

Tom Gray – That would be in the residential component, not in the Meadow. The Meadow allows livestock. Really the issue is pasturing horses and they will be pastured in the Meadow area. What we are requesting is to record the open space lots within the adjacent residential phases. In doing that we always maintain a constant 25% of the property in open space and also meet the County requirement of not more than 40% over 25% slope. The same thing is true of the trail easements; we will be recording those within each phase. There was a question of who is going to own the open space. It would be dedicated to the Homeowners' Association and we are under discussions talking to some other partnerships particularly with respect to the Meadow. The trails would be dedicated to the Club that runs all of the recreational facilities and the trails as their responsibility. The issue of "early" dedication of open space and trails - technically the open space policy is a zoning regulation not a subdivision requirement so therefore it pertains to the PUD. Extraordinary engineering and survey costs and expenses for recording prior to the applicable phase and then when you go to record the base regardless of how good Mike is, there are going to be problems. It places an economic and legal burden on property that hasn't been platted yet. This is the condition that we would request that the open space parcel and trail easements are dedicated at the recordation of the final plat and all times we will file an open space calculation that shows we are staying in compliance with the County's regulations. He went on to explain some examples of possible phasing, recordation and sequencing and showed a space summary by phase spreadsheet. As to housing diversity, we have the on site employee rental housing of twenty units, four more in duplexes only for employees and restricted for twenty years, maximum rent increases, limited to CPI and owned by the owners association. Community housing program, seventy-five for sale residential units are priority for working families in Garfield County to be located at the intersection of County Road 114 & County Road 115. Actually this is an area you can't see it from 114 and you can really only see it for a short time going down 115. It is a perfect place for seventy-five residential units and it doesn't have a significant adverse impact on the view shed. Certainly not on the view shed from CR 114 looking out over the Spring Valley Meadow. We are going to offer these at prices that qualify buyers for mortgages at 30% of income, they will be required to spend 22% of their household income on housing and they can't have a net worth above \$100,000.00. He showed the diverse mix of housing size and prices.

Pete Simmons – I've been to every one of these hearings. All the possible uses that these 1500 acres could go to this plan is the very best and beyond the wildest dreams than any of us ever had. I think it's a marvelous job that Spring Valley Holdings has done and I hope you will approve it.

Michael Sullivan – 3780 County Road 115 – I would like to compliment the developers for their communication effort. They have done a great job with us. I would also like to compliment them on making water available to us which was a key issue. I feel so much better that I know when I turn on my shower in the morning that there will indeed be water. I believe this new plan is a better plan. I would like to have the Commissioners if you would please take a close look at the phasing and look at the road improvements on the phasing that is essential. As you know those are dangerous roads. I would like to mention that the stop signs and I know this is not a commission issue, but the stop signs and the signs and the turning lanes at 82 and CMC road are inadequate to handle the development and the additional traffic. Last if there is somehow we can indeed be sure that the valley floor at times of drought is irrigated that would be wonderful as well.

Linda Helmich – I basically said what I wanted to in the letter that we submitted. I'm encouraging you to vote for approval and we just love as neighbors that we have been included in the process and have been able to give a lot of input to the developers. If there was no development at all that would be first choice but we are glad to see that they want to do a really good job.

Kelly Wood – Division of Wildlife – I've been reviewing this project from the '98 version. This is definitely an improvement over that and everyone is agreeing. It is kind of the worse of the two evils in my mind that this is less. There are still some concerns I have and I've tried to make notes as much as possible. Being aware that the Division of Wildlife is supported by hunting and fishing licenses only, there's no property tax, there's no income tax, there's no taxes that would help with wildlife in this area. So when we look at this project, I'm looking at how much more of my time is going to be spent on this project. It is not going to be funded from the Division of Wildlife stance. They mentioned the elk management plan, what actually is that plan how is that defined? Is there hunting going to be allowed and what parameters, that type of thing. I haven't actually seen the plan so I am concerned when they talk about that well, what does that really mean? If you approve this plan and then that goes by the wayside what can we go back and do? I would like that to be addressed before the approval of this project. Also clustering, we've talked about that before. I don't see as much clustering as I would like to see in this project of the home sites.

When Eric did his presentation of how much habitat will be disturbed he didn't include roads and roadways in that disturbance area, which does increase the acreage of unusable portions to wildlife. So I think that needs to be addressed as well as easements, things that decrease the overall open space so to speak for the wildlife. What if this project goes bankrupt, i.e. the Bair Chase project? What happens to the wildlife habitat if it has been decimated and

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just left there? Is there any plan in place? I think we all see the visual effect driving Highway 82. This won't be on Highway 82 and I don't think as many people will see that but it is a concern of mine of how that is going to be affected. Roadways, you talked about improving the safety of the roadways. Will you pave things, you make more lanes and that just increases the speed of people. Everyone here can attest that drives Highway 82 knows that the majority of the people do not even obey the speed limit. It's 10 over, 15 over. I've seen people going 90 mph now with the wildlife on roadways; sign flashing and they are still going 90 mph. So when you increase road widths and road speeds that does have an impact on wild life. Personally I'd like to see everything stay dirt but I know that is not going to be an option.

Lou LaGiglia – I've probably been to every meeting here within the last six or seven years. We are making some progress not so much with the spring but what has happened is that Spring Valley Holdings has agreed to put in a well and share it with us. At this point in time the test well has been dug and part of the pipe has been laid. We don't have it finalized because we don't have our agreements in place for easements and things of that nature. Unfortunately the well was drilled within 600 feet of mine so that is another issue we have to address. This is just so different and you know over the last 8 years of coming here pleading and Tom has sat down with us and worked with us and it just tells you about the kind of people you're dealing with and they are willing to work out these problems. I think this plan is a much better plan and it should be approved. One other point, either Spring Valley Holdings or the LaGiglia are giving up their water rights in the BR Hopkins Spring. We are not by passing that we are just doing something different and we think this will work.

Jim Austin – Decided not to speak

Lois Veltus – During the break I had the opportunity to talk with Mike Gamba and he answered the questions and the point I was going to bring up so I think it's covered. It was an item I brought up before the Planning Commission about the office zone district and the number of acres which was supposed to be reduced. Mike showed me on the map that indeed that had been reduced in size.

Priscilla Prohl – I think everyone of my neighbors have answered all of our questions about the water issues which is my greatest concern. I really urge everyone to support this new plan; it seems to be much better and improved from the last one.

Robert L. Arrington – I had taken issue along with Jim Austin and other neighbors. We had to go to water court to fight the development people on supplying this water to the neighbors if they run it out. I'm very happy to see that they have taken it upon their shoulders to supply people with the water. I would like to remind everybody that there are other costs that come into this type of annex and we need to define who is going to run what pipe where and where it's going to be connected. However, going back to the water analysis I believe they put a slide up there showing 25 inches of precipitation and 20 some acre feet of water that percentage was going back into the recharge. What they didn't put up there was the dry year's scenario and they have that in their possession. This is from their Gamba water study and the precipitation in the dry year ranges from 17.7 at the high elevations down to 11.8 inches at the low elevations which is pretty far cry from 25 inches. You have this big beautiful plan, a pyramid and it's all lynched at the bottom by how much water is available. If that average is down they're at the 15 or 16 inch which also is the number, 16 inch was precipitation for the 6900 foot level and if it's down there, their water usage of 970 acre feet gets up above what is available for recharge. Well we say this is worse case scenario or what not but I draw the Commissioners attention to what occurred over in Missouri Heights with their build-up and they had to go on water rationing over this last dry year. So bear that in mind that this is not quite as rosy as it is presented because it was a rose color glass look at this thing and in the study the water court found that in this presentation we did have reason enough to cause the issue to be said that we would have to be fixed if they damaged our well. During their pumping test we were one of the only wells, we monitoring our well with the same people that was doing monitoring on their wells. And we had a very sharp drop in our well level during their pumping tests and we did not get full recovery, which means that some place along the line something collapsed, the quantity of water was not available. In their pumping tests they actually burned up a pump because they started pumping sand. Some of this stuff is not backed by seismic study or other studies. A lot of it is just statistical data that the people are extrapolating. I would like to warn the Commissioners of that because the County may find some joint liability in this. Thank you.

Commissioner McCown asked Mr. Arrington if he realized there was currently a plan in place for this sub-division; there is currently a PUD with a plat already approved?

Bob Arrington – This plan will go thru and I don't see anything deviating from that. I want the County to be aware of some of the things they are assuming by approving this thing. All the numbers are not quite as glossy as they appear when you get into the detail depth of it.

Mike Berkley – I own the Lake Springs Ranch to the south and the west of Spring Valley Ranch. I like the project, I'm happy the way it has turned out. I urge its approval. Thank You.

Jeff Nieslanik – I don't need to duplicate what has already been said.

Tom Gray – While it is fresh in everyone's mind I'll try to respond to comments made. I appreciate Michael's compliments that we have been working hard with neighbors and we have. Regarding the phasing of the road improvements, the real improvement is at the intersection of 82 and 114 and that has a governor on it that if traffic increases 20% over the daily hourly volume, we have to make improvements. The reality is that's what is going to generate the necessity to make improvements is the traffic impact at that intersection. One thing we can say about all the traffic studies and the water studies in general they're accurate, informative, but specifically in terms of how many trips are going to wind up at that intersection whether it is background traffic or from this project; or from other build out up in the Missouri Heights area these are a good estimate but they're wrong. There is no way to absolutely predict what's going to happen at those intersections out in 2027. That is why I frankly agree with the position that CDOT is taking, lets move at this incrementally, let's make improvements that are smart improvements to the intersection as the traffic comes into play. We have no idea whether ten trips per household is going to be the right number in 2027. It is impossible to tell. Regarding Kelly Woods comment on DOW, we are happy to work with DOW and I think there is actually a condition somewhere in the approvals that says we are going to work with DOW in particular with hunting and elk management on the property. The project is very clustered and you can see that from the plans. We have made every effort to create wildlife corridors coming down through that clustering that will get the elk from up on the mountain. We agree with Miss Woods comments on road widths and speed. That's why we reduced the speeds on the roads on the project. As Mike said it is to protect wildlife, kids and other people driving cars. If people drive slower there is a likelihood they could stop before they hit the elk or the deer.

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As far as re-vegetation, unlike Bair Chase we are moving forward in phases. And at each phase in the SIA there's a bonding requirement in order to make sure that the improvements go in and that what disturbance is created by the improvements gets re-vegetated. We won't be grading on the property for no reason and leave it. We will put up the necessary bonds to make sure the phases get completed in accordance with the approvals that the County has granted us. I appreciate Lou's comments on the water situation, we have been working with the LaGiglia and I think we have a solution. We have the well going and the tanks gong in. I think everybody will be pleased with the result. On Bob Arrington's comments, he used the dry year example. Let's assume a 12 inch rain fall in this drainage of almost 10,000 acres, that's 10,000 acre fee. 25% of that percolates, that's 2,500 acre fee. We are taking out 380 acre feet. It may be scientific but there is no question that water has its own unique way of moving around and some wells might be impacted. That's why we said if you have a problem with your well we are going to hook you up at our cost. So you don't have to worry about how we are going to get from your house to our lines, we're going to pay for it. We also said if you want to hook up, fine we will work with you to do that and you can hook up to the system.

Commissioner Houpt – Your response to the intersection question, I don't know if Michael was concerned about 114 instead of just the intersection area you are working on with CDOT. I wanted to ask him if the temporary lanes and other mitigation factors you brought forward helped him with that.

Tom Gray – Not to speak for Michael but to provide a little background, I've spend a lot of time with Michael and Jim talking about that road and what we can do. We drove the road to look at where we can stick in short climbing lanes? We went over it with the County's Road and Bridge Department and they said yes it made sense. I believe in that particular area, at least Michael said to me, he was comfortable with those improvements.

Commissioner Martin – He wants improvements and get rid of the stop signs. They say in Phase 1 and 2 there is going to be a few trails that are going to be constructed, the ownership of those trails along the right of ways are going to be maintained by whom? And again the ownership of those, liability of those, whose assuming that?

Tom Gray – The private club, which all the owners will be a member. They will have responsibility for the trails, the insurance, and the maintenance and for the ownership.

Commissioner Martin – Just so again it is not dedicated to the County to maintain because we don't have trails.

Tom Gray– No, nor are the trails in the Spring Valley Meadows. Those would also be maintained by the association or another land trust that might be interested in taking over. We have talked to the Aspen Land Trust and they are not interested. They don't like property that has public access.

Commissioner Martin – that was my next questions, is it going to be accessed by the public but privately owned roadways.

Tom Gray – Internal roads are privately owned and privately maintained.

Commissioner Martin – What if someone is not a golfer but is entitled to ownership and access and use of the golf course, is that right transferable? Can he give it to a guest or another family member?

Tom Gray – At least in the plans that exist right now, those people who are residents in the area, the home site, the address; whoever is owner of that property and their family would have benefit of those rights. So they transfer in affect with the title.

Commissioner Martin – Just not the name, you give them an ID card and say Mr. so and so I can't give it to my son or brother and he wants to come up and play golf on Mr. so and so, he can do so? That's family. That's what I'm getting at and all these other folks in there. 100 golf days in a month or 100 golf tee times in a month is not a whole lot. I imagine a whole bunch of members are going to play golf.

Tom Gray – Well that remains to be seen. The best answer I can give you is it goes with the property and the immediate family. That is our intention yes. The reason is we didn't want to pull traffic up 114 for people outside of the area to play golf. It was a benefit for the people within the local community. People living within the Glenwood Springs, Carbondale influence area.

Commissioner Martin – Are you going to have staging areas for the different construction sites? One central place to put your heavy equipment, not going up and down the roadway constantly.

Mike Gamba – Yes at the commencement of construction we would establish a staging area. It may move as construction moves. One staging area probably won't function for all the phases but it will be on site. Other than the need for aggregate and asphalt and supplies like that it won't be coming up and down the mountain. It will come up once and stay until the project is done and then leave or perhaps move into the next phase.

Commissioner Martin – In reference to the condition of the surface of the roadway as it is now and the repairs which throughout the project you are saying you would repair, are we doing some kind of video in agreement with the road and bridge folks to make sure that we have an overall view of what it is now and how it will be into the future?

Mike Gamba – I think a program as you describe would make sense so there is no disagreement.

Commissioner Martin – In reference to the hunting issue, that management plan you say you're going to work with, again hunting is very important in taking care of. You can see what's happening around Boulder, they forgot to hunt and have a lot of conflicts with wildlife. How are you going to do that, who's going to handle that negotiation?

Tom Gray – We would work out a plan with DOW on management of the elk population. My experience with bear and cat it really comes down to bottom line to educating your homeowners. It's a risk just like when you drive on the road and could be in an auto accident. The cats are going to be there and the bears are going to occasionally come in and you have to educate your homeowners, particularly those in the mountain region.

Commissioner Martin – If they recommend hunting or removal there of would you agree to that in your negotiations?

Tom Gray – That is an issue for the State. If the State would like us to hunt or like bear and cat to be hunted, fine. The existing plan that is in place right now prohibits hunting. We are not opposed to hunting. We are not opposed to prohibition on hunting. We believe a hunting program can be managed up there. It can be healthy for DOW in terms of the licensing fees and we are also thinking how we might also incorporate that into the wildlife management trust. People get big money for hunting these days and there isn't any reason we couldn't have a similar sort of program but have the money go into the wildlife trust for the benefit and maintenance of the habitat on Spring Valley Ranch.

Commissioner McCown – I really see some major problems that you are trying to commit here with all the private ownerships on those small parcels. Because you are going to get involved in a severe trespass problem. You're going to spend a lot more time up there than you would controlling the wildlife. Each one of those parcels will be individually controlled by the owner of that parcel. You as a developer cannot transfer that authority to let someone

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come on to that property and hunt. I don't think the Division of Wildlife can mandate hunting on Jim Nieslanik ranch. I don't think it can force any hunting on any parcel and I'm not thinking that was said earlier. I think they are supporting wildlife management but as far as trying to implement a hunting program on 500 and some individual private parcels, wow.

Tom Gray – Let me see if I can narrow it a little bit. I agree with you this is not an easy issue and it's going to take a lot of discussion between the DOW and us and appropriate consultants. I'm certainly no expert in hunting. I'm speaking strictly of the mountain district of the property and whether or not there is a program you can implement in the mountain district. I believe we can do that as the phasing takes place. That is going to be a much easier solution because we will own the property. You're right, once it is all sold out, even if we had a blanket easement over the mountain district that says hunting is allowed up here you need to understand that when you buy the land it's in the disclosures. We are still going to have problems because people always initial that they read the stuff but they never read it.

Commissioner Houpt – I do think that I would be very careful with the whole discussion of hunting in this development. We are talking about a lot of homes. We are talking about a change in use and certainly you need to get together with the DOW and put together an animal management plan. But don't commit today to opening up your development for hunting.

Tom Gray – I appreciate the advice and my comment is we are not opposed. We are willing to consider it and see what kind of program can be implemented.

Commissioner Martin – The transfer fee to manage everything in reference to all of the programs on the property that was mentioned, wildlife management etc. how is that actually going to work? Who is going to collect that fee or tax? How is the distribution to the County going to be to the homeowners?

Tom Gray – It would be operated by the HOA and they would be responsible to publish audit and financial statements on an annual basis and they would go out to all the owners. It would be collected out of escrow. That is a pretty standard procedure including any back dues the people didn't pay or fees or fines those get collected out of escrow too.

Jim Lochhead – I might mention also that all the provisions concerning the transfer fee and what we would propose to set up, what we are calling a wildlife/wildfire trust, which is an appointed group by the HOA who would manage the funds. The funds would be collected by the HOA and given to the wildlife trust and that whole structure is set out in the CCNR's which are part of the package that we submitted to you.

Commissioner Martin – I'm just bringing the issue out because a lot of folks here didn't know that. I have one other, water in reference to the Meadow and that is you're tying that water to Meadow itself or to the lower area so that it cannot be pulled out and it can be used for agricultural purposes down there. Did I hear that correctly?

Jim Lochhead – No.

Commissioner Martin – So at that point if the water is available it can be used down there? But you're not tying it to the land?

Jim Lochhead – No we are not.

Commissioner Martin – The other is in reference to the lease for the agricultural purposes and yet it is going to be open to the public for public viewing and walking. How is that going to be used for agricultural purposes if it's going to be a congregation, a view point, and a picnic area whatever? Even though it's big your still going to have human beings there and disturbance, what kind of agricultural uses are you going to be looking at using in that area?

Tom Gray – Cattle operation such as it occurs now which is not a large cow calf operation. And that would be a private lease to an individual like it is today. Simple agricultural uses that are the historic uses in the region. The trails will be organized so that they fit out of the way of the agricultural uses. They are primarily going to be on the perimeter of the area not running through the middle of the agricultural area and of course there will be fencing to separate the pastures. It would be more managed.

Commissioner Houpt – I like to talk about the phasing schedule. I'm looking at one of your amendments, supplemental information, Exhibit X. The dates you give for estimated start of construction, I need you to speak to that. For example with Phase II it could start in April, 2008 or April, 2014 and it goes on in the same pattern through this chart and I want to get a better sense of what your thinking is and what that means to this project.

Tom Gray – Let me speak to it from a marketing perceptive. We would like to build this project out as quickly as possible and make all the improvements to 114 and 115. However, if I could predict what markets were going to do, we have no idea and right now we are in a very unstable market. Everybody knows real estate goes through cycles. All we are trying to do with the phasing plan is to give us as much flexibility as you would allow us to develop these phases in appropriate sequence as far as the extension of infrastructure. But develop the phases in accordance of marketing. It might be we come in and say we want to plat phases II, III, IV and V because things are going so good. We never want to have something on the shelf. In terms of the relationship of the market and the lots we are just looking for the maximum flexibility in order to make our improvements and not get too far out in front of ourselves which is how developers go bankrupt. Building too fast, too soon and then they are left with a big overhand of capital they put into the deal and they're not making any sales. In addition to the capital drain you know what happens when a project all of a sudden gets the story around town is oh yeah they are in trouble up there.

You try to minimize the amount of inventory that you are putting on the market to match it off with how much market demands you have so that you always give some urgency so people look at it and so I have to buy one of these. We allow people to buy a trade. If you buy a lot from Phase II and you decide in Phase V you like that lot better you can trade into that lot. We'll take back your lot in Phase II. The same thing is true on the road improvements. The traffic on those roads is going to be dependent on houses being built. We would obviously like the houses built as quickly as possible. That's good for the County in terms of property taxes, it's good for us in terms of sales and we'd love to be making these road improvements because we are selling lots and people are buying houses. We are just trying to allow ourselves the flexibility so that the actual impact on the roads and the amount of money that we spend on the roads is consistent with the lots that we are selling and it is warranted.

Commissioner Houpt – One of the needs we have in this County that is talked about daily is affordability in housing and your community housing units are proposed to be built, starting in Phase VII. I do have a concern about that, the amount of time that could pass before we see any affordable housing come out of this project. I do recognize that your work force housing is in Phase IV. And I have to say I really appreciate the fact that you are focusing on this need in our County too. It is a definite need and we all know affordability and the definition of affordability has changed dramatically over the past year. Which means we can locate affordable housing in different areas because

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the work force is looking for housing. What would your reaction be to having that in an earlier phase, having a portion of those community housing units built?

Tom Gray – We’re fine with that. If you want to move them up two phases to Phase V, VI, VII and VIII that’s fine with us.

Commissioner Houpt – So financially that wouldn’t be too great a hardship for you?

Tom Gray– No, again it will be market driven. If we can build this housing and it sells quickly we are not going to worry about phases. We’re going to go build it all.

Commissioner Houpt – I would feel better about that. I’d like to ask Don DeFord and Fred Jarman to respond to the discussion on phasing of open space and trails. And I really want to look at them separately. The phasing of building trails as the development progresses makes more sense to me than the phasing of designating open space. Because you have a complete plan in place. I know there has been a recommendation that it doesn’t occur, that it occur at the beginning of the project.

Don DeFord – Fundamentally I don’t view the decision on whether or not the phase trails or open space or to require them in the first phase as a legal policy issue. It was left unaddressed and so if you go back in time to other projects where we had the question of dedication of open space and trails we had no specific representation of what phase they would come in and no direction from the Board. Staff took the position that we would assume that since it was unaddressed that it was represented that these amenities would benefit all residence of property that we would require them to fill in the first days. In other projects the Board has also adopted that philosophy as a requirement. But that is a policy decision to make. What the staff is looking for is clarity both from the developer and the Board of what you want to see. I guess from my perspective if we get that we certainly want to enforce the policy that you want to put in place. We have had developments in which that requirement has been in place and we have some successful dedication of those amenities right from day one. So it can occur whether this Board thinks that is the appropriate way to approach it for this project or not.

Fred Jarman – The only thing I can recall and Don has more history as do you to some degree on other projects.

This I think is “the” largest project that this has been applied to by leaps and bounds. As far as the size there is no question that the development team has expressed either market challenges that a project of this size is faced with. We understand that and we wanted to let you know that was where our thinking was.

Don – As you approach this there are some mechanical issues you need to consider. When you are going to do a segmented dedication of trails and particularly you look at this project in the mountain lots where there is a lengthy and extensive trail but many phases you could be looking at incrementally adding a few hundred feet of trail at a time because of the phasing. I don’t know how much sense that makes in terms of getting an amenity available for the people who move into this area because that trail will be available for all residence of the subdivision not just the mountain lots. The other issue is given the length of some of some of the trails in this project if there are no connecting links on that trail, if you have a trail that runs out five miles and ends, is that an issue? Maybe it’s not an issue to turn around and come back. But you might want to ask some questions and think about that. I do have some questions on this issue for the developer in terms of what the club is and when that will come into place.

Commissioner Houpt – I’d like to ask you your thoughts on what it would look like to dedicate that open space and then what the mechanics of the hundred foot trail system might look like.

Tom Gray – We provided a phasing plan that spoke to the question that Don raised. There is no question in our application in what phase the open space would be dedicated. It’s a corporate phasing plan and it shows when we are dedicating each piece of open space and in an attempt to show good faith in phase one before we sell anything we’re dedicating the most important piece of open space - the Meadow. The rest of the open space is interior to the project and it makes every bit of common sense to plat that when you’re platting the phase in which that open space occurs.

Commissioner Houpt - Did I misunderstand you I though you said that potentially at some point that open space could be reconfigured depending on the market or the plan. That sent a red flag up for me.

Tom Gray – We have to amend the PUD to do that. Let’s just take for example; I’m just making this up, and let’s assume we take that whole area that is northwest of Landis Creek. Somebody comes in and says, you know what I’d really like to do, I’d like to buy that whole section. We say great. Depending on what that owner wants to do; say he just wants to put his house there and donate the rest of the lots. If I had platted that open space up there already and had trails through there, I would now have a problem. I’ve got to get rid of the open space that is now recorded and I would have to get rid of trails. What this provision does quite frankly is it creates a significant economic damage to the owner of the property.

Commissioner Houpt – Could you talk about the mechanics of the trail?

Tom Gary – The great virtue of this property is its almost 6,000 acres. It is the biggest amount of open space that has been proposed by a development in Garfield County. If it was a 200 acre project I would say fine and plat all the open space. The environment is going to change on us. In our experience what we do is we dedicate the trails to the club. The club will have all the facilities. They will have the golf course, it will own the village, the sports center, and the only thing they won’t own is the corporation. That will be owned by the Metro District. And the fire station by the Fire District. The recreational packages and the service packages will be owned by the club. It will maintain the trails and that gives it a funding source because that is part of the dues. Joining the club is a mandatory part. The community housing down in the lower area, if somebody wants to buy into the club they can but they don’t have to. Everyone up in the core of the property has to be a member of the club. From a practical stand point what will happen is the improved trails within the phases will have loops. Once we get out of the platted phase, there are ranch roads that run all over the place and people will hike those ranch roads. It will be disclosed to them and they will acknowledge the disclosure that the trail is not committed its not dedicated but they are welcome to hike the ranch roads.

Commissioner Houpt – Going back to Don’s point and without pulling out the phasing maps have you accounted for the potential that having a 100 foot trail that leads nowhere because that’s the trail that fits into that phase. If not how would you deal with that and link it to the system?

Tom Gray – Two thoughts there. Most of these will connect to ranch roads. Frankly this trail system is driven off the existing roads. Why tear things up any more than you have to. In the mountain district I don’t see it as a problem because we’ve got pioneered roads that were done as part of the ranching operation. The people are going to have the availability to go hiking whether we formally dedicate it or not. If in fact the project were to halt at that point somewhere up in the mountain district were we had a stub trail, we would have to figure out how to make that

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trail more effective. He showed a number of loops that already existed. Even in the smaller phases you have loops that can get you back and some could easily be connected back into the core property without a lot of work.

Commissioner Martin – Something that is easy in Phase I, you’re going to build a couple of buildings which are going to be the gate house and the sales office. When are you going to build the club? In Phase II we are going to build the fire station, improvements to the road and after that Phase III there are no other construction of the village itself or the facilities from pool to tennis courts etc. Do you know when you are going to phase those in and when they are going to be built?

Tom Gray – At this moment in time, no. It is a marketing decision.

Commissioner Martin – The golf course was the next question when are you going to start that? I think the least disturbance until the project is going is best.

Tom Gray – We are probably on the same wave length, when you’re disturbing a lot of dirt your spending a lot of money and generally I’d prefer not to spend a lot of money up front in the project.

Commissioner Martin – I don’t have anything else other than I am worried about the water. I don’t think Hopkins has that much and I still don’t believe the studies when it gets dry, it gets dry.

Tom Gray – We do have a number of backup opportunities here that didn’t exist in the prior plan. So we have created fail safe mechanisms here, trip wires if you will that will carry us through a lot longer in a drought.

Commissioner McCown – Earlier when we talked about the 100 per month tee times, is that a minimum of 100 or that is a maximum or is that both?

Tom Gray – It is a minimum and lets assume everybody up here wants to play golf, which would be quite unusual. We are going to want people to come up here and play. We won’t turn people away.

Commissioner McCown – It is a cash flow issue and I understand that. I think we have really beat this horse to death but I have to ask the question, based on the Planning Commission recommendations on the phasing of the open space and the trails, is there an adverse hardship doing it all at one time or not doing it all at one time? Are we at any risk as a County permitting this action to go ahead if we don’t plat that open space and trail up front? I don’t feel we are.

Fred – No I don’t think you are.

Tom Gray – The Planning Commission rejected the staffs recommendation and suggest to you that the open space be platted with each phase.

Fred Jarman – At one point early in the process, even before this came to the Planning Commission, there was a question of ADU’s. For the record my understanding is there aren’t any ADU’s primarily because that tips the scale as a matter of density. I just wanted to make sure that was everyone’s full understanding. And everyone said it was correct. The other question that came up was the issue of pasturing and where are the horses going to get pastured throughout the project? How is that going to work?

Tom Gray – As a generalization pasturing of livestock including horses will not be allowed within the project. The pasturing for the horses will in general be down in the Meadow area. There is no horse keeping in effect really allowed up on the project. In the mountain district owners would be allowed to have a barn, have their horse there but no permanent boarding of their horse.

Fred Jarman – Do you envision that all of those improvements have to be within that building envelope.

Tom Gray – Correct, everything that goes on has to happen in that building envelope.

Fred Jarman – The other question, how do you legally envision to dedicate those public trails, public usage of the Meadow component? It’s a public dedication how do you envision doing that? Where does the liability rest?

Jim Lochhead – It would not be a public dedication per say of those trails for public. It would be a right-of-access that would be granted by the club which owns the trails to the public to come on. Just like if you owned a piece of property and you said the public could come and use this property.

Fred – To clarify, when the final plat comes in for Phase I for example what won’t be in that language would be a public dedication of the trails that are on this map? Everyone said correct.

Don – And that is controlled by what to make it available to the public?

Jim Lochhead – By the club which would own the trail. The open space would be owned by the homeowners. The club would own and maintain the trails through the open space and the club would allow public access on those trails.

Don – What are you going to show the County that will assure the in perpetuity there available for the public?

Jim Lochhead – We could handle that in the CCNR’s

Fred Jarman– Should the Board move in the direction of approval, the requested changes to the PUD conditions and the preliminary plan conditions, we would recommend that you do that.

Don – Going to the affordable housing and the timing of that and I guess this is an issue for the preliminary plan and potential final plat. What assurance are you going to give the Board when you come in with a final plat for let’s say Phase VII, that the affordable housing you represented here will actually be built?

Tom Gray – I’m very comfortable with putting it in the SIA and with appropriate bonding to assure it is going to get built.

Commissioner Hout – When you think about the affordable housing community do you categorize them as members of your community or neighbors to your community?

Tom Gray – It’s a two pronged answer. One prong is we want to keep the HOA’s obligations as low as possible on those units. So in that respect they will not be a member of the community and not be burdened with the HOA dues and costs. They will have a separate association so they have their own governance. The in all probability will be significantly lower. They would have the option to become a member of club.

Commissioner Hout- As with the other neighbors they would have access to the village?

Tom Gray – Absolutely.

Don – On the internal roads I believe you said they want them to be private as part of the PUD approval, is that from the gate in? is it from the County Road in all private, is that the intent?

Tom Gray – Yes.

Priscilla Prohl – For the HOA that is going to own the open space, is it going to be dedicated in the CCNR’s that it can never be resold?

Jim Lochhead – Yes.

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Julian Hardaker – In term of the affordable housing, it seemed there was still some question whether it would definitely be up there or in another location, at this point is it decided it will definitely will be up there? Susan Shirley, are they in favor of that or would they rather see it in another location?

Commissioner Houpt – The housing authority is in favor of having it be with the development.

Commissioner McCown – The main reason for that is we don’t have a long line of receptors for this affordable housing to occur somewhere other than this site.

Commissioner Houpt – Affordable housing has changed. We are looking at different types of affordable housing in our County. People can now commute from affordable housing because affordability has taken on a new definition. People who work and the income cap is \$100,000.00 will typically own a car so that they can commute. The way affordable housing used to be constructed was within an urban area because affordability meant a different thing.

Tom Gray – I would add I’ve had this discussion a number of times with Fred and he made exactly your point

Commissioner Houpt. This is going to be a place that people will want to live.

Kelly Wood – Thank you for addressing the hunting issue, it’s not a matter if you have a bear or a lion problem it’s when you will have a lion or bear problem. Also geese on the golf course you have a lot of wildlife issues that are going to affect that community up there. Not tying the hands of your methods that could alleviate some of the problems and I’m not asking that everyone has to allow hunting. I’m just asking that they can allow hunting if I own 40 acres or even two of the lots and I want to hunt on my own land in a safe manner.

Commissioner Houpt – Question for staff: If the others agree with this change in phasing for community housing where does that need to show up?

Commissioner McCown – You would just include it in your motion that it be moved up to those appropriate phases and it would take it away from the phases it was in.

Fred Jarman – Specific to the PUD verses the preliminary plan.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the PUD amendment with all of the testimony given today by the applicant as being fact and the conditions recommended at the onset of our presentation today by staff be included in those conditions of approval also including the portion of the statement from the Planning Commission that open space and trails would be dedicated and shown at the time of the phasing. Given the fact that seventeen (17) through twenty-one (21) is no longer valid I would like to add 17 to include in the phasing plan that the affordable housing aspect would be moved up from Phase VII to Phase V to begin in the process and would be so noted as it proceeds it would come off of the other phases where it is now showing.

Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – opposed

Commissioner McCown – I make a motion we approve the request for the preliminary plan application with the same conditions applying as presented in the staff packet and those recommendations that were presented earlier by staff be incorporated into those. Also including as fact all testimony given by the applicant today, that would be one (1) through thirty-one (31)

Commissioner Houpt – Second – Thanked the applicant for working so closely with the neighbors.

Commissioner McCown – I think it is only fair to acknowledge that in my career I’ve looked at this project several times myself and I sincerely hope this will be the last time on this project. Anytime you come before me with a better plan, a reduction of impact, a reduction on our natural resources, water everything else you have proposed here; I going to support it. In favor: Houpt – aye McCown – aye Martin – aye

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

DECEMBER 10, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, December 10, 2007 with Chairman John Martin and Commissioners Tresie Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

CROUCH PROPERTY – MISSOURI HEIGHTS

Louis Beutner requested an answer now and also handed out new information to the Board regarding the issue of Adrian Crouch’s property.

Adrian Crouch said she would like a decision on whether 162A exists into the Sun Mesa property; Mark Hamilton presented information and she was confused about it. Why are we still presenting you guys with information?

Chairman Martin informed Adrian that no decision has been reached.

Adrian submitted a letter from Temple Glazier dated December 10, 2000.

Commissioner McCown said we have the staff report.

Adrian read into the record the letter she submitted; and said “I want this to end”.

Louis reiterated the property location and the corners in the roads referred to as 162 A and submitted 13 photographs. Adrian requested the deed documents for Roads 162, 162 A and 100 and about 60 days ago it was expressed that the letter would be forthcoming but it has not arrived yet and he is still looking for it. He wants the County to identify what they refer to as 162 and 162A.

Adrian said she would like some closure.

Chairman Martin assured Adrian that she would be notified when the decision would be on the agenda.

COUNTY MANAGER UPDATE: ED GREEN

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GARFIELD COUNTY EMERGENCY COMMUNICATIONS AUTHORITY BOARD 2008 BUDGET – CARL STEPHEN

Carl submitted the Resolution concerned with the acknowledgement of the receipt of the Garfield County Emergency Communications Authority's Budget for the year 2008 and asked the chair be authorized to sign. The total budget request is for \$1,126,217.90 and the same amount is recovered in revenue. Commissioner McCown acknowledged that the Board of Commissioners received the Resolution.

OIL AND GAS - DISCUSSION AND APPROVAL OF CONSULTING AGREEMENT FOR JESSE SMITH

The Purchase of Services Agreement for Jesse Smith was submitted noting that Jesse will be retiring as Assistant County Manager effective December 31, 2007 in order to relocate to Montrose, Colorado; and because certain projects related to oil and gas impacts in Garfield County for which Jesse is the lead staff person, the services need to continue into the calendar year 2008. The specific projects are outlined in the agreement. The services will commence on the 1st day of January 2008 and will be completed by the 31st of March 2008 unless sooner terminated. The contract shall not be extended beyond December 31, 2008. Jesse will be paid \$6,500 per month with a \$2,000 a month travel expense allowed. The total not to exceed is \$25,000 to perform the scope of services. Commissioner Houpt requested to discuss this item in Executive Session.

BUILDING AND PLANNING - CONSIDER APPROVAL OF A 2008 PURCHASE OF SERVICES AGREEMENT FOR MARK BEAN FOR ASSISTANCE WITH LAND USE CODE REVISION AND CURRENT PLANNING WORK – FRED JARMAN

The purchase of services agreement was submitted for Mark Bean noting that he will be employed to provide services to the BOCC for the assistance to the staff in the performance of duties as related to the Land Use Code and shall not exceed \$20,000 and the contract shall be completed by the 31st of December, 2008.

Fred said the contract carries into 2008. He submitted Exhibit A and called attention to the contract saying it is identical to what we have in place now. Mark is playing a critical part with Don DeFord and the Planning Commission on the Land Use Code Rewrite. Fred also stated that we are two Planning Commission members down and we need to get these filled. This contract for Mark is a budget request for \$20,000.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the purchase of services agreement for Mark Bean for \$20,000.

In favor: Houpt - aye Martin – aye McCown - aye

BUILDING AND PLANNING - CONSIDER APPROVAL OF A RENEWAL OF THE PURCHASE OF SERVICES AGREEMENT FOR 2008 FOR SULLIVAN GREEN SEAVY, LLC AND THE NORRIS DULLAE COMPANY FOR ASSISTANCE WITH LAND USE CODE REVISION – FRED JARMAN

The renewal of purchase of services agreement with Garfield County for the State Model Land Use Codes for fiscal year 2008 was submitted noting that the agreement is for one year beginning January 1, 2008 through Decemb31, 2008. The contract amount is for a not to exceed \$12,500. The scope of services is clearly outlined in the agreement. Fred said these monies attached to this agreement are funded by the state and the BOCC. The monies are sitting there already and in fact there are more monies available for this project than requested here. He added they have used Attorney Barbara Green for certain issues.

Commissioner McCown has struggled with the work done on the agreement; there are errors in the document.

Fred agreed he has the same frustration on certain levels but this agreement allows us to keep working on this.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the renewal of purchase of services agreement for 2008 for Sullivan Green Seaavy, LLC and the Norris Dullae Company assistance with the Land Use Code Revision no to exceed \$12,500.

In favor: Houpt - aye Martin – aye McCown - aye

Ed's items for Executive Session included: Jesse's contract – personnel item and Judy update on Hydro study invoices contract.

Rules and COGGC Comments

Judy reminded the Board that comments on the Rules are due on Friday to the COGGC. She has started writing comments on those and will draft the rest of comments next week.

EnCana Contract with Judy for the Divide Creek Issue

This is a change in scope on the EnCana contract made with Judy who was hired last year. The County is not paying the bill; this contract is paid by EnCana and is part of the fee for this study in regards to the Divide Creek issue.

Chairman Martin will have to sign the contract.

Don said all Commissioners are supposed to sign off and we still need to authorize the Chair to sign. The BOCC is one of the three amending parties: EnCana, BOCC and the OGCCG.

Commissioner McCown stated they were changing the scope of the contract and the money from \$200,000 to \$371,000. This was not on as an agenda item and the Board felt they needed more information. Direction - agenda it for next week as this would not affect our budget. Judy will present this next week.

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE – CONSULTING AGREEMENT FOR JESSE SMITH – ITEM B UNDER ED GREEN'S TIME; DISCUSSION ON CR 162 AND CR 162 A AND DIRECTION FOR AN AGENDA ITEM

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried.

Action Taken:

COUNTY ATTORNEY - PERSONNEL MATTER - DECISION

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to grant Don DeFord the authority to enter into a contractual agreement to conduct any investigation into personnel matters acting as the Board's agent.

In favor: Houpt – aye McCown – aye Martin - aye

CROUCH PROPERTY – MISSOURI HEIGHTS - COUNTY ROAD 162 A

Action taken:

A motion was made by Commissioner McCown and seconded by Commissioner Houpt for Don DeFord to enter into an agreement with the County Surveyor to do a title search on County Road 162A.

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In favor: Houpt – aye McCown – aye Martin - aye

DIRECTION: CONTRACT WITH JESSE SMITH FOR SERVICES FOR 2008.

Action taken:

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the purchase of services for Jesse Smith in an amount of \$25,500.

In favor: Houpt - aye Martin – aye McCown - aye

COMMISSIONER REPORT:

Commissioner McCown – Tuesday we have our land use meeting at 6:30 in Rifle; Wednesday at 5:00 p.m. BLM subgroup in Glenwood Springs; Thursday is the Oil and Gas Forum; Met with Mary Meisner; Spring Valley last Friday; this week a meeting with Williams Energy with Judy Jordan and Dave Cesark regarding 10 acres spacing issues.

Commissioner Houpt – this week, COGGC on Wednesday and Thursday; and Rocky Mountain Rail on Friday.

Chairman Martin –CMC Senior Programs and said we need to consider contract control of the Traveler and establish a game plan to handle services with all the different partners and the lead agency on the nutrition programs.

Ed said the senior programs are spread over three organizations: CMC, RSVP and RFTA. RFTA will run The Traveler’s program. Dan Blankenship said he will go for the grants and put that under RFTA. He will take the lead and Dan and Ed will meet after the first of the year with the hospital and the Rifle Honor Camp to work out the details. The consultant is working out an approach. A lot of progress has been made.

Commissioner Houpt stated she wanted to make sure the municipalities are a part of the IGA as well.

Ed said John Hier is working at getting commitments from the municipalities.

Chairman Martin had a meeting of the water round table and he will see if they are making progress or just spinning wheels.

Commissioner Houpt said all the roundtable representatives were present.

CONSENT AGENDA:

- a.** Approve Bills
- b.** Wire Transfers
- c.** Changes to Prior Warrant List
- d.** Authorize the Chairman to sign the Special Use Permit for two Temporary Employee Housing facilities located approximately 12 miles north of the Town of Parachute and operated by Marathon Oil Company. Applicant is Chevron USA – David Pesnichak
- e.** Authorize the Chairman to sign the Resolution of Approval for a Special Use Permit and the Special Use Permit for one Temporary Employee Housing facility located within the North Parachute Ranch approximately 10 miles north of the Town of Parachute and operated by Berry Petroleum Corporation. Applicant is EnCana Oil and Gas USA, Inc. – David Pesnichak
- f.** Authorize the Chairman to sign an agreement with DOLA for the Assessor’s office to use their online database – Lisa Warder
- g.** Authorize the Chairman to sign the Resolution of Approval for the Exemption from the Definition of Subdivision for the Colorado Rocky Mountain School. – Fred Jarman

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Consent Agenda Items a – g.

In favor: Houpt - aye Martin – aye McCown - aye

OIL AND GAS - CLUB 20 – SEVERANCE TAX COMMITTEE Jesse stated that he met last week and a draft Bill A is out. Senator Gail Swartz did a presentation on the process. Representative Buecher – Bill A has some structural process changes within the DOLA funds. Representative Kathleen Curry – Bill B – authorizes 5% of monies going to the Department of Natural Resources to be provided to state wildlife and Sen. Josh Penry – Bill C – severance tax credits that sets up a cap of \$1million per year per company maximum of \$5 million cap state wide per year. One of the things that Sen. Penry stated the only reason he drafted this bill because DOLA wasn’t utilizing a current status on severance tax credits and that if would recognize and authorize entities to utilize this statute therefore this bill wouldn’t be needed. Jesse found that quite interesting because DOLA was sitting in the audience and in fact made a presentation on the current distributions of severance taxes and mineral lease dollars. Sen. Penry came up with his threshold numbers out of the air and he says they’re totally negotiable. Jesse, as he read the current statute, the severance tax credits and underlying intent of the legislature at the time they presented that was to allow for public and private partnership with governmental entities to accomplish mitigation projects that were large and beyond the severance tax grant process; he referenced a bridge about to duplicate what happened in Minneapolis and somebody needs to go fix that bridge. It’s a \$30 million dollar project and how you can’t do it with the severance tax grants because you can’t do one thirtieth of a bridge a year. He acknowledged that was the case and that he agreed that’s what the statute was there for. One of the Rio Blanco Commissioners, Ken Parsons indicated that he absolutely agreed with that analysis and referenced CR 5 which is roughly an \$80 M project in Rio Blanco County. There was quite a bit of discussion from a general perspective and again Ken Parsons had a real problem with the 3 pot formula for distribution of severance taxes because in Rio Blanco County all of the residences are in Ranglely and Meeker but all the roads are in the unincorporated part of the county so he was concerned under that formula that all of the severance tax dollars would go to Ranglely and Meeker and the County would be left wondering what to do with CR 5 which handles all the traffic. Another one came from several people in the audience and it concerned the Bill A which provides more control to DOLA on the distribution of severance taxes and in it referenced that DOLA would apply weights to the 3 pots. The audience was concerned because if in the future it provided an executive director for DOLA that was from Weld County that possibly the weighting would be shifted where one county would be benefited more greatly than other counties and they were concerned about that ability to take place. Ken Parsons also said he would like to see the formula include federal highway user’s tax for roads that are recognized under HUTF; that should be somehow built into the formula; he did not get a lot of sentiment from that comment. All the presenters acknowledged that these are draft Bills and requested from the audience anyone that would like to submit language in these bills to please do so. They asked for draft language to assist the draftees to change these. Following the meeting Jesse had a meeting in the same facility with the Reps from Rio Blanco County, Jeff Comstock from Moffat County, a council member from the city of Craig, council member from the city of Ranglely and a Commission from Moffat and shared a project in GARCO at Intersection of I-70 at Parachute. Sen. Taylor was present at that session and Jesse requested from those people a letter of support for the project and

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basically everyone said, you'll get it; they though it was a good project. Met later with Kent Kendy of Fruita and John Peacock of Mesa County and made the same presentations to them and the same request. On Friday met with Susan Hanson and the city manger of Delta and made the same presentations and asked for the same letter of support and they both indicated they would take the request to their perspective elected entities. Jesse is meeting today with Tom Baker, Jeff Haskell, Frank Breslin, and Betsy Seriet and doing the same thing again; tomorrow he's meeting with Sharon Day, Kim Prehay and Lance Stewart making the same presentations. Chairman Martin will need one of these presentations to also be relayed to the chairperson of Intermountain TPR – Mick Ireland and that will be distributed to all members of the Intermountain TRP. Jesse will try to meet with Rifle tomorrow.

CR 346 MAINTENANCE ISSUES – JOHN COLEMAN

John Coleman was present and requested maintenance on County Road 246. Jesse Smith had a brief session with John Coleman and this led to an investigation of the road maintenance report. The road in question is a one point eight mile road. Mr. Coleman had indicated a concern that there wasn't adequate maintenance going on that piece of road and the road surface and dust conditions were not being controlled. We looked at what had transpired from a County perspective and gave the Commissioners a listing of when maintenance activities took place on that stretch of road over the last year. There is only one residence on the road and it is very close to the Mamm Creek Road on the east end which also has a water station for oil and gas trucks. In addition to the \$45,700 that we documented out of the road and bridge budget, there were numerous water trucks that were loaned to the County by gas companies that put water on that road prior to us doing the Mag and grading. On several occasions on their own, the oil and gas company watered the road and at least one time Mag chlorided it.

Marvin stated the condition of the road at this time is that they just finished the Mag process and graded the road. It has been graded at least 6 times this year in that particular section and applied Mag 3 times. We have prepared a list of things we can do, we talked about abandoning the road at one time and leaving maintenance as is.

Chairman Martin - This is a discussion for future; we had talked about closing that for safety reasons for the County Regional Airport but we haven't done so.

Ed said it is not necessary to shut it down, we thought it might be as it related to the \$30 million project for the re-route of the runway but it's not necessary.

Commissioner McCown said that was not all that was involved in the closing down, you're talking almost two miles of road that serves one clientele and it's on the very extreme east end of that road less than one hundred yards from the Mamm Creek Interchange. That was the crunch of that possibility. We have roads in Garfield County that have more homes than one on them that haven't had this much money spent on them per mile.

a. Government Energy Office (GEO) Program – Joani Matranga

Joani Matranga was present and provided a power point to the Commissioners outlining Colorado's New Energy Economy – from the Governor's Energy Office. "The Mission of the Governor's Energy Office is to lead Colorado to a New Energy Economy though energy efficiency, renewable and clean energy resources." The Governor has divided the state into a Western Region, Central Region, and an Eastern Region and has appointed representatives to speak for him.

The 2007 is the greenest legislative session to date and highlights were given to the work that was accomplished.

Governor Ritter executed an order in April 2007 to provide the challenge to the Colorado state energy office.

Following there was a meeting of energy experts in the summer of 2007 and regional representatives joined in the fall of 2007 and finally a GEO website and programs were implemented in the fall of 2007. The report contained the overall program goals and objectives.

Commissioner Houpt stated it was a great presentation and we need to get back on our agenda the zoning text amendment to allow solar energy facilities like the one at Rocky Mountain School in Carbondale where it allows uses in all areas of the County. The reason it needs to come back on the agenda is because it was not noticed for solar energy throughout the County.

Joani will be working with Fred Jarman. She also noted that Rifle is working on an energy related program as well.

b. Traveler's Highland - access to 6 & 24

Public Meeting and didn't require a specified notice. Chairman Martin recognized a number of people in the audience who have opinions about this issue.

Fred Jarman, Don DeFord, Karl Hanlon, David Hicks, Kenny Gardner, and many other landowners in the Traveler's Highland and Dan Roussin from CDOT were present.

Mr. Hartert wrote the draft letter for Mr. Hicks and was requesting the Chairman's signature. The letter outlined the request to have access to Hwy 6 & 24. Resolution 2005-05 accepted the Traveler's Highlands' roads and the Board was presented with a CDOT access permit backed by testimony that the physical access to SH 6 and Travelers Highlands' internal roads would be constructed to the then existing CDOT standards.

CDOT has advised the County that the work required under the Access Permit provided in 2004 was never completed and the permit has expired. The Board has been notified that there is a new active permit held by 5C Investments LLC and that CDOT will not therefore "jersey barrier" the access point. CDOT has agreed to an upgrade design that will allow state-permitted ingress and egress at the Highway.

Traveler's Highland is not a County-approved subdivision and the roads within the subdivision are public roads.

From the County's perspective an agreement is missing regarding allocation of costs among all the individuals and entities owning property within this subdivision and needing improved to commercial grade access to Hwy 6 & 24. Garfield County Board of Commissioners delegated its authority for Traveler's Highland to apply for a State Access permit to 5C Investments, LLC. in 2007 as had been done for Terry Kirk in 2004. At this point the Board will be willing to make such a delegation to Parachute Commercial, LLC. represented by Karl Hanlon.

Carolyn explained there is not legal access on State Highway 6 & 24; Mr. Roussin from CDOT will talk to you about the state of the permit in which 5C Investments has, and your chief building inspector has a series of photographs to show you so you can see what the access of lack thereof looks like.

David Hicks brought this to the Commissioner's attention. The letter was from Mr. Hartert but David changed attorneys to Karl Hanlon. Jerry Hartert doesn't speak in front of any entities but is still very involved in the process.

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David Hicks said there are basically several issues here – the first is that he got pushed to the top of the list because he is asking for permits to build buildings in Traveler’s Highlands. That’s one issue – the refusal to issue permits or inspect the existing permits; the second thing is an issue that has to do with public access onto the Highway 6 & 24. Karl Hanlon of Leavenworth & Karp, said he heard Carolyn Dahlgren’s comments about there is no legal access and I think we need to be careful how we define legal access in this particular instance. In 2005 this Board adopted a Resolution as accepting as public right of ways the roads as platted in Traveler’s Highlands subdivision referred to as the internal roads. If you take a look at the plat that Fred Jarman handed out to the Board, there are 5 access points which actually touch the CDOT 6 & 24 right of way. In effect those internal roads, there is no gap, so those internal roads effectively create a legal access to Highway 6 & 24. There is always a question of what is the legal status of an access permit. But this was at least as to the one access currently being used has been historically used as an access point. It’s my understanding since this subdivision was platted. From my prior experience working with CDOT and working with historical access points which are not permitted, in order for CDOT to close down that access point they would need to utilize their condemnation rules which would require that they formally go through the process of evaluating the value of that access point means and pay compensation for the closure of that access point. We experienced several of these issues out at the roundabout factor in West Glenwood on a number of those access points that were historic but were not actually permitted and we changed those and it was necessary for us to pay compensation for having changed those. CDOT also required we go through a process of deeded over the interests in those, so there are a number of things there that I think, at least to the one access that is currently being used, I think there is no question that there is the ability and authority of the current properties to access their properties. Question then becomes, how does this interface with the International Building Code (IBC) and the provision has been cited as the basis to deny access to the subdivision which is, is there access to the building inspector to enter the premises. You will note in that code section that it doesn’t say legal access, it simply says access, so I think there is a question can he get his pickup truck to the site and can he walk in and do a framing inspection or does he have the legal ability to get there. Generally speaking I think what I can see doesn’t differentiate between the two and I understand the point that you want to make sure that you’re not going to get turned off at that public right of way for trespassing. I submit to you that it is obvious that the building inspector being ejected from a public right of way is someone Now there are some abilities, and that’s commented on CDOT’s ability to close down that access. They certainly have the authority to close the access if they deem it necessary. There is a process they need to go through before they can put up a “set of jersey barriers” there. Similarly there is a process that the County can use to do the same thing. They could move to vacate the current subdivision plat, you could exercise your authority and domain powers to close down that access point but you’re in an uncomfortable situation which I recognize right now because you have accepted those for public right of ways and I recognize you have no maintenance or responsibilities to built or improve those intersections but they still do exist as public right of ways providing that necessary legal access. As a result I think in this particular instance the denial of building permits for uses that are permitted by the zoning that are not requesting either a Conditional or Special Use Permit nor asking for a land use approval, I don’t believe that the land use code provides you with authority to close down those accesses. I think you need to be very careful about utilizing this provision under IBC to do the same thing because in effect what you are saying is there is no legal access as to your building inspector to make inspections but there is legal access for other businesses which currently exists in the business owned sites to continue to use the access point. That differentiation in classes is someone previous I believe for you to make that distinction and affect a moratorium on building permits and on the issuances of CO’s. I believe Andy Schwaller may have some information regarding the number of pending building permits, the number of pending CO’s and then a phone message left earlier for me saying there were probably some septic permits that had not been issued or been reviewed as a result of this. So you have a wide variety of classes being affected by this decision and you have another group of individuals out here who have made it to CO who are being allowed to operate. I think in this instance again that leaves an open question of how we’re treating the two classes of people. I recognize that in the case of 5C Investments they’ve come in and requested a plat amendment which triggers your land use process and gives you a much greater array of tools to use to accomplish the improvements to those intersections and we recognize and respect the authority of the County to be able to do that through the land use process. We want to be careful here though to differentiate that we are not seeking a land use approval, we’re only seeking a building permit as permitted on a lot that has been owned and platted since 1965 and has had access to public right of way since 2005. We are simply seeking a building permit to construct a building as permitted on the lot. That sort of sums up the first point of why we’re here which is the need to have building permits issued that has become somewhat critical; we have contracts in place and we have obligations to other individuals based on issuance of the building permits. The second point on the authority to require the improvements, as I said before, we fully respect your right underneath your land use code to require and the need to make those improvements as part of a development application and that is a tool that gives you some other jurisdictions and we absolutely incorporate it as a tool. In that process however you don’t have the ability to require other property owners which are not subject to that land use application to make those improvements or participate in those improvements. I recognize that what Carolyn would really like is for us to all go out in the hallway and come to a resolution of that and agree on who’s going to pay for what, where and when. Unfortunately, we’re not underneath an obligation to do that and I am unwilling and very hesitant to make a commitment to do that when the lever being used is one that you have comfortable authority to do so. We would like to resolve the one before we have a discussion about the other because at the end of the day volunteer participation will be needed from our standpoint in those improvements if they occur and potentially the other improvements to the other intersection. It think there are some other mechanisms that are available in the state statute that we can get this all done but there again I don’t want to have that discussion until we resolve the issue of getting our building permits so we can at least move forward on that issue.

David agreed this covered the issue.

Chairman Martin – questions.

Commissioner Houpt wanted to make sure that he’s aware that when those right of ways were accepted it was contingent on an access permit with CDOT.

Karl – looking at the Resolution – in the Resolution “accepting the roads rights of way”, I don’t believe there is a mention of it being contingent on an access permit.

Carolyn – the Resolution itself does not recite that, it was part of the representations that were made at the hearings.

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Karl – so from our standpoint as a property owner the document leaves no reliance of the acceptance of the platted roads for public right of ways. We weren't part of that discussion nor were we subject to that access permit.

David Hicks – as such that's how I purchased my lots.

Commissioner Houpt - but as far as I'm concerned because it was part of the discussion, I had always assumed that we only made that decision because there was going to be improvements; we had required that there be an access from CDOT.

David Hicks - but yet as myself, as a purchaser in that subdivision, I have no indication that there's some hidden obligation that I'm going to have to perform – it's not in the public record. I'm not part of the meetings; I don't have anything to do with what prior hearings you had. I purchased a lot based on recorded documentation. I have to rely upon that.

Chairman Martin – that's one side. Now we have to listen to some other sides. Dan Roussin submitted a letter too. Let me get CDOT's opinion on this particular issue because we had one permit that was issued that has expired and that was with Terry Kirk and that came up when we took our action in 2005 – I believe there's a new access permit that has been issued but still working on that particular issue on who's to do what.

Dan Roussin – Region 3 Permit Manager and the Access Manager for this area for CDOT. I was invited to this meeting approximately 4 days ago so I didn't have a ton of time to make a presentation but I felt strong enough that we needed to know what's going on. So I did do a little summary for the Board and passed it out. Power Point (copy in the files).

The first picture I have is actually an aerial photograph of where the Traveler's subdivision is. It's just basically, what are we talking about, what exactly the access we're talking about. The aerial was done by Google and I basically showed where we are at. If you look at the next page we actually went out and visited the site May 13, 2004 and the picture in front of you actually shows exactly what it looked like out there – there is a big difference to what it looks like today dated 12-5-2007 photo. There's a lot more building activity up there, it's just a bigger development in that area. And then I went out there last Thursday and took a picture of the access looking straight to the north of it; and then that same access point I pointed out some areas of deficiencies of what we see out there. We see the issue of parking on CDOT right of way; there's a vehicle out there; another issue that we see is the lack of drainage – you can see the big mud puddle; and then number 3 is the lack of a hard surface and it's basically a dirt road; number 4, because it's a dirt road we had debris and dirt on the Highway and because of that we actually have damage onto the State Highway system. Then the number 6 point on that one picture is the lack of turning radius. What people do is because there's a drainage problem they go directly on 90. Next slides are the issues Dan's been discussing. Basically there's the lack of a turning radius because there's a drainage issue. What happens is anybody going from the access going southbound to westbound there, any kind of big vehicle actually turns into the other lane so it becomes an issue. So these are these issues that we see out there right now. What we did was a history and wanted to give you a history of the access permit. An access permit was applied by Terry Kirk in 2004 and as you're well aware at that time it was a private driveway. CDOT did issue an access permit on June 24, 2004 and it was general light industrial for 20 DHV and DHV is basically peak hour. How much in the peak hour? The Permit required the following: culvert for drainage, hard surfacing to the right of way line – that's what we were looking for in 2004. Since then the BOCC did adopt the right of way as public right of way, the permit expired June 2005 without any improvements completed. CDOT received a new application this year from 5C Developments for 60 DHV. We did issue a permit August 31, 2007 and this is the requirements of the department – it requires a right turn decell lane; requires hard surfacing to the right of way; requires a culvert for drainage; and it requires a warranty bond to get the work done. That's what we're requiring. And the current status of that permit we're waiting for a notice to precede package. What we're waiting for exactly is a set of plans; we're looking for construction plans, liability insurance and a traffic control plan. Once we receive that and review it and it's sufficient, we will issue a notice to proceed for that use. Now what's really unique about this, I wanted to tell the Board, we actually have three traffic studies that looked at this intersection in the last year. This is pretty unique, typically we don't see that; because of the growth in that area we have three different traffic engineers taking a look at that intersection. We had LSC Transportation that did a study in February 2007 – they actually did current counts at that intersection; Kimley Horn and Associates which was 5C Investments traffic engineer, they did a study for their development and then we had Drexel, Barrell and Company do a study September 2007 on the other side and what I did is I kind of put a summary of the existing traffic out there. Basically what we're seeing is between 50 and 60 peak hour trips at that access site roughly, they did the AM and PM so it gives you a consistency. What's really nice is we have really great numbers at that intersection. Typically we don't; typically we just have one study but in this case we actually have 3 studies and because of those 3 studies what we have determine is there is a need for some highway improvements at that intersection based on the State Highway Access Code. 5C Investments applied for an access permit, we've granted them an access permit with the understanding to make these improvements. The issue is we have a whole bunch of property owners at a subdivision, 240 lots I believe and the issue is 2004 there wasn't nothing out there – absolutely nothing out there in 2004. Now we have I don't know how many buildings but we have quite a few and now it's time to make highway improvements based on development. What CDOT would like to see is basically the road go up to current standards. What the professional traffic engineer has signed and sealed saying what's needed out there, so what we're going to have to do is Garfield County, CDOT and the property owners are going to have work and realize there is an issue out there; 2) really don't allow any more development until the access has been finalized and that's a big issue. I mean we're going to have to work together to get this done and quite frankly all the property owners will benefit from having a safe access out there. Really what CDOT would like to see is to construct the access as the permit requires. The conclusion for CDOT is we've got to work together to get the access to meet the needs of the users and provide a safe access.

Chairman Martin - well before you leave, this was again not through the current rules and regulations on subdivision; this was done in 1962 to 1965, the access code that you're reciting came into use in 1979; again it was recognized that the people that bought their property from '65 to '79 had access through the historical road, we were put into a situation where that road existed prior to the access code and that we went ahead to include the circulating roads within the subdivision again not through the subdivision process but because it was grandfathered in and it was existing and CDOT recognized that it was an existing, non-compliant access and that puts us all in that kind of gray area, that pickle so that's what we're up against. So it was there historically, people have used it historically; the improvements need to be done.

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Dan Roussin – I do want to add is the use has changed historically. 20 years ago there was absolutely nothing out there or even 10 years or even 5 years ago there was absolutely nothing out there. In the last 5 years that use had dramatically changed, and I want to point that out, 5 years ago we would have issued a permit with basically what's out there, but now the use has changed and what we're really asking is let's get the road to the standards that needs to be for usages that are out there and that's all we're really asking. Now that's tough question, that's a tough issue – it really is and I definitely sympathize and let me tell you, I wouldn't be here if we didn't think it was an issue and we're willing to help as much as we possibly can.

Chairman Martin – and one of the things we have to recognize Dan is what's driving the need to develop those and that happens to be the oil and gas industry and we do not issue those permits; so again we need all of those back-up and sub-contractors and what have you. The State of Colorado issues those permits and they know that they are issuing a lot of them there; they're the developer really and what's pushing this entire thing. So again we've got another agency involved here, not only the State Highway Department of Transportation, the regulatory system, and the County and the developers of the property so there's four (4).

Commissioner Houpt – except this type of development is under our authority though so I don't know if I would agree with you.

Carolyn – before Mr. Roussin leaves I need to ask him a question, on behalf of the AG's office, can you tell us does CDOT consider this access sort of like we would consider a land use to be a non-conforming use that is that the access that's on the ground that was grandfathered in because it was pre-existing is not being changed and that's what brings it under CDOT's current code?

Dan Roussin – that's correct and let me clarify – when you say grandfathered, basically that means is the use hasn't changed since 1979, obviously the use has changed since 1979 so it's no longer considered a grandfathered access, technically it's a non-compliant access with what's currently out there. And that's really what we're trying to do is work together to get that access in compliance with the State Highway Access Code, which isn't just a code, I mean it's not something that CDOT wants to do, it's state law that we're trying to work with and trying to get this up to compliance here.

Commissioner Houpt – and you currently have an access permit out there waiting for those improvements to be done.

Dan Roussin – correct.

Commissioner McCown – and one that was never completed at all.

Dan Roussin – the first one was never completed, correct.

Commissioner McCown – I guess from – does CDOT follow up on access permits?

Dan Roussin – we do, and this, here is another sticky situation – if it was a private land developer, absolutely, we would be out there talking to them and putting the preverbal barrier out there but in this case it puts a really sticky issue up there – these are considered public roads and we're not in the habit of putting jersey barriers on public roads. That is something that, well what we've been trying to do is work with the County and the developers to come up with this. We've met with owners probably 3 or 4 different times talking about the issue, talking about how we can get this resolved, so have we put a blind eye to this, no we haven't but it's a tough issue because you have 240 potentially different property owners that have an interest there, how do you get them all together to say hey, it's time to make some improvements. Who's responsible and that's really what the issue is. Who's responsible? Obviously the state can't pay for these improvements – we don't have any projects in that neck of the woods not that I'm aware of. I know the Board's position, what it really comes down to is we've got to get the private developers or the private property owners to work together to come up with a solution that will work for everybody.

Commissioner McCown - where I was going and your own testimony, the first improvement permit at the time we took the action on recognizing the roads on the interior portion of this subdivision there was an access permit being granted, that was to an individual. Now there's another application for an access permit that is to for all practical purposes, an individual even though it may be an LLC or a sub-corp or whatever but it's still another private access. Dan – absolutely right. The Highway Access Code actually allows local governments to give that authority to apply for access permits and in both situations Garfield County actually gave permission to the developer.

Commissioner McCown – I know the history but what I'm saying Dan is if on the original permit application with Mr. Kirk, if he did not follow through, CDOT does not the authority to act or interact personally with Mr. Kirk, who for some significant time was the only individual in this subdivision that was carrying on any activity and that permit expired without any improvements. That's my question.

Dan Roussin – it's a great question; as you know we issued the permit in June 2004, the Board accepted it January 2005. At that time they had a current access permit and they had the ability to get a notice to proceed to do the improvements. By the time the permit expired, the road became a public right of way and can I go to Mr. Kirk and ask him – really I can't. The issue is I've got to go and this is another pretentious issue that probably the Attorney General's office and the Attorney's here are probably going to discuss a little bit more in depth – who is the owner of the road. And we might see a little bit of difference on that. But like I said we are trying to work together with everybody.

Chairman Martin – we do, because we addressed that issue in our Resolution. We do not claim any ownership, maintenance or control thereof of that road and it's in our Resolution.

Dan understands that.

Chairman Martin – it's like any other homeowners association, formed or unformed, it's up to those folks to take care of the roads within. And that's what we came out with in the Resolution.

Dan – that's where I need your help to get these property owners to help us get this access up to standard.

Commissioner McCown - and just from one individual that just purchased some property, apparently unless I misconstrued his attorney's interpretation, they are not willing to participate. So it's going to take some action from the County to make everyone play nice together – whatever it may be – apparently the County or CDOT.

Dan – we will partner in this as well; we're going to take our responsibilities as well, so quite frankly we will help as much as we can and try to get this resolved as fast as we can.

Don DeFord – one question – on behalf of CDOT do you believe that property owners in that subdivision have a legal right to use the state right of way right now? Can they use it; can they drive back and forth across the state right of way to get to the actual paved highway?

Dan – basically this is a legal question; I will answer it the best I can – what I will say is the access is non compliant with the State Highway Access Code. That's the best way I can say it. Do they have access to it – the historical

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access, absolutely but they’ve changed the use and they’re in non-compliance with the State Highway Access Code. The access is not the problem.

Don – at this time does CDOT intend to either take physical action or prevent use of this state right of way or legal action to prevent use of the state right of way?

Dan – what we will do is notify the road owner that they’re not in compliance with the access.

Carolyn – and the road owner is?

Dan – that’s a great question.

Chairman Martin – I have one other question to go along with that Dan, in reference to the access itself, how has it changed because it was again accepted as Light Industrial – Light to Moderate Industrial. What has changed, even thought that the physical site was not developed it was accepted there with all those lots that were in there; and now that they’ve been built, how does it go out of compliance to what it was supposed to be built for?

Dan - CDOT doesn’t do land use; we work with you guys on land use but we do not make decisions on land use.

This is a great point that you’re asking. What I’m hearing that you’re asking is because the lots, the land use was for industrial use, did CDOT, is the grandfathered use still there. The issue is we don’t look at it as land use, what we look at is how much traffic goes onto the access. What we look at is the actual traffic on the access, the grandfathered use in 1979 I would bet that was probably less than 5 cars a day, even less but not we have approximately 500 to 600 cars a day using that access. Which is a change in use under the State Highway Access Code – the change in use which is Section 2.6, 20% or greater. That has occurred and we have documentation from three different traffic engineers independently from CDOT so I think we can pretty much say that the change of use has occurred.

Chairman Martin – change of volume – I’d like to have it different that the change of use.

Dan – Change in volume. My perception, I would have to go with the legalese and ask them for their opinion, but my opinion - I believe the owner of the road is Garfield County; understand that they don’t maintain the road but it’s public right of way and open to the public.

Carolyn – interpreting state statute – no legal advice. I’m just wanting to make sure that you know the current permit holder is also in the audience and Andy Schwaller is present too and he has some stats for you and other folks. Mr. Kirk is here.

Terry Kirk – I did have an access permit to that access at one time. And A & S Paving who overlaid Interstate 70 at the time was traveling through there and they were ready to pave that access twice and EnCana both times came through with a gas pipeline through the state right of way and then it ran out of time – the permit not only expired but so did the weather expire to get that pavement done. But it was in the works and paid for to A & S who agreed to pave it for what I was doing for that length of time to get that done accordingly. I have met with Dan Roussin a couple months ago and Dan was telling me that he wanted the deceleration lanes, accelerations lanes, the road widened, turn lanes in the center of the road, the south side of the road paved, and widened and lengthened 6 to 1200 feet on both sides, and I said Dan, it’s a little out of my pocketbook – I agreed to do to this and I still will do this but that’s not my deal. I told the Commissioners that I would do what this permit said and I will do what the permit says but through no fault of my own could it be done, it was strictly circumstances not allowing me to do that.

Chairman Martin – which causes another problem, Terry you might be willing to do so, but I don’t know that the state will accept or give a notice to proceed under those particular old guidelines under the permit.

Dan Roussin – that’s correct; what we have now and

Chairman Martin – what we need is another portion of notice to proceed so you could do the work on the right of way

Terry - no the permit is expired, like I said I couldn’t stop EnCana or Williams or whoever it was to put pipelines in at the time and stop digging holes through the road and going through there; Dan later informed me that all I had to do was to call him and he would have stopped it. I was told that God could not tap that transmission line that goes through there for power but EnCana can. There are things beyond my control. At any rate it looks as through the new permit just says there is a right hand turn, deceleration lane and then the access is the same as it was before, so it’s not that big of a deal to go with other people, it’s not that big of a deal to get that done. I’m here because I told the BOCC something and still telling you that I’m not changing my plan or my story or anything else, I told you something and that’s what I’ll do. I told Dan the same thing. But as far as widening the south side of the highway for around 400 gravel trucks a day and 200 other trucks a day, not in my pocketbook. Dan told me you had told him that it wasn’t in your budget; well I’ve got news for you it isn’t in mind either.

Commissioner McCown – Terry, since you were the point of the sword that brought this thing, do you think you could formulate a group of landowners out there with both the new applicant, yourself, Mr. Hicks and come up with up with an agreement that’s not going to cost everybody a tremendous amount of money and come back to this Board or to Dan and work this out, otherwise it’s going to create some actions that nobody wants and it’s not going to benefit anyone as far as their businesses, the value of the land, there’s going to be a whole bunch of things get wrapped up in this. I think you struck on a very key point, you were still willing to do what you committed to financially; if that portion would help defray the cost of what 5C has been told that they have to do, if Mr. Hicks was willing and should be willing to see is as a value to his property to contribute and other landowners as well; I think you need to form some type of an association so that if this issue comes up again there is an entity that can answer the questions.

Terry – of course I’d be willing to work with the people on that but I can’t speak for them. I can only speak for me. I’m here because I told you something and I’m here telling you again that I haven’t changed my plan and unless they’re ready to put another pipeline through which I have heard, it seems to defeat the purpose every time you get started in there doing something, they tear it up with a bunch of equipment.

Dan – on our utility permits I do want to mention that anytime there is utility working on CDOT right of way one of the terms of conditions of any utility company is they have to replace what’s out there existing, so if there’s a hard surface out there, we require the utility company replace it. Typically we ask them to boar it and so if the hard surface comes up that’s what we’re looking for and just to clarify all we are asking for at this time based on the 5C Investments traffic study, all we are asking for is a right turn decell lane and that’s really what we see the need for that side of the roadway.

David Hicks – the big issue here as I understand it, what 5C has asked for is a permit that permits their use not mine. My use, I’m operating under just the use by right building permits. But are we going to be sitting here a year from now when I’ve built 10 more buildings; two years from now when I’ve built 20 more buildings. The issue isn’t

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going to be addressed right here at this table today and I don't see it and why I wanted Dan to answer. If the answer is right there in a decell lane and the little bit that Terry has been asked to do solves Traveler's Highlands then you can count me in; I don't think that's the case. But Karl's first point was, all of these things are interesting issues but I've got permits I need to get issued that really aren't anything to do with this issue of who pays for paving in the right of way. I would like to hear the answer; will this take care of Traveler's Highlands forever or it just this week? Chairman Martin – I don't think forever is going to the answer.

Dan Roussin – I agree with you, it won't be forever. Let me clarify more on the 5C Investment traffic study; the traffic study also indicated there was a need for a left turn decell lane which is coming from DeBeque turning into Traveler's Highlands Subdivision. The traffic engineer asked CDOT to waive the need for a left turn decell lane and the reason for the waiver of the left turn decell lane is because the volume on the highway does allows them to request them to waive the left turn decell lane. And based on the engineer and judgment from our staff, we recommended approval and at this point we have not required a left turn decell lane; however, I want to tell this - long term as we all know, that highway has grown pretty significantly in the last 10 – 15 years because of development pressures. If that highway grows even more and more, eventually there will be a need for a left turn decell lane and possibly of acceleration lanes; however, what we have right now is a good foundation to get that subdivision going. But I agree with David Hicks's there will be some need for highway improvements in the future. When that future is, I can't tell you. And I think Commissioner McCown's idea of getting some sort of an association involved is a great idea so it can meet the need of the future demands of the development of that subdivision.

Chairman Martin – you are still going to be driven by the Access Code and what will happen is they will handle the applications that are in front of you right now however, if it continues to grow at 20% or greater you're going to need more improvements to the access.

Dan – at this time we've never seen what David's growth is going to be on his lots, we've never seen a traffic study, we've never seen anything.

Commissioner McCown – that's the hang up on the age of this subdivision; we haven't either. We will see them at building permit time and that's the only time and you know at building permit time that is not the time to initiate impact fees, that has to be at the time of subdivision, which in 1962 or whatever there wasn't such a thing and this grandfathered again.

Dan – that's why we have to work together.

Commissioner McCown – yes, but we don't have the ability right now to go back and recreate that land use activity that created this subdivision; that's our only venue to say, okay each lot will contribute x amount of dollars to the improvement of this intersection. We don't have that ability.

Dan – except the homeowners have the ability.

Chairman Martin – which we don't control.

Commissioner McCown – to willing do it.

Terry – I don't think the use, I feel like I've gone back here to day one - the property was subdivided in 1962 and the land use came in 1975, it was commercial at that time, the use hasn't changed; the only thing that has changed is there is a use. That access, I've got sheep heeders that ran sheep through that access is probably how the thing got build to begin with. It's an existing access but once again I will do what I said I would do anyway if Dan's willing to do some things to make that happen, like waive this surety bond and all this stuff that us little people can't get our hands on then that's good. If he's going to insist on having things that I can't deal with or can't provide it's not going to do me any good to go further with it. But I will do all I can do to make whatever needs to be done at this time happen.

Chairman Martin – okay.

Cody Smith representing 5C and Melanie Massey for 5C – Cody said basically, 5C got caught in the middle of this. If you look at the traffic study that we did have, we're only proposing 6 trips in and out of this access where, and Dan can correct me if I'm wrong, anytime there is a new CDOT permit applied for and approved, it overrules all past CDOT access permits so basically mine would take over Terry Kirk's anyways. What my client is asking for is help to do this; he doesn't feel like he needs to be the one that pays the total balance of that access upgrade. As Terry said he is willing to help our client and willing to pay his fair share of it too. But he doesn't feel that he should have to pay the whole thing up front simply for the fact that he only has 6 trucks coming in and out. There's a lot more buildings out there that is generating 90% of the traffic that this is going to be. It also comes back to who actually owns this road at this standpoint because 5 years down the road somebody else is going to come in and do what we're trying to do which is an amended plat plus get building permits – they will come into the same thing and we're going to be right through this whole spill again. Who is paying for what? Where I'm going with this is it is going to keep growing and without a subdivision I guess you might say, or knowing who's the actual owner who's going to keep paying for this. Unless it is a huge company with 100 trips per day they're not going to be willing to pay for upgrades.

Melanie Massey – as Dan says, everybody will benefit from these improvements. 5C owns 6 of the 240 lots out there so they're going to benefit to in a very small proportion. We're certainly willing to take on our share of the improvements – it just happens to be the people that put in the amended plat. Other people are definitely going to benefit from this and what we'll like to do is enter into an agreement and delineating our share versus the other owners share out there.

Commissioner McCown – I think you struck on a very good point Melanie and it's not rocket science, it's been done on ditches in this country for years, and that you pay portioned to your usage. There are 240 lots and you own 20 lots you pay your proportioned share. The cost is divided per lot, how many you own, is what you pay. But in order to put that together there has to be some cooperation from all of the landowners and that does not seem to be present now. And so I'm afraid the County and CDOD may fall heir to making that happen and when we make something like that happen, it's usually not popular or very cost effective for anyone. But to me that's the only way and it seems so easy when you sit here and talk about it, that if there are 240 lots whatever improvements is divided by 240 and your proportional share is how many lots you own. But getting everybody to the table to agree on that seems to be the holdup. I personally don't see the value of that property or why anybody would want to buy it without an access.

Melanie – it's getting 240 property owners whether there is one property owner that owns 20 lots and other property owner that owns

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Commissioner McCown – I think you’ll find that there aren’t that many single lot owners, that over time that has been consolidated significantly. There may still be some. But again that would be someone’s undertaking that would have an interest in it. Right now the way I see it, it has no interest in that property or the roads.

Melanie – didn’t you say you had one property owner who was not willing...?

Commissioner McCown – well, it his initial presentation I believe Mr. Hanlon represented and not putting words in his mouth, Mr. Hicks said something different when he came up but that they were not willing to take that kind of position at this point. Terry Kirk said he would be willing to.

Chairman Martin – there are some that will work with you and some that probably won’t.

Terry Kirk - I own 3 lots.

David Hicks – the fact that there’s no association down there precludes any improvements being shared. I’ve spend hundreds of thousands of dollars down there in the last two years graveling roads, putting in big culverts, fixing debris flow problems, they weren’t required by anything other than common sense. Okay, but I can’t get – who do I go ask. I can’t ask anybody to help me and now somebody else is at the table they have to pay for something and I’ve said I will participate. I’d like to see it somehow that you can figure to make it so that it is shared and it’s only commensurate with the use that’s going to be created by our subdivision. I fully would support that. But for me or any other single person to have to come in and solve these problems doesn’t make sense and none of us can force any of the other owners in this to participate, so what Karl had stated is, prior to releasing these permits we didn’t even want to enter this discussion, we wanted to get settled, I need permits to be issued. This other one is truly isolated but I’ve got to the point where we were going is, I will participate.

Chairman Martin – that’s fine – we’re trying to answer you question on permits weaving through this quagmire.

That’s going to be the last issue.

David Hicks – my permits have nothing to do with

Chairman Martin - how may permits are being withstanding?

Andy Schwaller - 2 CO’s pending right now on my desk for signature; I show 5 permits in the process; 13 completed permits; and 18 buildings out there that I counted existing.

Commissioner McCown – are they still able to build on the lots as they are designed or are they having to merge lot lines to get the buildings they need on there?

Andy Schwaller – there are some amended plats and it depends on what they’re doing. To get a septic field in simply you have to combine two – the lots are quite small, to put in a building you have to combine two or three.

Commissioner McCown – so this would take a lot line amendment which is a land use action.

Fred – that’s a good question – there was a representation made with an owner, that the building, I wanted to clarify, to get a building permit the question of access comes up; to an individual lot, that individual lot owner wants to, owner only owns one 5,000 sq.ft. and you want to build your building on that one lot and that’s it, even though it doesn’t require any amendments to bring lots together it still has a building code issue that Mr. Hicks is wrestling with and we’re wrestling with as far as access in the building code. So regardless if you’re in a land use action or not, it’s the same issue when you come into build your building, the UBC still has the issue of access, so I just wanted to put that out there. Now as you remember, all of these lots even 5,000 sq. ft. lots in the Commercial Limited or General Zone Districts, that right now under current regulations, its 7500 sq. ft. so this is a non-conforming scenario that exists – that’s why you see the combination of these lots. So my point is, regardless if it’s one person coming in or one lot, one person with six, you still have a building permit issue regardless of that subdivision.

Commissioner McCown – and that building code says you have to have legal access.

Fred – correct, it says you have to have access.

Commissioner McCown – and access is – you have to be determined.

Carolyn – that’s what we’re discussing.

Chairman Martin – that’s what you’re asking us to interpret. Can you physically get there or do you have the documentation that allows you to get there, is what it amounts to.

Carolyn – could we buy a helicopter?

Chairman Martin – the answer is no.

Commissioner Houpt – I think there has to be some incentive to get everybody together and get this job done and the people who are represented here today own some of the lots but not the majority of the lots. I don’t know if you all would be willing to move forward on this without the rest of the lot owners, but I think it’s really important to get this into compliance with CDOT; that is the goal. And to build more structures without any guarantee that’s going to happen just doesn’t seem very responsible to me and would not be in compliance with our building code anyway. So, I don’t see any other resolution to this than to allow the staff to proceed as they’ve begun to, and not approve building permits until there is a strong guarantee that compliance is going to occur with the CDOT Access Code. I know that construction timelines for roads can be difficult but I’m not seeing any strong guarantee that this is going to move forward anytime soon until everybody is in a position of having to come together and make it happen. So, that’s a motion and we can certainly discuss it but my motion would be to give the staff authority to continue to follow our building code and not provide building permits until there is resolution to this problem of non-compliance with the Access Code for CDOT.

Commissioner McCown – second.

Discussion:

Commissioner McCown – well I was certainly hoping we could go another route and I guess I would like to have some type of a timeline to give the folks involved with this the opportunity to come to some resolution. I don’t know, this has been going on since 1960 something so maybe people feel that’s enough of a timeline but quite frankly this has been brought to a head and it does need some resolution. There’s several things, number one when the County did accept these roads on the interior of this subdivision as public rights of way we clearly stated they were not our roads, we had no intention of ever taking those roads into our highway system nor do we ever as long as I’m seated here and that’s only going to be another year but we aren’t going to treat this subdivision any different that we do any other new subdivisions that are coming on line and we don’t include those roads in our County road system; they are just what they are, public rights of way owned by the folks that own the subdivision and that’s where I see the responsibility lying and you say well who owns the subdivision. It’s everybody that owns a lot and as far as I’m concerned a quick title search would reveal that to you if you don’t know it and I believe I would call a meeting before I saw the value of my lots totally diminish and my use and my existing use cease to exist because I

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do not have adequate access to a state highway. I think that would tremendously be valued property – it would put some people out of business that are today currently conducting business and that’s not what the mission of this Board should be – it is to find some kind of resolution but you folks out there that own the lots are the players and you have to come forward with that resolution because you’re the ones that have to prove that you have access to this state highway. And I see Karl shaking his head and I’m sure we will talk about this later in a different venue but I would really like to see some timeline given to these folks to try to remedy their problem and I don’t know with the holiday season, I think 30 days would seem ludicrous in a timeline given the length of so I would like if you would amend your motion for 60 days to and in the meantime not issue any permits but give them 60 days to see if they can formulate some kind of a resolution as far as ownership, a uniform method of participation and come back to us and we’ll issue the permits on good faith – we will take the security or whatever with CDOT, the permit, we’ll work with Dan in getting that issued knowing full well that there’s going to be a body that’s going to claim ownership and responsibility of these – it’s bigger than just the little short section that accesses Highway 6 & 24; all of those lots on the interior portion access what is a public right of way and if they’re not graveled, if they’re not safe, you folks are just cutting off your nose to spite your face by not having some kind of an assessment per lot owner to maintain this. Commissioner Houpt - I will amend my motion about the time.

Commissioner McCown – amended his second.

Chairman Martin – I still have a different view in reference to the CO’s that are issued out there or pending – final inspection’s been done, the permit was accepted and reviewed etc. with the access in the way it was and I think they should be issued, those two CO’s. The 5 permits that are in place and requested for building permits should also say before CO’s are granted, this issue should be resolved. So just to put a 60 day moratorium on the issue is not solving, it only prolongs it into the future and it causes other hardships. Those two companies are waiting to move in after final review etc. and only wait for a signature is again beyond safety, they were almost guaranteed through this process they would have access, otherwise it would have been stopped at the building permit process. I have a problem with that by denying them for another 60 days.

Carolyn – did the original motion only went to building permits, not CO’s right?

Commissioner McCown – right.

Commissioner Houpt – it went to building permits. I would wonder how it got to the point of having CO’s coming forward.

Chairman Martin – there are two of them sitting on Andy’s desk waiting to be signed because everything is done; I don’t see why we’re holding those up.

Carolyn – just as process wise, could we handle the CO’s under a different motion? I’m trying to protect the integrity of your process and maybe I wasn’t listening closely enough but I believe the CO’s are a different issue.

Commissioner McCown – I understood the motion to relate only to building permits.

Commissioner Houpt – it was for the granting building permits so we can deal with that separately.

Chairman Martin – so we are talking about the 5 permits existing right now.

Commissioner Houpt – well any that come in front of the department.

Chairman Martin – there are five of them in review right now I do believe.

Andy – 5 in process – the buildings are being built

Chairman Martin – right – I think they should – they are already started and they’re ready for inspection.

Commissioner Houpt – they can’t get a CO.

Commissioner McCown – we’ve got to make that motion yet.

Commissioner Houpt – this is for building permits in process or planning to come to the department building permits, and let’s call for the question.

In favor: Houpt - aye McCown – aye Opposed: Martin – aye

Commissioner McCown – the two CO’s that are currently awaiting Andy’s signature, I would make a motion that we authorize those two and since the previous motion on the building permits negate any further building permits being issued, that would take care of any further CO’s so the two that are under process right now, I make a motion we go ahead and authorize those two.

Commissioner Houpt – second.

Carolyn – question before you vote to Andy, it’s my understanding that all inspections have been completed on those two CO’s - it’s all a matter of paperwork, is that correct.

Chairman Martin - Yes that was his testimony that’s why I included the conservation.

Commissioner McCown and that’s why I made the motion that they be approved having met all the criteria.

In favor: Houpt- aye McCown – aye Martin – aye.

ASSESSOR - ABATEMENT FOR COZZA PROPERTIES LLC, SCHEDULE #R350101 – LISA WARDER
COZZA Properties
Schedule #R350101

Publication was in order and accepted; Chairman Martin swore in the speakers.

Lisa Warder submitted the Abatement request stating that the taxes assessed against this property for 2006 are incorrect because the property is a self serve car wash and the property was over-valued. The abatement request for 2006 is for \$3,613.62.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing.

In favor: Houpt - aye Martin – aye McCown – aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Abatement for COZZA Properties for the year 2006 in the amount of \$3,613.62.

In favor: Houpt - aye Martin – aye McCown - aye

FINANCE - ADOPTION OF 2008 BUDGET AND APPROPRIATION OF FUNDING – ED GREEN,
BUDGET OFFICER AND PATSY HERNANDEZ, FINANCE DIRECTOR

Don reviewed the public notification and the Board is entitled to proceed.

Chairman Martin swore in the speakers.

Patsy and Ed submitted the Budget Books along with the current pay and salary classifications.

Ed stated that the municipalities’ haven’t submitted their mill levies yet and they have up to December 17th.

The Commissioners reviewed the budget books.

Commissioner McCown made a comment that he has philosophical issues on the entire budget.

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SHERIFF - ANIMAL CONTROL

Commissioner Houpt asked to begin with the Sheriff's section. Lou Vallario answered several questions regarding Animal Control and Care regarding the current needs and Lou brought plans for a shelter and stated he supported CARE in sheltering, adopting and medical care. The question is how we can best meet the need to hold animals while finding the rightful owner or adopt them out. We have a budget item to bring the architect back and do a realistic approach for a shelter and continue to look at how best to contract out for those services. The problem is a policy change and this commission has never voted to create a system after a 5-day hold on animals. That would be the decision with Divide Creek.

Lou has been accused of taking money from CARE and giving it to Divide Creek but what he is trying to do is really establish a system to care for animals. CARE is at capacity and we have been treading water. To euthanize animals is Lou's decision. There have been calls of threats to Divide Creek regarding their policy to euthanize animals. There is no policy of 5 days – they will hold them for 5 days and if we can place them with CARE we will. There are a lot of unsocial animals and if we have other interested individuals or facilities that are interested in taking those dogs we need to know. The problem is overwhelming. The question is how much does CARE need?

Commissioner Houpt would like to find additional support because CARE is overwhelmed by County activity; their costs will not be less and yet we have not allocated enough for this service. It's okay to take some of the money from Care to give it to Divide Creek but she is thinking we need to put more money into that and recognize we need another facility. We need to recognize how we deal with animals but the cost for maintaining CARE cannot be overlooked. At a point in 2008 we have a \$50 million fund balance and don't think we are still looking at capital improvements for a facility. We need to keep CARE at the level that they are requesting and allocate additional funds to Divide Creek.

Chairman Martin – it started 3 years ago at \$125,000 and last year it went to \$240,000 then \$375,000 and the budget today is \$475,000. You need more people and need to reorganize; we're taking a proactive stance and have put spay and neuter programs in place. We spend \$475,000 on animals and gave \$200,000 to seniors; we are taking care of dogs twice as much as our elderly. We need a better approach to the system and not throw money all at one place. Education is better than giving to CARE. It's not about CARE – we're trying to help them as well. However, CARE assured us they would have fundraisers and branch out.

Commissioner Houpt – agrees that programs for the elderly are important. We added \$100,000 but we lowered the amount requested by CARE by over \$100,000 without giving thought as to whether this would close their doors or not. If this is the case, they are running a business to support the County. I have a real problem at such a late time in the year and especially without feedback on the impact this will have on this organization.

Chairman Martin – CARE needs to become a department of the County. We are contracting with those folks and they are doing a heart sent task, something they believe in 100% and they will continue. When we agreed to enter into the agreement to build the facility they also said they would continue to raise funds to go ahead and keep in operation. We have contributed because we contracted with them; we're not there to supplement their shortfalls – it's a business.

Lou clarified the numbers for 2006 we contracted with CARE to pay about \$156,000 for services; when we negotiated 2007 they came to us and said we're not going to increase the number of services, stayed at the 2006 number of 156 but we did add in that budget \$19,000 for staff support and \$25,000 for spay and neuter bringing it up to \$200,000. The request for 2008 is \$275,000 so there's an extra \$75,000 from the previous year which quite honestly we've not had the opportunity to sit down with CARE only because of a series of events that the attorney leaves and the budget process. Lou does not know what the \$75,000 is for. The other issue to clarify is the number \$250,000 because of not getting numbers from CARE at the time of the budget, so we estimated. If we reduce down to the \$150,000 and proposing we would technically be reducing the services provided from 156 to 150. Spay and Neuter programs have been successful; CARE spent their \$25,000 and we spent our \$25,000 and Amy got another grant for \$9,000 so we spent \$59,000 for spay and neuter.

Amy stated we have \$50,000 for Spay and Neuter programs in 2008.

Commissioner McCown –we need to look at this agreement and the previous agreements with CARE as a contract for services and this was never perceived to be a grant. When I hear from Lou that because of whatever reason, the increased population in the county, Amy's good work or whatever, we get turned away from CARE 50% of the time and we see a request for an increase by \$75,000 and I'm thinking a lot like I was renting a room at the motel and I was only able to stay in that room that I paid an annual fee for 6 months out of the year and then next year when I go into renegotiate my contract with that motel, and make sure that I have full service and that I can stay there every night, they say no, it's the same grant of service but you we may only be able to house you half the time but we want an additional \$75,000 while you're staying here that ½ time. Having the job of administering this program I think that was Lou's decision that I need to look for an alternative method to house my dogs – that doesn't help Amy. Years ago we had a jail that was full and we made the decision on who we were going to house in the jail – our prisoners took priority over the towns. Amy has the ability to do that with dogs and its not a popular decision but you take care of the vicious animals, the ones that are a threat to society and the other ones well maybe I don't pick that one up if I don't have anywhere to put them. This would open up the ability as an alternative source. We may fill Divide Creek up in the first two months – it has limited runs and I'm not saying that's the ultimate answer but to me it's an alternative and I cannot justify spending taxpayers money and increasing significant from \$200,000 to \$275,000 knowing the cost of everything has gone up but for only getting a half year service.

Commissioner Houpt asked Lou if they are serving half as many animals or are we just filling them up faster?

Lou – half may be high, might have been 25% of the time that we're unable to use CARE because we have filled them up so in essence, did we put less dogs in there this year than last year, yes we did probably because we had more dogs and not being available to add more.

Leslie of CARE – I've heard the term we're turning you away 50% and that's not true – we don't really know but it's definitely not 50% of the time. We'll say give us a couple of days; we're going to send some animals out and will clear up space to put some animals in. Divide Creek or wherever the animals go, it is limited 5 or 10 kennels and that will not help with the ultimate problem, and that is the animal population is out of control – we need something bigger and we're going to be full, Divide Creek's going to be full – then what happens. Where do they go after days at Divide Creek?

Chairman Martin – That's a decision of the sheriff.

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Leslie – CARE – we have a small number of vicious dogs that may have to be euthanized at whatever facility before they come to CARE. What will happen to all the good dogs? We still need the funds to take care of them to provide the services of housing, rehabilitate, spay and neuter them, adopt them out and provide the services that cost money. There is a small fee to adopt the animals.

Additional discussion was held regarding another facility, why it is taking more time for dogs to move out of the facility, and if we are going to provide an animal control then we need to look for stop gaps.

Public Comment:

Tracy Yajko expressed animal welfare and said that private money was raised to improve CARE. CARE has experts to get these dogs to the people and Garfield County is a dog oriented community. Most of the stray animals are coming from the west end of the county.

Laurie Raymond does foster care for dogs called High Tails and provides a services for animal. She can attest the people in Garfield County consider dogs and cats members of their family. They expect animal law enforcement. Commissioner Houpt is in support of CARE and does not want reduce the amount of \$275,000 but wants to hold off adopting the budget.

Chairman Martin – this is a standing contract in place, the increase of \$75,000 hasn't been justified.

Rick Sawyer has listened and this is a complex and emotional issue. He would like some opportunity for the public and private sector to meet but approve the budget with the current recommendation with some kind of action taken with a commitment to have CARE. Let the Sheriff's organization work together because Lou has not had a chance to talk to CARE people. There may be some disinformation about the 50% as an incorrect number.

Chairman Martin said the Sheriff can make a change and this situation doesn't hinge upon the entire approval of the budget. It will require a public hearing if he wants to increase the animal control.

Commissioner Houpt agreed there was a lot of misinformation printed in the newspaper this last week and this is a big policy decision. It needed to be clarified today.

Lou would hate to see the budget held up and suggested he would work it out with CARE.

Don reminded the Board this was a service contract and it terminates on December 31, 2007 so it needs to be renewed and suggested the Board could address this next Monday. The contract was split out by staff for the spay and neuter program and then budget item bring this back before the Board next week.

Other items in the budget included **ROAD AND BRIDGE AND THE GRAVEL OF 3/8TH OR 3/4TH.**

Patsy – all roads are currently projected with 3/4th inch gravel and the cost is a quarter a million a mile.

Commissioner Houpt concerned that the problem won't go away using the 3/4th inch gravel. She expects to have these numbers come to us on the 3/8ths.

TRAILS AND TRANSPORTATION

Commissioner Houpt said the Crystal River Trails have the \$250,000 that didn't get spend and asked to carry over that with the \$50,000 for 2008.

It was decided that the trail people will all get together and talk.

Dale Will and Mike Kerns met with Fred Jarman and the trail group is going to be awarded a GoCo Legacy grant - \$1m is earmarked for this grant but until we see the bids we can't make the announcement officially. So when the bids come in we may need some more discussion.

Don said the question is does he need to invoice the County this year for the \$50,000 or if he waits and does in 2008 can he invoice for \$100,000.

Chairman Martin – if he has the recommendation on the second one and the other two trail groups agree yes he can.

If not and he's afraid, he needs to invoice now.

Dale Will – invoice this now and put together an IGA to keep all of this; the three trail groups have met and Dale will invoice the \$50,000 now.

HUMAN RESOURCES – BUDGET - PERSONNEL REQUESTED:

Commissioner McCown stated he has a philosophical problem; our County personnel requests are growing at a faster rate than our County is growing. We have about \$27 million earmarked for personnel.

We have a contingency and \$22,000 for hard costs. Tresi alluded to the fact that we have a \$50 million fund balance, but if you look at the fund balance, everyone is taking a hit this year. Some much more significantly than others. Is this a trend that we're seeing? I have a problem with that, I will make this statement today, I'll have one more budget to look at before I leave and I will expect next year to see a balanced budget. I do not want to see us continue to hit our fund balance the way we did this year. To me that indicates, in the general fund for instance, we are looking at projected revenues of \$9.8 million and spending \$20 million dollars – projected expenses. That's not a healthy concept. I know the needs in the County are growing and I know the demands are higher but you're going to run up against a wall if you keep hitting the fund balances and should we hit a blimp in the economy where the golden goose that's now paying \$.70 cents out of every dollar in our tax fund goes away, I don't think the citizens of Garfield County would vote for a tax increase to replenish it at that amount. This is not a good budget; I think we are giving virtually everybody almost everything they asked for. Some of the things that they asked for they aren't getting but for the most part, most of the elected, most of the department heads are getting what they needed. I'm just giving you fair warning, don't ask for that next year; if it's not a balanced budget I guarantee you a "no vote" from me. I just don't think it's healthy to keep hammering that fund balance to the tune we hit it at this year.

Personnel – we cannot provide the services to our clientele without the personnel. But I do not support dynasty building within our departments. I can name departments that 5 years ago were not in Garfield County, now they are 3 person departments and soon to be larger. I don't support growth just for the sake of growth. And again that's part of the reason that we're having to hit our fund balance - we can't afford to pay those people but we keep putting them on and we keep granting new programs. So I'm putting everybody on notice for next year, I expect to see a different looking budget than I saw this year.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing.

In favor: Houpt - aye Martin – aye McCown - aye

A motion was made by Commissioner Houpt that we approve the 2008 budget as proposed.

Commissioner McCown seconded.

Don asked if Patsy submitted a form of Resolution this year to the Board for approval of the budget.

Patsy – yes.

Don – that Resolution has some specific findings in it and would like the Chair authorized to sign this Resolution.

It's in the Budget Book at the very last blue tab.

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Commissioner Houpt added to her motion that we authorize the Chair to sign a Resolution concerned with the adoption of the budget and appropriation of funds for the fiscal year 2008.

Commissioner McCown seconded.

In favor: Houpt - aye Martin – aye McCown - aye

BUILDING AND PLANNING - CONSIDER THE APPROVAL OF THE FINAL PLATS FOR THE RE-SUBDIVISION OF LOT 23, VALLEY VIEW SUBDIVISION, PHASES C AND D WITHIN BATTLEMENT MESA PLANNED UNIT DEVELOPMENT FOR BUILDINGS A, B AND C. APPLICANT IS DARTER, LLC – FRED JARMAN

Attorney David Smith - Glenwood Springs., Fred Jarman and Michael Howard were present.

Fred Jarman submitted the request to approve the final plats for the re-subdivision of lots 23 Valley View Subdivision, Phases C & D within Battlement Mesa Planned Unit Development for Buildings A, B, and C. for Darter, LLC.

Michael - Question was posed on the attorney certificate, the Mylar talks about encumbrances of record. When you look at the attorney certificate it is free of claims but they are listed as a series of encumbrances.

David – the good news is they amended the Townhome and the amended final plat so there are no public dedications on this plat. Encumbrances: no property is free of all encumbrances; this is an update of those already listed in the previously approved Mylar. This is a cleaning out for the title company.

Michael – if there are no dedications to the public he didn’t see a problem.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the final plat for the re-subdivision of Lot 23 and accept the attorney certificate as is.

In favor: Houpt - aye Martin – aye McCown - aye

BUILDING AND PLANNING - CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT TO ALLOW AN INDUSTRIAL SUPPORT FACILITY INCLUDING MATERIAL HANDLING AND A PUMPING FACILITY. APPLICANT IS ENCANA OIL AND GAS USA, (MARATHON OIL COMPANY, LESSEE) – CRAIG RICHARDSON REQUEST

Craig Richardson, Michael Howard, Amy Stoodt for Marathon Oil were present.

The Applicant requests that the Board of County Commissioners approve a Special Use Permit (SUP) to allow an “Industrial Support Facility including Material Handling and a Pumping Facility” on a property owned by EnCana Oil and Gas, USA.

The proposed facility will be located on approximately 2.5 acres of graded surface. The purpose of this facility will be to distribute fresh water to support Marathon Oil Company’s gas development in the area. Located 10 miles north of the Town of Parachute and 2 miles from the nearest residence, Staff finds that the proposed location is situated in a remote portion of Garfield County. The neighborhood character of the area is primarily oil and gas production.

A perimeter fence is proposed to prevent wildlife and livestock from accessing the facility. A new access road approximately 243 feet long will be constructed from an existing private road. A new County or State Highway access will not be required.

Water will be provided to the proposed facility from a well owned by Solvay Chemicals located approximately 930 feet northeast of the subject site. Water will be received and delivered via pipeline.

STAFF RECOMENDATION

Staff recommends that the Board not refer this application to the Planning Commission due to the remote location of the proposed pumping facility and the limited impacts the facility will have on County infrastructure.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to schedule this before the Board of County Commissioners.

In favor: Houpt - aye Martin – aye McCown - aye

BUILDING AND PLANNING - CONSIDER A ZONE DISTRICT AMENDMENT FROM ARRD TO RL- GSLVF FOR THREE 2-ACRE PARCELS LOCATED APPROXIMATELY 4.5 MILES WEST OF THE TOWN OF PARACHUTE. APPLICANT IS THE GARFIELD COUNTY PLANNING COMMISSION – DAVID PESNICHAK

David Pesnichak and Michael Howard were present.

Michael Howard reviewed the noticing requirements with the applicant and determined they were adequate and advised the Board they were entitled to continue.

Chairman Martin swore in the speakers.

David submitted the following exhibits for the record: Exhibit A – Garfield County Zoning Regulations of 1978 as amended; ; Exhibit B – Garfield County Comprehensive Plan of 2000; Exhibit C – Staff memorandum; Exhibit D – application; Exhibit H –Letter sent to Surface Owners of Subject Properties dated 4-23-2007; Exhibit F – Letter sent to Surface Owners of Subject Properties dated 8-24-2007; Exhibit G – Letter sent to Surface Owners of Properties dated 10-11-2007; Exhibit H – Notice sent to Abutting Property Owners and Mineral Owners sent 10-16-2007; Exhibit I – Proof of Publication dated 10-18-2007; and Exhibit J – Demonstration of Property Posting dated 10-22-2007; Exhibit K – letter from Sharon Hicks of Frac Tech.

Chairman Martin entered Exhibits A – K into the record.

THE REQUEST

On April 11, 2007 the Garfield County Planning Commission initiated a rezone of three, two acre parcels (parcel numbers 2409-2710-0077, 2409-2710-0076 and 2409-2710-0075) and located in Section 27, Township 7S, Range 96W from Agricultural Residential Rural Density (ARRD) to Resource Lands (RL) – Gentle Slopes and Lower Valley Floor (GSLVF).

This rezone initiation was in response to a requested (and subsequently approved) change in zoning for Frac Tech Services, LLC (parcel number 2409-2730-0114), the parent and surrounding 77 acre property, in order to prevent the de facto spot zoning of these three interior properties. The Planning Commission heard the rezone request for the surrounding 77 acre Frac Tech Services, LLC parcel on April 11, 2007. At this meeting, the Planning Commission voted 7-0 to recommend that the Board of County Commissioners (BOCC) approve the Frac Tech Services, LLC rezone request from ARRD to RL – GSLVF due to substantial changes in the surrounding area. At this same meeting, the Planning Commission initiated the rezoning of the three interior parcels from ARRD to RL – GSLVF). The Board of County Commissioners held a public hearing concerning the Frac Tech Services, LLC rezone request

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on May 7, 2007 and voted 3-0 to rezone the surrounding 77-acre parcel (See below). On September 12, 2007 the Planning Commission recommended by a vote of 7-0 that the Board of County Commissioners approve the rezoning of the three aforementioned properties.

STAFF SUMMARY

In light of the forgoing, Staff makes the following observations:

- 1) The proposed rezoning generally conflicts with the Comprehensive Plan, but is consistent with the past application of the Comprehensive Plan;
- 2) The subject parcels are completely surrounded by the Resource Land – Gentle Slopes and Lower Valley Floor (RL-GSLVF) zone district;
- 3) On September 12, 2007 the Planning Commission held a Public Meeting regarding the rezoning of the three 2-acre parcels. At this meeting, the Planning Commission voted 7-0 to recommend that the Board of County Commissioners rezone the three 2-acre parcels from Agricultural/Residential/Rural Density (ARRD) to Resource Land – Gentle Slopes and Lower Valley Floor (RL-GSLVF).
- 4) On May 7, 2007 the Board of County Commissioners rezoned the surrounding 77 acre parent parcel from Agricultural/Residential/Rural Density (ARRD) to Resource Land – Gentle Slopes and Lower Valley Floor (RL-GSLVF).
- 5) On April 11, 2007 the Planning Commission initiated the rezone of parcels 2409-2710-0077, 2409-2710-0076 and 2409-2710-0075 from Agricultural/Residential/Rural Density (ARRD) to Resource Land – Gentle Slopes and Lower Valley Floor (RL-GSLVF) in order to avoid de facto spot zoning.

Staff Recommendation is to approve the rezoning of parcel numbers 2409-2710-0077, 2409-2710-0076 and 2409-2710-0075 from ARRD to RL - GSLVF.”

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing.

In favor: Houpt - aye Martin – aye McCown - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the rezoning of parcel numbers 2409-2710-0077, 2409-2710-0076 and 2409-2710-0075 from ARRD to RL - GSLVF with the 3 findings of staff.

In favor: Houpt - aye Martin – aye McCown - aye

BUILDING AND PLANNING - CONSIDER AN ACCESSORY DWELLING UNIT LOCATED APPROXIMATELY 1 MILE SOUTH OF THE CITY OF GLENWOOD SPRINGS. APPLICANT IS THE ROARING FORK PURCHASE TRUST – DAVID PESNICHAK

David Pesnichak, Michael Howard, Rick Neiley, and Michael Feigenbaum, Attorney for the current owner were present.

Michael reviewed the noticing requirements with the applicant and determined they were adequate and advised the Board they were entitled to continue.

Chairman Martin swore in the speakers.

David submitted the following exhibits for the record: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Staff memorandum; Exhibit F – application; Exhibit G – Memo from Jake Mall of the Garfield County Road and Bridge Department dated 11-05-2007.

Chairman Martin entered Exhibits A – G into the record.

The Applicant requests the Board of County Commissioners grant a Special Use Permit (SUP) for an Accessory Dwelling Unit (ADU) located on a 4.123-Acre parcel, described as Prehm Ranch Exemption Lot 3 and located south of the City of Glenwood Springs. The proposed ADU is to be a new structure on the property and will be in addition to the existing primary 6,029 square foot home. The driveway is to be off County Road 163 and will be used as access to the proposed ADU.

7 bedrooms in the main house. The ADU is limited to one bedroom. This is above the limit of the Comprehensive Plan and staff hances their reocmmendation to approval.

RECOMMENDATION

Staff recommends **denial** of this application since it is not in conformance with the Comprehensive Plan of 2000.

However, should the Board of County Commissioners find reason to approve this application, Staff recommends the following conditions:

- 1) All representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
- 2) All lighting associated with the ADU shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
- 3) The Applicant shall obtain any applicable Garfield County building permits, grading permits and access permits.
- 4) The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended, and shall meet all building code requirements
- 5) The gross floor area of the accessory dwelling unit shall not exceed 1,500 square feet.
- 6) The accessory dwelling unit shall not be conveyed as a separate interest but may be leased.
- 7) Since the subject property is within the Septic Constraint designation in the Comprehensive Plan of 2000 and in order to maintain compliance with ISDS Permit Number 3705, the Accessory Dwelling Unit shall be limited to one (1) bedroom.

Applicant: Michael Feigenbaum said that David covered all the particulars.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing:

In favor: Houpt - aye Martin – aye McCown - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit request for an Accessory Dwelling Unit for a property described as Prehm Ranch Exemption Lot 3 located south of the City of Glenwood Springs with the 7 conditions provided by staff.

In favor: Houpt - aye Martin – aye McCown - aye

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BUILDING AND PLANNING - CONSIDER A TEXT AMENDMENT ADDING “CONTRACTORS YARD” A SPECIAL USE WITHIN THE AGRICULTURAL INDUSTRIAL ZONE DISTRICT. APPLICANT IS GUY MIDDLETON – CRAIG RICHARDSON

Craig Richardson, Jimmy Smith from Wagon Wheel Consulting, and Michael Howard were present.

Michael Howard reviewed the noticing requirements with the applicant and determined they were adequate and advised the Board they were entitled to continue.

Chairman Martin swore in the speakers.

The Applicant, Guy Middleton, is a landowner on County Road 311 in Garfield County, located near the Town of New Castle and zoned Agricultural Industrial (A/I). The Applicant owns Canberra Concrete Company which is operated on-site. The Applicant is currently operating under Conditional Use Permit (CUP) which allows for the storage of one (1) Canberra Concrete Pumping truck and associated equipment. The current operation is not in compliance with the issued CUP. It is Staff's interpretation that this use being conducted on-site is a "Contractor's Yard" which is not permitted as a use by right, conditional use or special use within the A/I Zone District. The Applicant is requesting a Zone District Text Amendment to allow "Contractor's Yards" in the A/I Zone District. The following definition was approved by the Board of County Commissioners as part of a previous Text Amendment, which included the use identified as a Contractors Yard within the Agricultural/Residential/Rural Density Zone District (ARRD):

"The use of land for the purpose of storing machinery, equipment and supplies for an individual business that provides services to clients through the use of the machinery, equipment or supplies. Such use may include office and repair facilities."

PLANNING COMMISSION RECOMMENDATION

This application was reviewed by the Garfield County Planning Commission during a Public Meeting held on November 28th, 2007. The Planning Commission unanimously moved to make a recommendation of approval to the Board of County Commissioners. The Planning Commission identified that the requested use is consistent with the proposed Garfield County Unified Land Use Resolution currently under review by the Board of County Commissioners.

Jimmy Smith added that his client wishes to submit an SUP for an extension to an existing building which falls within the contractor's yard code and in order to do that we need the zone text amendment changed in order to make that submittal.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing.

In favor: Houpt - aye Martin – aye McCown - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the amendment to the text section 3.01.03 of the zoning regulation regarding the use of a "contractor's yard" as a special use in the AI zone district.

In favor: Houpt - aye Martin – aye McCown – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT TO ALLOW A COMMUNICATION FACILITY. APPLICANT IS BERRY PETROLEUM COMPANY – FRED JARMAN CONSIDER A SPECIAL USE PERMIT TO ALLOW A COMMUNICATION FACILITY. APPLICANT IS CHEVRON USA, INC. – FRED JARMAN

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT TO ALLOW A COMMUNICATION FACILITY. APPLICANT IS PUCKETT LAND COMPANY – FRED JARMAN

Fred requested these three requests be heard as one application. It's possible from a noticing perspective as well as from a staff presentation and a presentation by the applicant.

Representing Berry Petroleum – Doug Dennison, with Cordilleran Compliance Services and Amy Stoodt representing Marathon Oil.

Michael Howard, Doug Dennison, Amy Stoodt, Fred Jarman and Michael Howard were present.

Michael reviewed the public noticing with Doug Dennison, a consultant for Marathon Oil Company who is representing all three property owners. The property owners are Berry Petroleum, Puckett Land Company and Chevron USA, Inc. Michael advised the Board the noticing was in order and they were entitled to proceed.

Chairman Martin swore in the speakers.

Fred submitted Exhibit A – Proof of Mail Receipts for all three property owners; Exhibit B – Proof of Publication for all three properties; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Staff Memorandum dated today; Exhibit F – Three separate application binders submitted by Marathon Oil Companies for Chevron Inc., Berry Petroleum and Puckett Land Company; Exhibit G – Email from the County Vegetation Manager dated December 2, 2007; Exhibit H - a letter from the Town of Parachute signed by the mayor dated November 21, 2007; and Exhibit I – letter from Mountain Cross Engineering on behalf of Garfield County provided to the County on 11/29-07.

Chairman Martin entered Exhibits A – I into the record.

The request before you is for a SUP for three individual properties for four communication facilities. A map included in the staff report shows the towers. Zoning for all three properties is the plateau zone within the Rural Lands Zone District so it's between 8300 and 8600 feet well upon the plateau and primarily surrounded by RL lands with some BLM land.

Marathon is looking to erect four towers so that they are able to provide communication, which they don't currently have to access their field operations. They will be primarily for monitoring producing wells within the area rather than having to send vehicles and personnel up into the area to monitor – this will enable them to do it remotely and also provide a way to react in case you have an emergency scenario. From a site plan perspective these are a foot print of a 20 x 20 space on the ground fenced; there'll be a 10 x 10 concrete pad with a 70 foot tower structure – that is each one of these. There is no zone height limit in this zone district on the plateau. In fact the only height limitation in the RL zone is in the valley floor.

These are four new facilities and the question we raised for Marathon to speak to this Board about, because these are new facilities, is there ability for others to co-locate on these facilities so that you don't have that issue. There are always the two remaining federal issues which are the FAA and the FCC; those are performance standards they have to meet regardless of whether the County puts them in place or no.

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Staff recommend's approval and a series of 10 conditions that being on page 6; Fred brought attention to two of those: No. 6 – reads that no permit shall be granted unless the applicant can demonstrate to the Board that co-location is not available to them and the new facilities are the only way to proceed; this needs to be addressed at this hearing and No. 8 – that due to the tall height 70 feet they should be available for co-location so we get around that issue.

Commissioner McCown – does the co-location conditions that apply to these private towers, are the same ones that would apply to the telephone communication, relay towers, that if there is an interference between users they don't have to provide that – if it would jeopardize their operation.

Fred – yes, there is clearly an interference issue, you can't force someone to co-locate if your signal is not going to be able to signal out.

Amy – to address the co-location, we looked at other locations including Conoco, non-industry towers in place and due to the location and some of the heights of the hills and elevations for BLM we couldn't get a clear line of site to the valley to the office structure where we ultimately want to process the data. We felt the only way was to construct the new towers. They actively talked to Berry Petroleum and Enterprise who's our gas gatherer and have offered up the sharing of the tower structures that we're proposing to build. This will be for voice and data transmission, we have a real safety concern on the mountain because you can't communicate very well with no cell coverage and radios are marginal. These communication towers will provide both for construction and drilling as well as the data collection and emergency response.

Amy said further applications, two more towers will be proposed to cover the entire field and basically it is locating them such that you can get a line of site from the top of the tower to tower to bounce it to the valley. On the federal side of it, we have done that homework with the FAA and FCC and neither the radio frequency we'll be using or the tower height will require either of those application.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing.

In favor: Houpt - aye Martin – aye McCown - aye

A motion was made by Commissioner McCown that we approve the Special Use permit for lands owned by Puckett Land Company, Chevron USA, and Berry Petroleum to allow the installation of a communication facility on each of their properties for a total of 4 facilities with the 10 conditions presented by staff.

Commissioner Houpt seconded.

In favor: Houpt - aye Martin – aye McCown – aye

Commissioner Houpt – in general, it's important that we really start emphasizing co-location because we're going to end up with a million different towers on these sites, so it's important to keep in mind.

Chairman Martin – put into play as far as our GIS and also our planning folks as well as an example of how to do an overall grid system of what we have in place, what the arrays are, who owns what, what is available, etc. and hoping to complete that project in the next 6 months so that we can recommend co-location sites and also an inventory of where the towers are in preparation of exactly that, not having as many towers as we have.

BUILDING AND PLANNING - CONSIDER THE PRELIMINARY PLAN FOR LEXIE MEADOWS SUBDIVISION. APPLICANT IS JIM BOB VENTURES, LLC – CRAIG RICHARDSON

Craig Richardson, Michael Howard, Lee Leavenworth, Davis Farrar Planner, Tom Zancanella and Jared Baalder the Planner were present.

Michael reviewed the noticing requirements with the applicant and determined they were adequate and advised the Board they were entitled to continue.

Chairman Martin swore in the speakers.

Fred submitted the following exhibits for the record: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations; Exhibit D – Garfield County Subdivision Regulations; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F - Staff memorandum; Exhibit G – application for Preliminary Plan; Exhibit H – Letter from Colorado Geologic Survey, dated June 9th, 2007; Exhibit I – Letter from Mountain Cross Engineering, dated June 6th, 2007; Exhibit J – Letter from Colorado Division of Water Resources, dated May 25th, 2007; Exhibit K – Email from Colorado Department of Transportation, dated May 5th, 2007; Exhibit L – Email from GarCo Environmental Health Department dated May 20, 2007; Exhibit M – Memo from GarCo Road and Bridge dated June 16, 2007; Exhibit N – Email from CDPHE-WWQD, dated May 8, 2007; Exhibit O – Traffic Analysis conducted by Felsburg, Holt and Ullevig dated June 25, 2007; Exhibit P – Memo from Zancanella & Associates, Inc. dated June 22, 2007; Exhibit Q – Letter from Davis Farrar, Western Slope Consulting, dated July 3, 2007; Exhibit R – Lexie Meadows Wells A and B permits; Exhibit S – Revised opinion letter from Colorado Division of Water Resources, dated August 17, 2007; Exhibit T – Additional Information provided by Davis Farrar, dated September 18, 2007; Exhibit U – Revised Preliminary Plan, received September 19, 2007; Exhibit V – Email from Kevin Whalen, Rifle Fire Protection District, dated September 13, 2007; Exhibit W – Addendum to Lexi Meadows Lot 17 and Tract A; Exhibit X – Letter from Jim Wilson, 382 Miller Lane, Rifle, CO; Exhibit Y – Memo from Davis Farrar, Responding to Rifle Fire Protection District comments; Exhibit Z – Wildlife; Mitigation Plan, submitted on December 4, 2007; Exhibit AA – Letter from Lisa Caskey, dated December 5, 2007; Exhibit BB – email from Linda Castanzo; Exhibit CC - email from Kevin Whallen – Rifle Fire; Exhibit DD – email from Brian Gray – DOW dated 12-6-2007; Exhibit EE – Location map; Exhibit FF – letter from Becky Tedron; and Exhibit G – Letter from Terri Murphy.

Chairman Martin entered Exhibits A – GG into the record.

The Applicant is proposing to subdivide a 76.19 acre parcel into thirty-seven (37) single-family lots. The Applicant has chosen to pursue the "Cluster Option" identified in the Garfield County Subdivision Regulations of 1984, as amended §4:11. This is located just outside Silt with access off Miller Lane, CR 227.

In order to qualify for the "Cluster Option" the Applicant is required to preserve at least twenty-five percent (25%) of otherwise developable land as open space. The proposed subdivision includes a 19.95 acre green belt and a 5.07 acre open space parcel preserving 32.8% of the 76.19 acre parcel.

GARFIELD COUNTY PLANNING COMMISSION RECOMMENDATION

Garfield County Planning Commission reviewed the Lexie Meadows Preliminary Plan application on September 26th, 2007. Staff identified deficiencies in the application. Specifically, the application did not include the required Wildlife Mitigation Plan or Fire Protection Plan. A Wildlife Mitigation Plan was submitted to the Building and

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Planning Department on December 4th, 2007. Rifle Fire Protection Districts concerns have been addressed by the applicant to the District's satisfaction.

The Planning Commission moved to approve the proposed Lexie Meadows Subdivision with the following conditions:

1. That all representations made by the Applicant in the application, and at the public hearing before the Board of County Commissioners and Planning Commission, shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
2. The Applicant shall include the following plat notes on the final plat:
 - a) *One (1) dog will be allowed for each residential unit and the dog shall be required to be confined within the owner's property boundaries.*
 - b) *No open hearth solid-fuel fireplaces will be allowed anywhere within the subdivision. One (1) new solid-fuel burning stove as defined by C.R.S. 25-7-401, et. seq., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.*
 - c) *All exterior lighting will be the minimum amount necessary and all exterior lighting will be directed inward and downward, towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.*
 - d) *No further divisions of land within the Subdivision will be allowed.*
 - e) *Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. All must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.*
 - f) *All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.*
 - g) *Based on the analysis of the sub-soils on the property, Individual Sewage Treatment System and foundation designs are required to be conducted by a registered professional engineer licensed to practice within the State of Colorado. These studies and plans shall be submitted with individual building permit application for each lot. The cost of these studies shall be borne by the individual property owner.*
 - h) *All streets are dedicated to the public but all streets will be constructed to standards consistent with Section 9:35 of the Subdivision regulation of 1984, as amended and repair and maintenance shall be the responsibility of the Homeowners Association of the subdivision.*
 - i) *The mineral rights associated with this property have been partially severed and are not fully intact or transferred with the surface estate therefore allowing the potential for natural resource extraction on the property by the mineral estate owner(s) or lessee(s).*
 - j) *At the time of Individual Septic Disposal System permit submittal, the owner of each lot must demonstrate the location reserved for the placement of a second leach field in the event of a leach field failure. The reserve area must remain unimproved.*
 - k) *Tract-A is designated as a greenbelt and may not be improved with any structures including those utilized in agricultural activities.*
3. The Applicant shall pay the Traffic Impact Fee to Garfield County to be calculated at the Final Plat. ½ shall be paid prior to the signing of the Final Plat; the remainder is to be paid at the time of obtaining a building permit. This information shall be included in the Declaration of Covenants and Restrictions;
4. The Applicant shall obtain a State Highway Access Permit and complete all conditions identified by the Colorado Department of Transportation;
5. The Applicant shall provide at the time of Final Plat documentation in a form acceptable to Garfield County Attorney's Office regarding perpetual development restrictions for the proposed 19.95 acre greenbelt (Tract-A);
6. The Applicant shall provide Staff with a Fire Protection Plan approved by the Rifle Fire Protection District prior to scheduling this item before the Board of County Commissioners;
7. The Applicant shall provide Staff with a Wildlife Management Plan approved by the Colorado Department of Wildlife prior to scheduling this item before the Board of County Commissioners;
8. The Applicant shall install sediment control fencing along the southern boundary and along the southern portion of the east and west boundaries during construction and until vegetation is established;
9. The Applicant shall provide documentation from the Colorado Division of Wildlife regarding the adequacy of the Wildlife Mitigation Plan.

Omitted No. 9 by Craig.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners require the Applicant obtain written approval from the Colorado Division of Wildlife regarding the adequacy of the Wildlife Mitigation Plan prior to the submittal of the Final Plat.

Commissioner Houpt asked at what point do you require a community waste water system versus individual ISDS on your concentrated area.

Craig – to my knowledge we don't require that. The applicant has spoken with the Town of Silt and they cannot connect to the Silt system at this time.

Applicant:

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David Farrar, planner presented a Power Point Presentation, Boundaries Unlimited, introduced Deric Walter, Engineer, Tom Zancanella water expert and Lee Leavenworth, Attorney.

The plan is 37 single family cluster units and open space is 32.8% of the site and as staff noted the County requirement is 25%. There will be no modular homes in the project or accessory dwelling units. The density is 2.06 acres per unit and complies with the zoning; water is supplied from a central system and storage tank for fire protection as well. Sewer – we’ll have engineered ISDS systems; access is Miller Lane and Road 227 with two subdivision access points for egress and ingress. The ownership of the project is Jim Bob Ventures II, LLC. The location is 1.7 miles west of Silt. Views of the property were shown on the slide presentation. The cluster concept was explained and Davis pointed out the preservation parcel, greenbelt as we are calling it and is in association with this larger lot. In conversations with County staff we became aware that there is a prohibition against agricultural buildings on this parcel which will likely be used for pasturing of horses or other kinds of livestock, so we increased the size the size of this lot in order to provide for some Ag buildings. The covenants will restrict that and that cannot be further subdivided or used for any other purpose. A water tank is in the north portion of the property here, the central common open space which will serve the residents of the property providing them an area to play – it is usable property that could be used for playground purposes, soccer fields, ball fields, whatever the HOA feel is most appropriate. Two access points directly across Antonilli Lane and a second access point to the south providing a looped street system on dual egress and ingress. South end of the property in response from concerns of the property owners; we’ve designated building envelopes and pulled them to the north so there is further separation of the properties to the south here. You can see envelopes on these other parcels as well which is part of the application. An aerial view of the general site showing the property, parcels surrounding the site, Sun Meadows was pointed out predominantly 2 acre lots and see a general parcel size surrounding the property. Note, the Commissioner’s information, the parcel here is 1.75 acres; this is a 9.56 acre parcel; 4.9; 15 acre piece, 5 acres here and then the properties on the south are 2.6 acres; 4.4 and 3.8 acres.

A view of the yield plan was shown as to how it would layout in relation to the roadways and adjoining properties, the yield plan is not as desirable as the cluster plan. The green belt parcel adjoins the larger agricultural portions, adjacent properties. These are the conditions from the Planning Commission and staff has already gone through them. Suffice to say that Condition No. 1 – we agree; agree to Condition 2 a through k with plat notes; traffic impact fees, Condition 3 – agree; Condition 4 – Highway Access permit – we agree and as staff noted we did have the meeting with CDOT and the developers of the Sun Meadows property and we will basically be taking the lead on the improvements at Miller Lane and Highway 6 & 24 to ensure that this happens; Condition 5 – documentation perpetual development restrictions for the 19.95 acre parcel, we agree; Condition 6 – we’re in agreement with that – actually we’ve met that condition and staff has identified that they are suggesting that be removed as a condition. Similarly Condition 7 with the DOW, we’ve met that requirement as well; Condition 8 – we will install sediment control fencing, etc. on the boundary of the subdivision; and Condition 9 is not applicable at this point.

In summary: the project - we feel the cluster option preserves almost 33 acres of the property as open space in perpetuity the Lexi Meadows project conforms to the Garfield County Comprehensive Plan with outlying residential which is one unit per two areas, similarly the ARRD zoning of one unit for 2 acres; the Division of Water Resources has made a finding of no material injury on water impacts to surrounding water supplies but to continue to recharge ground water we will require and continue to apply non-treated irrigation water to the surface so it will recharge ground water; traffic analysis has been completed and it’s been delivered to CDOT and to the County and they are both in agreement to the findings, highway improvements as noted will be made to 6 & 24 at Miller Lane intersection and the project will pay the County road impact fees. Fire Districts as we reviewed and they have approved the fire protection plans for the project; the Division of Wildlife has also reviewed and accepted the wildlife mitigation plan; more specifically the plan includes the County restriction on dog limitations that would require game friendly fencing; the clustering of the units provides game movement corridors to the site and we will require animal resistance waste storage provisions on the properties so that wildlife, bears and other creatures aren’t drawn in; as was noted by the staff, we have on each lot identified two septic leach field areas, one will be the initial and the second one is a back-up. Wood burning stove restrictions; there will be a requirement for engineering ISDS as well as engineered building foundations; HOA will maintain all the public streets in the project even though they will be publically dedicated; in closing, the Planning Commission recommended conditional approval of the project on September 26 and the applicant agrees with the conditions as noted. And we respectfully request that the Board of County Commissioner approve the Preliminary Plan

Lee Leavenworth added the owners control the 80 shares of Silt project water which will be used to irrigate the open space tract and the green belt preservation tract, they also own and control 6 1/2 shares of fico water which will be used for lawn and garden irrigation and will be a draw water system.

Tom Zancanella – recharge issue – we ran a 25 gpm pump test on the project, there was a little draw down on the well of 6 feet on a 24 hour continuous test; that looks real positive. A peak month in July, I believe we acquired about 18 gpm so the one well showed that it can support it and we recommended two for account of liability and back up – there were some letters in your file at this hearing with regard to concern for the augmentation plan which is an area West Divide contract – an area contract allows you to augment the river, with either West Divide water or Coulter Mountain water – this particular one has a West Divide contract. We also looked back at the amount of water that would be applied and amount of water that would return versus the depletions of the subdivision and the subdivision would deplete about 10 acre feet and annual recharge of the system in terms of return would be about 26 acre feet. Generally you consume about 40% of that which returns via ground water so you’d be more than having the depletions on an annual basis so there shouldn’t be a net stair step of the water system where your stair stepping it down. I feel pretty comfortable with the amount of water that it tied into this plan and do think it is important that the applicants agree to tie this irrigation water to the plan and have it stay on the property to continue to irrigate.

Chairman Martin – you anticipated my question – tying that water to the land.

Commissioner McCown – keep looking for the lake that’s going to store the water and how are you going to convey the water to the big parcel up here for irrigation. Historically I believe that’s under a side roll sprinkler now; is there going to be some type of above ground sprinkler system used for this parcel going back to flood irrigation and if so how are we going to handle the tail water and stuff that runs down towards the homes.

Tom – that is more of a Deric question.

Commissioner McCown – you were under the water division.

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Deric Walter with Boundaries Unlimited and worked on the site design. The question as to the pond location, in this location and shown on the plan where a pond would be located and also the location of the central water storage tank – that pond and it’s location would have a pump house up there for an irrigation pump house included with the central water system pump house to pressurize the residential portion of the lot. The reason the design is laid out the way it is, we wanted to afford the Ag area to be able to use for irrigation so this area here, in the topography, there’s a general progression of slope and then a swale that comes down that brings the water back down there which is collected or there may be a culvert crossing in there. Looking at maintaining it really in much the same way it is, not to force anyone to use the irrigation system but it would be available to anyone who wants to – trying to make it as low maintenance as possible.

Lee – Craig a question – we made Lot 17 bigger because we wanted to be able to put Ag structures on that lot because you indicated that’s prohibited in the green belt. Is a water tank an issue?

Craig – the water tank was on the open space.

Lee – that’s identified as a utility and irrigation easement area.

Davis – if that’s a problem we could certainly enlarge Lot 17 there to bring the boundary over so that its part of that lot.

Lee – Deric you did a calculation of what the open space vicinity would be.

Deric – yes, the percentage is down to 31% instead of

Commissioner Houpt – if you brought it all the way over to the corner.

Chairman Martin – so he could put his tank on there – it would be on the lot.

Lee – it would be on an easement on –

Craig - we had a discussion and I feel that would be the best scenario.

Lee – we would ask that our application be amended to include that triangle piece into Lot 17.

Chairman Martin – in reference to the water system itself, having a place up in that area, actually down below it, the water tastes terrible. I don’t know how many people have bad tasting water and got other hard elements and plugs everything up, and I see here in Jim Rada’s review, he says you’re going to need a treatment facility and of course that’s going to be under the approval of the state health department and you’re aware of that, just making sure everyone’s not going to be running that nice hard water through there and knowing that it’s going to be plugged up pretty quick. What is the system? Reverse Osmosis? Is it going to be salt? Is it going to be – anybody have any idea what the proposed will be – I’ve had questions on that.

Tom – I believe the system, the water quality meets the health department regulations.

Chairman Martin – I wouldn’t drink it.

Tom – it may be that we can add an RO.

Commissioner McCown – are you anticipating individual treatment systems? Because it’s going to qualify as a public water system and would have to be chlorinated.

Chairman Martin –at that point then you’re going to meet the standards. Again, he said it is up to the Department of Health approval process on that water supply and how you deliver it.

Lee – we would offer in the record, Exhibit EE which is a location map which also shows the size of the various parcels surrounding the country.

Exhibit EE – an aerial map showing acreage.

Public comment:

Exhibit AA - Lisa Caskey – wrote a letter and questioned the need for this large a subdivision. There are a lot of unanswered needs – 37 houses are not compatible with the neighborhood. This will forever change our lives and neighborhood. The question is, is it the right thing for this part of Garfield County.

Becky Tedron CR 227 – delivered a letter to the BOCC and submitted 2 copies; she is just outside the 200 feet. The Miller Lane intersection hasn’t been improved. Wants the improvements before this is started. She is also worried about the aquifer of the well and read the last paragraph of her letter regarding the layout of the subdivision. Miller Lane will have 10 backyards that are entire rectangle building footprints. This doesn’t match Sun Mesa nor houses on Miller Lane. Needs a more imaginable layout. Turkey Buzzards roost in the trees and have for many years.

Steve Woolsey – Milller Lane – lives on 2.69 acres and this will be a ridge out in the middle of the ridge. There are wetlands in the back of their property where they will be putting buildings; it is created by the canal. He stressed building envelopes and concern about these septic systems interfering with their wells. There are a few homeowners who have under 3 acres. Other concerns are traffic down Miller Lane. He sees skid marks through the stop sign and into the highway. Also a situation with dogs killing the chickens. He summed it up that you will be adding 37 more homes and 37 more vehicles and 37 more dogs. This is a great increase in activity and we need the improvements done before construction begins.

Letters submitted – Exhibit GG – Terri Murphy who lives on Antlers Lane and the concern is traffic as it impacts her. She travels 6 & 24 and there’s a lot of traffic and people don’t stop at the sign. This needs an acceleration lane and even thinks a traffic light may be necessary. With every home you will have 2 adults, and high schoolers driving to Coal Ridge School. Another big concern is the water. 37 homes and how many will be living in the home. Two properties west of us have wells gone dry. The water tank and no landscaping will be an eyesore. Junk stored in the backyards, berms on the other end of the property. We need to keep it beautiful with open space, park or trails, soccer fields and playground areas. Open space above Lot 17 will be privately owned or will it be open space and if so who maintains it. There was talk about a gas well site by Antero on property owned by Richard Murr; who owns the minerals? Fewer homes would be better for their neighborhood. What is the timeline for construction?

Chairman Martin said that is up to the developer if he gets his approval process.

Applicant: Lee Leavenworth addressed the concern of the distance from the leach field ISDS to neighboring wells – what is the setback and distance.

Deric – the minimum setback requirement for a septic field to a well is 100 feet minimum; the only time you go above that is if you have a 6-bedroom house or more and the concern was over here on this side of the property – Steve’s property – and the distance from this set back to that property line right now is 100 feet so met the minimum to the property line minimum as well as an additional 20 feet out. We tried to take that into consideration so we wouldn’t be impacting an adjacent boundary.

Lee – concerns expressed about the intersection of Miller Lane and Highway 6 – as staff mentioned the developers of Sun Meadows, us and Dan Roussin met and Mr. Roussin expressed a desire that this be done, the Sun Meadow improvements plus our extension of those improvements, be done as a single project under a single access permit.

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Sun Meadows developer and my client agreed that my client would take that lead in getting the permit and doing the actual construction and we will be doing an agreement with Sun Meadows developer to that affect. Obviously we need an access permit and we will be required to comply with whatever conditions they put on that access permit. From the traffic study it does not indicate a light being warranted has been tripped but if that's a condition of the permit then we'll have to do it.

Commissioner Houpt asked Lee a question, if this were to be approved, what would your timeline be for accomplishing the permit process.

Lee— we want to go to final this spring and start the public improvements in the spring and the access permit work would be done as part of that public improvement process. The developer does not intend to go vertical but instead he intends to negate in odd sales so the timelines for construction homes is staggered over a period of years. A concern was expressed about the water tank. The tank is currently designed 16 feet in height and it is 400 feet off the road. It is not a highly visible location next to the road. A normal tank is 32 feet and this is designed to be 16 feet. The last question to address was that the open space tract, the larger tract will be tied by the covenants and deed restrictions to lot 17 — the intent there is that will become a small ranchette that would be attracted to the owner of lot 17 and would have a desire to maintain it in conjunction with his lot.

Tom — looked back on the water quality and the water quality does have a fair amount of iron and magnesium which would account for the taste issue, those are both secondary or recommended standards so they wouldn't be regulated by the health department.

Commissioner Houpt — questions were raised by neighbors, have you identified any wetland areas on this piece of property?

Deric — the property was sprinkled and has been to our advantage because it was over inundated with water that would normally be produced where you get standing water situation. The only place where there is a current water course is called the Cactus Valley Ditch and it comes through the property and it's basically with the slope of the land, this is the low side of it and no development proposed in this area at all so we're not looking at impacting any wetlands. In all of this area there's a draw that comes down and put it through the common space and on up. Again that was sprinkled so it hadn't been inundated and there wasn't any indication of grasses being out there.

Commissioner Houpt — there was a question about landscaping around the perimeter of the development. Any plans to do that.

Lee — each lot owner will be required to landscape their own lot by the covenants and we do not propose to include any perimeter landscaping.

Commissioner Houpt — with respect to the common space, is the developer creating that area as parkland or who's going to be responsible.

Lee — the HOA will own the common space and they will maintain it and we do not intend to improve it other than to revegetate after grading and install an irrigation system and it will be turned over to the HOA. The covenants will allow them to develop it if they chose or leave it as open space.

Commissioner Houpt — so you will be irrigating it.

Lee — yes.

Craig — who will be allowed to use the common open space, is it for the area or just the development itself?

Lee — it's for the HOA — if they want to open it up to the public, that's their prerogative; they're not required to.

Commissioner McCown — can you address how the water is being conveyed and I understand the pump and the pressure system to the homes, but given the shares of water that are with the entire property, are you breaking out enough that Lot 17 is guaranteed to have water to irrigate the open common area on Lot 17 and there's not going to be a water fight on the houses down here using the same water that these guys are needing to use to irrigate their hay fields.

Lee — no, it is our plan to dedicate a certain number of the project shares to the open space tract and Lot 17 for irrigation of the open space and a quantity that will be sufficient to irrigate that parcel. The homes will have a covenant restriction of 500 feet out of the potable system and some out of the irrigation system.

Tom — that will be separate, those 500 shares will be fico shares and will split the 80 shares prorated based on acres.

Commissioner McCown — my concern is we're talking the talk on creating this Ag land up here and this open space and if we don't have enough to keep that Ag land it's going to be weed land and I want to make darn sure that we've got enough water adjudicated to that specifically to that open space that it will continue to irrigate as it has been in the past.

Lee — and that is our intent. We clearly have sufficient water rights to do that without it becoming an issue — we created some of our project shares, fico shares to ensure that we had fico water as well as well as project water and from a marketing standpoint Lot 17 has significant value and it's not going to have significant value if we can't demonstrate to a buyer that there's sufficient water to irrigate.

Commissioner McCown — address this because if this is approved, I'm going to try to get a condition in here that the open space tract as we see it, given the fact that you're coming on down with the privately owned parcel of Lot 17 for your tank...

Lee — actually that lot line would be we'll have a triangle piece that will be...

Commissioner McCown — well whatever, I'm going to include or ask to be included that this be irrigated with an above ground system as it is today so I would expect some type of infrastructure to be put in place that would allow that to happen.

Lee — okay, we can live with that condition.

Tom — I guess we'd assume that this would be staff's position on an above ground device.

Commissioner McCown — you know, sometimes staff doesn't always win.

Lee — correct the record - the ground water system will allow for an additional 5000 square feet of irrigation.

Tom — that should be for one potable and one irrigation.

Chairman Martin —and the concern is, who is taking care of the open space now and what have you. Is it going to be rancher or is it going to be someone you've got it leased to, or until somebody buys it? Because I've seen property for sale just there and go to rack and ruin. How are we going to guarantee that?

Lee — Lot 17 and the open space tract have significant value and it's the owner's intent to continue to irrigate that to maintain its value as irrigated land and its marketability.

Chairman Martin — so as the owner or the developer of the property going to be responsible for the operations until it's sold.

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Lee – until it’s sold.
Chairman Martin – and it is subject to lease?
Lee – yes, that’s an option.
Lee – we would ask for your approval.
Public comment: Terri Murphy my question was on the traffic off of Miller Lane and Highway 6 & 24 – is that work going to be done before any of the infrastructure starts on the whole project because with Sun Meadows the roadwork didn’t happen and the housing went in and I’m not sure if that roadwork is done yet at Sun Meadows.
Commissioner Houpt – it was just represented that that would start in the spring.
Lee – right.
Commissioner Houpt – so the answer is yes.
Lee – it would proceed simultaneously with the on-site infrastructure.
Chairman Martin – unlike Sun Meadows did and yes we’re aware of Sun Meadows, we’ve had many hearings on it.
Terri Murphy – well with the trucks that are going to be coming in to do this development once again you’ll have additional traffic locking us up.
Chairman Martin – I’m aware of that.
Commissioner McCown – I realize that intersection that you showed Craig was not to scale but I’m troubled by a decell lane, to me there needs to be a left turn lane with a passing lane from the right. Is that in fact what’s designed or?
Lee – that’s a requirement of Sun Meadows.
Commissioner McCown – because I didn’t – a decell lane makes no sense there.
Lee – there will be an accell and decell lane on the north, there will be a turn lane to come in and make a left with a turn lane on the right.
Lee - asked the Commissioners to approve their Preliminary Plan.
Craig – added that Sun Meadows isn’t fully developed because they’re actually having to wait on the southern portion of Antonilli Lane to complete the traffic improvements before they can sell those lots.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing.
In favor: Houpt - aye Martin – aye McCown - aye
A motion was made by Commissioner McCown to approve the preliminary plan for Lexi Meadows with the conditions of staff 1 – 5 and add number 6, which will include the testimony by the applicant regarding the resizing the Lot 17 and creating that as an easement area for their above ground water storage tank and a pump house and also I would ask that included in that same condition that the open space common area on Lot 17 be irrigated with an above ground sprinkler system for the extent of time the subdivision is enforced.
Commissioner Houpt – what about Condition 8 –
Commissioner McCown – 8 went away didn’t it?
Commissioner McCown – no, okay, we’ll leave 8 and make mine 9 whatever. 6 & 7 went away.
Craig – tract A is not common area – it is open space.
Commissioner McCown - open space that’s directly related to Lot 17.
Commissioner Houpt – second.
Commissioner Houpt – I think we really do need to update our comprehensive plan and this clearly is in line with our comprehensive plan and our regulations and I’m just wondering what the vision is for the character of Ag neighborhoods.
Commissioner McCown – would you recommend changing the 2 acre zoning as well?
Commissioner Houpt – that discussion is going to happen with our code.
Chairman Martin – also remember in reference to your desire to make sure that the municipalities take in the density etc. the demographer says 70% of the development will happen outside of the city limits.
Commissioner Houpt – if we let it, yes. We need a vision.
In favor: Houpt - aye Martin – aye McCown - aye

ADJOURNMENT

Attest:

Chairman of the Board

DECEMBER 17, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, December 17, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M.

COUNTY MANAGER UPDATE – ED GREEN

COMMUNITY CORRECTIONS - FOOD SERVICES CONTRACT WITH THE DEPARTMENT OF CORRECTIONS FOR COMMUNITY CORRECTIONS – DALE HANCOCK

Dale submitted an exhibit showing the cost of meals at the Community Correction facility. It explained the food costs are determined by number of meals served. Currently they are serving 135 meals per day, at capacity this figure would raise to 180. He believes it would be reasonable to establish food cost at an average of 158 meals per day. This would be a daily cost of \$2.95 per day, per inmate for a total of \$170,126.00 for the fiscal year 2008. They would like a not to exceed figure of \$171,000.00.

Commissioner McCown – I make a motion that the Chair be authorized to sign the contract with the Colorado Department of Corrections after legal has had time to peruse it and make the normal notations on State contracts.
Commissioner Houpt – Second, but I would like B to be clarified.

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In favor: Houpt – aye McCown – aye Martin - aye

VETERANS - SERVICES OFFICER CONTRACT – DALE HANCOCK

Dale presented a scope of services for the Veteran’s Officer Services. He believes the amount should not exceed \$31,060.00 for 2008.

Commissioner McCown – I make a motion we approve the Veterans Services Contract for 2008 in an amount not to exceed \$31,060.00 and authorize the Chair to sign.

Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin - aye

PRESENTATION OF UPDATED VISA POLICIES & PROCEDURES MANUAL – CATHLEEN VAN ROEKEL

Cathleen is asking for approval of the policy section of the VISA purchasing card policies of the procedure manual. Cathleen gave a power point presentation with the changes made. Last update on the manual was in January 2004. The reason she has brought this to the Board is to present the manual and secondly to have the BOCC’s approval on the policy section of that manual. They have made six (6) changes and Cathleen went through those changes. Only Elected Officials and County Employees will be able to obtain a VISA purchasing card. Cathleen explained employees were allowed at one time to use another person’s card for emergencies. This has changed and no one is to use any one else’s card. About 71% of the Counties employees have credit cards. All the Commissioners agreed it should only be Elected Officials and County Employees.

Commissioner McCown stated he had heard it would eliminate the need for petty cash and wanted to know how effective that would be. Cathleen stated yes they have started that and explained how it reduces the re-imbursements to employees. Possibly we will get to a point of not using petty cash but there are still places that do not take VISA. The action requested on this is to approve the very first section which is the policy section.

Commissioner Houpt – So moved.

Commissioner McCown – Second.

In favor: Houpt – aye McCown – aye Martin - aye

FINANCE - CONSIDERATION FOR AUTHORIZING THE CHAIR TO SIGN THE FIRST AMENDMENT TO THE PURCHASING CARD AGREEMENT – CATHLEEN VAN ROEKEL

Cathleen presented the first amendment to the purchasing card agreement for minor changes to update the agreement. Two items, one is we changed the contact names, Patsy Hernandez is now the contact and the second item is for electronic communication.

Carolyn – Asked Cathleen if we had the signed agreements from the bank yet. Cathleen answered yes we do.

Commissioner McCown – I make a motion we approve the first amendment to the purchasing card agreement and the Chair be authorized to sign.

Commissioner Houpt - Second

In favor: Houpt – aye McCown – aye Martin - aye

SOUTH CANYON TRAIL PHASE I –JEFF NELSON

Jeff Nelson, Todd Tibbets, Board Chairman LoVA Trails and Tim Arnett present.

The Contract Administrator received a request from Jeff Nelson, Garfield County Assistant Engineer to issue a formal request for bids for building Phase 1 of the South Canyon Trail. Nicholas Senn of Schmueser/Gordon/Meyer Engineers/Surveyors prepared plans and specifications and a legal advertisement was place in the Post Independent.

The project consists of approximately 634 feet of asphalt trail and two retaining walls to support the alignment, consisting of 192 CY of cast in place concrete and 495 SF of MSE wall. The project will connect to the City of Glenwood Springs Mitchell Creek Pedestrian Bridge Project.

A required construction pre-bid was held October 23rd at SGM offices with seven potential bidders in attendance. Five responsive bids were received with American Civil Constructors providing the lowest responsive bid of \$629,756.00.

Recommended Board action: Award bid to American Civil Constructors for construction of Phase 1 of the South Canyon Trail for a note to exceed price of \$629,756.00.

FUNDING SUMMARY

<u>Contributor</u>	<u>Total Commitment</u>	<u>Spent to Date</u>	<u>Available for Construction</u>
CDOT	289,600.00	150,213.00	139,387.00*
Garfield County	433,000.00	43,521.00	384,479.00
Glenwood Springs	250,000.00		250,000.00**
State Trails (LWCF)	153,408.00		153,408.00*
LoVA	<u>15,000.00</u>		<u>15,000.00</u>
TOTAL	\$1,141.008.00	\$193,734.00	\$947,274.00

*Reimbursable

**92,500 received, need to invoice for \$157,500.00 when bid award is made.

Todd Tibbets – We were not able to proceed with original full length of the trail that we had anticipated. He wants to bring the Board up to date as to LoVA’s plans. Short term we are going to be working with a consultant to refocus on the scope of the fundraising. Originally it looked like a three million dollar project. It took four years of fundraising to get to that plateau and found they were a little short. They are looking for major funding partners. GoCo was one of our major supporters; their next major funding cycle is a couple of years down the road. By starting in 2008 with our preparation we feel we should be ready for GoCo’s next major funding cycle. Our goal or hope is not to lose any momentum that we have gained, but recognizing the economic realities of putting this trail through a very physically demanding section we recognize that we have to take a step back, refocus and move forward again with major funding. This small portion is a key to this continued effort. It takes advantage of an easement that was given by the West Glenwood Sanitation District.

Don DeFord– Few things the Board needs to be aware of. Last week I had a discussion with Mike Sawyer, who is acting on behalf of LoVA as well as the City of Glenwood Springs. We talked about two agreements that are integral to developing the South Canyon Trail. One is a license agreement that will allow the County to construct a trail on the City’s easement as it runs across the Sanitation District property and as you are aware what’s being proposed today is a construction that lies wholly on property by the Sanitation District for which the County and the City have easements. As part of that discussion I think the City Attorney appropriately raised the issue about the Sanitation District’s position, I think all of us believe there will be no difficulty in obtaining any agreement we need

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to from the Sanitation District to allow us to use the City’s easement but that still has to be accomplished. We also discussed the question of maintenance because we have been discussing the prospect of the City actually maintaining the entire length of this short piece of trail. Rather than the City doing 3 or 400 feet and the County doing 3 or 400 feet, the city is willing to do that on a year to year agreement and I think their first proposal was for about \$1,700 per year. It is a year to year agreement. Lastly, we have not really discussed a funding agreement with the City. To my knowledge we don’t have an IGA in place with the City yet. You have in front of you a funding summary that represents there is \$250,000.00 available from the City. I’m not aware of how we arrived at the \$157,000 to be paid by the City but there is no agreement that specifies a portion amount based on construction costs or that type of thing and that still has to be accomplished.

Jeff Nelson – The way I understood it, Friday they were going to Mike Sawyer and the City Attorney Jan Shute to actually scope out this agreement and I thought they sent it over for preliminary review.

Don – We actually sat down and talked about the maintenance and the license agreement but we had no discussion and I have never seen a draft on the IGA with the City for funding. But I don’t anticipate that is that complicated of an agreement.

Jeff – I believe what Jeff Haskell stated to Larry Dragon was that as soon as it was awarded, actually a living project, to bill the City for the full \$250,000.00.

Don – That was my concern when I see the handout is for \$157,000.00.

Jeff – Yes, total \$250,000.00 goes to LoVA and they have received that \$92,500. It goes to LoVA and then they transfer it on to us.

Don – So regardless of the construction cost the City is going to contribute \$250,000?

Jeff – A total of \$250,000 for everything. Jeff was taken by surprise and thought the agreement was much further along.

Commissioner Houpt asked if there were a number of bids?

Jeff – there were five bids and the recommended award is to American Civil Constructors.

Commissioner Martin felt it was a lot of money per foot.

Commissioner Houpt stated they had several discussions on this and it is the most expensive part of the trail. I will put a motion on the table to award the bid to American Civil Constructors for constructing Phase I of the South Canyon Trail in an amount not to exceed \$629,756.00.

Commissioner McCown – Second. Is this money going to be proportionately spent and again it reverts back to this funding agreement; clearly the biggest donor in this right now is Garfield County. Are we going to spend all of our money first and then chip away with CDOT money, State trails money, Glenwood Spring's money or is it going to be spent proportionately?

Todd – It actually would be all of CDOT money, all of the State trails, all of LoVA’s would be spent and it is our understanding that if there is any proportionality then it will be between Garfield County and the City of Glenwood. It is my understanding that the \$250,000 from Glenwood Springs is a firm amount as well and so the surplus then would be reduced from the County’s spending.

Commissioner McCown – Is this on a billed basis or is LoVA going to hold our \$387,000 for the year? Are they going to invoice us for the full amount and only spend a proportionate share and hold the rest of that for seed money?

Todd – I would assume that as bills come in up until the \$630,000 that will be all that would be spent of the County’s money. Again it’s not that Garfield County has given LoVA

Commissioner McCown – That’s my point is that going to be the request from LoVA, are you going to invoice us for the \$389,479.00 that has been committed and hold that in your bank account?

Todd – No we would be billing as needed for the appropriate funds to meet the \$629,000. I think the whole problem Jeff, is the funding agreement that is not in place.

Don – I just don’t know how we are going to break this out and I’m sure we can reach an agreement because the money is available.

Todd – It is my understanding that Garfield County has committed the \$250,000 to the project but again, sorry Glenwood Springs but I’m sure I agree the agreement would be essential.

Bob Prendergast – Went over the split of monies. I’ve been instructed to invoice Glenwood Springs for \$175,000 today if you approve. Whatever is left over goes back to the County and Glenwood Springs.

It was brought out that we already have this money in the budget and they will not be invoicing us for this money. Money is already set aside in the LoVA fund.

In favor: Houpt – aye Martin – aye Opposed: McCown - aye

ROAD AND BRIDGE - SAND STORAGE SHED – MIKE VANDER POL

The contract administrator received a request from the Road and Bridge Department to issue a formal bid request to furnish and install a 70’ X 120’ fabric covered membrane sand shed at the Rifle Road & Bridge Storage area.

Four responsive bids were received with Tusca II, Grand Junction, CO submitting the lowest bid of \$464,300.00 but after adding 5% Mesa Preference for resident that states a Mesa County Bid Preference, the total is \$487,515.00. An exhibit was given to the Commissioners of Mesa Counties Bid Preference for resident which states a Mesa County resident bidder has a 5% bidder’s preference over a non resident bidder. They also provided a copy of the Garfield County bid preference as state in the Procurement Manual.

Mueller Construction Services, Inc. also provided a bid in the amount of \$468,211.00.

Recommended Board action: Award Bid to Mueller Construction Services, Inc. at a cost of \$468,211.00.

Don – This contract as I understand it is for a 2008 expenditure and the contract will not have an effected date until next year?

Commissioner Martin - Correct

Commissioner McCown – I make a motion we approve the contract for Mueller Construction Services, Inc. in an amount not to exceed \$468,211.00 for a sand shed with approved engineered concrete floor.

Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

AIRPORT - GARFIELD COUNTY REGIONAL AIRPORT PROPOSED AMENDMENTS TO RULES AND REGULATIONS – BRIAN CONDIE

2007 Project Review:

Airport Upgrade D-III
Airport Operations Center

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2008 Projects:

New hangars and Tenants
T-hangar taxi lanes
Water line upgrade with Fire hydrants
Public restroom and wash bay
Heli-Pad
RW 26 approach lighting
RW maintenance/paint
MCI drill for Garfield County
Ramp space (Photo in Packet)
Hangar space applications
Parking and roads

Airport Needs & Issues:

Proposed Rates & Charges: Annual Rates & Charges review with recommendations for fee increase.
Commissioner McCown – Given the pressure we are seeing at our airport, in our RFP that goes out can we give preference to Garfield County residents? We are seeing a lot of out of state interest in our airport and I’ve heard some concerns from local users that feel they are not sure they can out bid the big money that is coming in. They have an interest to build a hangar but given the small amount of land, we know what that does to the price of things, is there any way we can weight our process to give Garfield County residents a preference? They would still have to pay the price and not cut any corners on anything else other than a rating system. Is that ever done?
Brian – Once we meet the minimum standard, we can come up with a criteria for selection. We can put it out to bid, whoever bids the most gets to choose first, we can do it by lottery or we can say residents of Garfield County will have first choice of location. Residents of Colorado will have next and then residents of the United States will have third.
Commissioner Houpt – I’d like to see an analysis from you on what kind of impact that has on the development of our airport. Because we are seeing a lot of out-of-state use come in and I don’t know if that is really important, I would think it would be really important to our airport as well as locals.
Brian – We’ve got two different areas we are developing. The area we are talking about is for the large hangers. He showed the map and the size is 150 X 150 and we only have seven (7) parcels available. We have nine (9) interested parties in building large hangars. We can open up more area.
Ed Green asked how many of the nine (9) were locals and Brian stated three are locals. If we leased this entire area it is additional revenue of \$86,000 per year in land lease but if that gets chewed up by the infrastructure costs……
Commissioner McCown stated it would take several years to re-coup the costs. It’s not an enterprise fund. Eventually it will pay and it is clearly a tremendous economical asset for Garfield County. In this infrastructure cost it eventually will pay out. Some folks are willing to up front that cost and defer it from their rent or their lease.
Carolyn – It strikes me that if we are going to set up a preference system that should be in the RFP that goes out in January. Does this need to be re-calendared in front of the Commissioners to make that decision?
Brian – Yes and he explained that any questions on how to get an application or a bid, we are putting that together and it has to go out to the public; and we can set the selection criteria as a County. Once we set that, that’s what we live by. Parking and roads, with the addition of about 30 offices at the airport, the parking lot will be reduced. He talked about what the parking lot is used for. How are we going to pay for all this and who’s going to pay for it. In reviewing the annual fees, we looked at the last several years, in 2004 the price of jet fuel and our operating costs and in 2007. In July, 2004 a gallon of jet fuel sold for \$2.84 and in December of this year, \$4.00 per gallon. That is a 40% increase in three years. Our costs have gone up; pilot’s costs have gone up. We haven’t increased fees for a few years. The first fee increase would be the landing fees for \$1.25 per 1,000 pounds of aircraft. It’s \$1.00 right now. This will help pay for the ramp where the heavy aircraft come in. The ramp fees, I’ve included large helicopters for a helicopter pad. BLM Forest Service said they would be happy to pay for a helipad. Ramp fees can be waived if you buy fuel. Brian opts not to give that waver for the helipad. He went into more detail on the ramp fees and felt they should get \$750.00 additional revenue each year. Brian continued to talk about his recommendations for fee increases. An effective date I would like is January 1st.
Commissioner McCown – I make a motion we adopt the recommended fee schedule effective January 1, 2008.
Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye
OIL AND GAS - UPDATE ON THE HYDROGEO STUDY – JUDY JORDAN
Judy passed out information to the Board – This is a continued discussion from last week. EnCana was actually fined \$548,000.00 all of which was to be devoted to projects in lieu of that fine. The first \$205,945.00 was spent on the first phase of our hydrogen study. There was \$64,999.00 devoted to the Saccomanno Health Study. We had a bid and awarded a contract to Papadopoulos to do the second phase of the hydrogeo study and that was \$127,843.00 coming to a total so far of \$398,787.00. I’m looking to change the scope of the Phase II study and to add \$12,047.00 to that to account for some quality assurance work as well as some additional samples; also an explanation of the wells we sampled and what the results mean. If we do that then the total amount that we have spent will be \$410,834.00 and that would leave us with \$137,166.00 out of the money EnCana had to pay.
Commissioner Martin – Which is not obligated.
Judy – Debbie Baldman told Judy that if we don’t have studies that we want done then they will simply assess that fine against EnCana and expect them to pay it. Jesse – We have discussed with COGCC to take our testing all the way to the Mesa County line on the south side of the river. That would give us a full base.
Commissioner Houpt – Do you believe there is enough money for that based on Phase III?
Jesse – Based on what Papadopoulos did and plus the fact that Williams has done a lot of base line, I think it is enough.
Commissioner Houpt – What do you need from us today?
Commissioner Martin – The expanded of \$12,047.00.

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Commissioner Houpt - I make a motion we approve the recommended expansion of Phase II with Papadopoulos in an amount of \$12,047.00 as brought forward by Judy Jordon.

Commissioner McCown – Second.

Don - A question to Judy, in discussions with Debbie, so the record is clear, the COGCC are going to be amendable to any necessary contract in evidence. This is a three party contract.

Judy Jordon – They are. In fact I met with Debbie about this and Debbie was in favor of whatever we wanted to do.

Don – So I assume the motion includes authority to sign any necessary IGA. alterations with the COGCC.

Commissioner Houpt – It does.

In favor: Houpt – aye McCown – aye Martin – aye

OIL AND GAS - DISCUSSION REGARDING DRAFT COMMENTS TO COGCC ON NEW REGULATIONS – JUDY JORDAN

Commissioner Houpt – I will need to remove myself from this discussion. We are in the middle of a very formal rule making procedure at the State level. I discussed with Don and he concurred that it would be the best direction to take.

Judy – I e-mail out a draft copy of comments on COGCC proposed rules and then sent out a revised version of that on Friday.

Commissioner Houpt – Reminded Judy to take her name off of the letter.

Commissioner McCown – This has the potential to be applied any number of ways and I guess that is the part that concerns me is the statement that Tresi made – “they are in the middle of an extensive rule making process right now” which I would assume is taking place prior to these comments being received. They will probably be plowed into them. But not knowing what rules are going to accompany these recommendations, it is really hard to comment on what possibly could happen. I have voiced some concerns that I have personally that there are any number of things in here that seem to totally circumvent the surface use agreement process; which I am assuming it is still a necessary part of the process when you apply for an APD. This Form 34 that they are talking about is not going to take the place of an APD. It’s going to be a part of the APD process if I read it right and there are certain criteria that you have to make for the Form 34. And, that’s when CDPAG and the Division of Wildlife weigh in. I think a lot of their comments could easily negate the surface ownership agreement that the operator has with the surface owner. I’m not sure exactly how the surface and the mineral owner are going to be weighted on this. I’ll give you a for instance; if there is a large property holder, several thousand acres that has a surface use agreement for multiple well pads, this goes to the COGCC. The Division of Wildlife looks at it and goes well this is mule deer wintering grounds; we don’t want any activity on that. If the COGCC takes that recommendation and applies that to the application to me they better have a big check book because that would be a taking from that individual landowner that already has a surface use agreement with the energy company and has the mineral rights under that, that he would have the right to retrieve. There is a referral in here to the LGD’s involvement in the negotiation process. We have had that available for years. It has not been a tool that has been used. There may have been one in Garfield County, two at the most since that rule became effective. This indicates that the LGD is basically going to be involved in every well site. I think that is going to become a terrible burden on the local government. We at least have an active LGD. I think a lot of counties have LGD’s that like ours used to be is a member of the planning department that is probably not up to speed as much as they should be as to what is taking place. Those are a few of the faults that I found. I know I talked to Judy about the 500 acre spacing that was highlighted in there. Was that from the well pad or is that from the property boundary of the applicant that is applying for this use? That would certainly change things. An individual 500 foot from a property boundary now could, depending on the rules, could be given standing, which they have never had before. I see this bringing some folks in that could be there simply as adversarial. Again, this would possibly erode the surface use agreement that the energy companies have to have before they apply to the COGCC for permits. I don’t see a lot of advantage or incentive pushing the area wide plans in here. I didn’t see any advantage to an operator to provide one of those on the grand scheme of things. Normally unless there is some incentive as far as expediting the permitting process or something at the end of the day, I don’t know why someone would want to go to that much extra work and time and waiting for the review process to take place. I have relayed all of this to Judy.

Commissioner Martin – The timeline I see has been extended in reference to an APD tremendously. The studies that go on and the recommendations are going to add to that frustration to many people. Bonding is still there, it’s still an issue that could circumvent everything. I imagine there will still be companies who will bond over simply because they can’t achieve everything that is there. I don’t know if that is what we were after. The notification in reference to the Form 34 was another issue that we need to address that hasn’t been addressed. How is there certification and who receives it, why do they receive it and who’s accountable to the landowner or to the folks who will be affected? Who’s in charge and who’s going to make sure that it was done properly? That is not outlined at all.

Commissioner McCown – I’m not sure if we will get to comment or at what point we will get to comment on the rule making.

Judy – We will have a chance to make comments. First of all what COGCC said was that they intend to involve each of the stakeholder groups including local government in their processes. In addition to that they won’t actually begin the formal process of rule making under the administrative procedures act until they first get the preliminary public comments which go through January 31st.

Commissioner Martin – We will have a couple of times to comment. This should be addressed as our preliminary review of comments and concerns. We expect to be able to be involved in the negotiation or the forming of the rules and regulations; however it is set out as they proceed formally.

Commissioner Houpt – I think you have seen from the way this rule making process has begun that numerous stakeholders have been at the table including local government and the intent is to make sure that the exchange continues throughout the process of finalizing the rule making.

Commissioner Martin – We also want it clarified that this is in reference to new applications not the ones that have already been extended.

Judy – They have made that very clear that this is strictly a going forward prospective.

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Commissioner Martin – And until these new rules and regulations, we are following the old ones and all the permits that have been issued are under the rules that have been there. All review processes will take place again.

Jesse – A couple of things I noticed in here and my comments are primarily from the standpoint, how is the County going to be able to oversee some of this? I agree with Commissioner McCown when he said the local surface owner and the adjacent surface owner now has standing. I think you were now implying that under the proposed rule, they could request a hearing directly rather than coming through the County, which would then potentially cause the County to get involved. One other thing I noticed under the high density definition, it says the term could be defined to apply to areas with more than 120 active wells within 10 square mile area. That's ostensibly five (5) pads so that would basically put all of the gas producing areas in Garfield County as high density. Everything would fall under high density under that rule. I agree that with a number of cases the consultation is solely between COGCC, CDPHE and CDIAL and does not include local entities. I think there are some potential conflicts there with local governments especially to their land use codes and a variety of other things. I am very much in favor of the comprehensive development and geographic development plans but as I read through this I could perceive from the energy company's standpoint that there are more negatives in this than there are positives. I'd love to see them have to do that but there would need to be some incentives. One other thing I noticed, when you get back into the roads and dust areas there is no mentions of how you are going to differentiate between existing roads verses energy roads that serve a pad or an area solely for other users. We now see a lot of dust created not just solely by the energy companies but by a whole variety of other users. There was a statement in here that they would also include a new measure stating that well stimulation flow back operations must implement reduced emission completion technologies where they are cost effective and technically feasible. But there is no definition of cost effective or technically feasible. A couple of major omissions that I felt where in here, there is no mention at all of on-site housing and that has been a big contention with the surface owners. But there is no mention anywhere and no mention of how, who etc. on new access roads that cut County roads, City roads or State highways and I think our Road and Bridge Department is very critically impacted. They need to be a player in this somewhere at the table.

Don – I did receive from the LaPlata County attorney's office their comments on this proposal. It is very short and I think in some ways perhaps that is appropriate. From an attorney's perspective what's in front of you is really more in the nature of a concept than they are rules. As attorneys are prone to do, we look very closely at the actual words of the regulations. So until those are in front of us it is sometimes difficult to tell what the real impact is going to be. LaPlata's comments in some way reflect that, they really only had two at this point. One is they want to make sure that the adoption of the new rules would not preempt local regulation in the same area and they were asking that the COGCC consider specific language to that effect in the rules. Secondly, they expressed a concern that the areas that were under consideration would require the expenditure of a significant amount of funds by COGCC for enforcement purposes. They wondered where that money will come from with particular concern that severance taxes would be viewed as a source of funding to the detriment of local governments. Other than that they specifically reserve the right to comment during the rule making process when the actuals are in front of the commission and the language is actually known.

Commissioner McCown – That clearly goes back to my comment, until we see how this philosophy is applied in rules it's really hard to comment.

Commissioner Martin – You have a couple of additions I'd like to see in that redraft and have you bring it back to us. He instructed Judy to make changes and they will sign the comments and get it out.

ROAD AND BRIDGE - CONSIDERATION OF REQUEST TO CANCEL TWO (2) LETTERS OF CREDIT FOR HIGHLINE OPERATING COMPANY – MIKE VANDER POL AND CAROLYN DAHLGREN

A memo submitted from Marvin Stephens, Road and Bridge Director has acknowledged that Highline Operating, LLC has satisfactorily performed all conditions of the permit(s) and that there are no potential claims that may be asserted by Garfield County against the company under the terms of the two permits. Marvin requested that the County Commissioners release and surrender the Letters of Credit for Highline Operating, LLC.

Commissioner McCown – I would make a motion we authorize the release of security and surrender the letters of credit to Highline Operating LLC. Commissioner Hought – Second.

In favor: Hought – aye McCown – aye Martin – aye

EXTENSION PROGRAM - CONSIDERATION/APPROVAL OF 2008 RENEWAL OF 2005 MOU WITH COLORADO STATE UNIVERSITY – EXTENSION – ED GREEN AND CAROLYN DAHLGREN

Carolyn presented and stated that under *Personnel Costs for Support staff: Section 1. (c)* the MOU is amended so that the amount not-to-exceed figure is changed from \$87,000.00 to \$95,000.00.

Budget Amount: submit to Extension, through the office of the Director, a copy of the 2008 Garfield County Budget showing approval for the items identified in Sections 1. (a), 1. (b) and 1. (c) in an amount not-to-exceed \$214,700.00 to cover a percentage of two professional staff positions; 1.8 FTE support staff positions and all supplies, office equipment, furnishings and travel expenses.

Carolyn – Didn't know if they would sign the document because it includes a good faith negotiation toward a new 2009 MOU that would reflect the 1/12th division. She us aware of two other counties trying to do this and I have been in touch with their county attorneys. It's very possible that Colorado State University will refuse to sign even the renewal document and will just say we will keep operating under the old 2005 document. From our perspective that does not exist but each year as you budget and appropriate funds, that creates a contract even though we don't have a written document. By giving money to Extension you are creating a contract. Commissioner Hought – But without a contract we can budget the money but we don't necessarily have to give it to them if we don't have a contract.

Ed and Carolyn agreed. Carolyn talked about Extension not having credit cards and that she wasn't sure if Extension was using our motor pool. Commissioner Martin stated that motor pool wasn't open to them.

Carolyn said there were three (3) bank accounts that had to be dealt with which were included in the 2008 document that we wanted it to see the 1/12th.

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Commissioner McCown stated it would require a budget amendment before the budget is even printed. He explained to Carolyn that Extension gets a lump sum with no specific quantitative amount per line item because we were going to pay 1/12th.

Patsy – Before I address what you just mentioned regarding motor pool Commissioner McCown, I can confirm that central purchasing that handles the motor pool and that the Extension office has used our motor pool several times in the last six (6) weeks. I posed the question on this, are they allowed, does our motor pool policy allow for non-county employees or elected officials to use it? But the answer I’ve received is yes and so right now I believe that because they have been allowed to use motor pool over the last several weeks I think they believe they do have that service. So, what I’m hearing today is no they should not be using County vehicles for Extension work. They are checking out vehicles and there is a fuel card in the glove box.

Ed Green – This is a gray area and I’ve talked to several county managers and also to Doctor Young about this specific issue and some counties do allow this.

Commissioner Houpt – What does our insurance allow?

Commissioner Martin – We better find out. I didn’t think we were allowing anyone except County employees or elected officials to use our motor pool.

Carolyn – I’m pretty sure the motor pool policy says employees and elected officials.

Patsy – At this point is it a good idea for me to look into the insurance, look into our policy and until such time that is clarified make sure that I can communicate this with Michele Pike, the person who has been checking out the vehicles. I can work with Dale as he is the liaison and make it clear until such time that we can come to the Commissioners answering the questions regarding policy and insurance that Michele will not be allowed to check out a motor pool vehicle?

Commissioner Martin – I think we need to make sure it goes through the chain of command and make sure that policy is in place and enforced by our motor pool folks.

Patsy – Regarding the budget where we are now at \$214,700.00, is it in the Commissioners budget under the general fund with the idea that we would be sending 1/12th of that in advance each month? What I understand now is that CSU is saying that does not work for them. It wouldn’t require a budget amendment; it would require a budget transfer because it’s still within the general fund. You have approved the expenditure in the general fund and it would just be a matter of us taking what you have already approved in the general fund out of the one line item back to the way it used to be. What do I tell my staff?

Commissioner Houpt – We need to pay the bills but as far as I’m concerned Extension needs to know that this is the direction that this County wants to move in.

Commissioner McCown – Let’s bring up the bigger topic on what happens if they don’t like it and how do we create an Extension Department without CSU. It is not my wish to lose our 4-H program I hope that is not the wish of this Board.

Ed – CSU has no incentive to affect a change in this agreement

Commissioner McCown – That’s what at stake is losing our CSU program and our 4H program.

Patsy – The area that was a chronic problem was the VISA card. It has been eliminated. The accounts payable that is run through that was not the on going serious problems that we had. We certainly can track it if you would like. If this County pays any late charges as a result of Extension not getting their bills turned in to Kelicia in a timely fashion, we certainly can report that information back to you. It would be easily tracked.

Commissioner McCown – I would recommend we pay these out of that Commissioners line item leaving it like it is and authorizing that expenditure every month.

Patsy – Rather than move the budget back into the individual line item because the way it has been through this years is that Extension is a sub-department of general services and if they pay for office supplies, it hits office supplies. They may have as many as twenty different line items. I’m hearing you say all of those regardless of the type of expenditure would hit the one line item and as far as tracking the type of expenses for their budgeting purposes, they need to own that.

Everyone agreed it was important to track the expenditures. Patsy stated the auditors would say that the accounts payable department needs to handle it the way that the Commissioner directed us to. Patsy discussed why they were getting the 1/12th at the end of the month.

Commissioner Houpt – It’s my opinion that until we get to the point where they are paying their bills and we’re paying these twelve installments, we need to keep track of the money going out. We need to keep an accounting of that instead of setting up this weird hybrid. I think obviously CSU doesn’t want to move forward with us on the twelve installments. It’s my preference that our department keeps track of where that money is going.

Patsy – I think there is some wisdom in what Commissioner Houpt is saying because if there was ever a time that you were to come to me and say, Patsy I want to see a breakdown of how they are spending their money. If we’re paying out of one line item, I would have to piece everything together, etc; therefore I don’t feel Extension would keep a good clean accounting system.

Commissioner McCown – What I’m hearing then is other than the credit cards there wasn’t a problem doing it the old way anyway. Let’s just move on to approve it, get the money back in the line item budget so you can pay the checks; you can provide Tresi with an accounting. I make a motion the money be taken out of that line item that is currently in the Commissioners budget, placed back in the specific line items for CSU, Accounting will pay the bills and will give us a monthly update on what they are spending the money for.

Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN RESOURCES -CONSIDERATION/APPROVAL OF 2008 RENEWAL OF RECURRING SERVICES CONTRACT WITH LUNDY PROFESSIONAL DEVELOPMENT RESOURCES, INC. – ED GREEN AND KATHERINE ROSS

Ed Green and Katherine Ross presented the contract and explained:

Exhibit A – Summary of Services

Mandatory Training and Toolkits	\$40,000.00
Comprehensive Leadership Development Program	\$50,000.00
Development of Competencies	
Succession/Replacement Plan	

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Individual Leadership Development Plans
Leadership Training/Coaching
Performance Management

Consulting (HR and other issues)	<u>\$ 6,000.00</u>
Total	<u>\$96,000.00</u>

Ed – Most of what we spend our money on with Lundy is related to training and that is what most of this money is directed for in 2008.

Carolyn – A procedural matter, I would ask you to pull from the consent agenda the Lundy 2007 contract so we can discuss it along with the 2008 contract. As it turned out you had approved a certain not-to-exceed figure for 2007 and you told us to put it on the recurring services format, so I did that and the problem is in working with Phyllis on the 2008 and 2007 cleanup we discovered that there were a lot of services that her company performed in 2007 that were not included in the not-to-exceed figure that you approved in October.

Commissioner Houpt – I have a question about this process. This has turned out to be a very large contract, \$96,000.00 and I’m wondering why this isn’t being put out to bid?

Carolyn – Training of County employees is specifically and excluded from the professional services bidding process, other services are not. The purchasing code allows it to be an exclusion and none of the services were bid out in 2007.

Commissioner Houpt – I just think that this has grown to a number that I didn’t anticipate. It would make sense to me that we do find out if there are others out there who may be local. Not that I’m not happy with her work but once you get to this level I think it is important to put this type of contract out to bid.

Commissioner Martin – Also the driving cost of that is the growth of the employee list. How many folks need the training to meet the requirements? And also how many hours do we have to train our employees by statute. That is what’s driving a lot of the cost.

Commissioner Houpt – Is there a reason this is not put out to bid?

Carolyn – That is an administrative issue.

Commissioner Martin and Ed Green agree that yes, it could be put out to bid, but it would take several weeks.

Carolyn – If you will remember, to put this in context, part of the reason as Ed explained back in October for the 2007 services from this company, it was because we didn’t have an HR director. So her company was filling in some of that. I want to make sure you have the full context of this. When Phyllis and I sat down and collected all of the services perform by Lundy whether under contract or not and all of the expenses the total dollar amount ended up being over \$133,000 for 2007 verses I think it was the \$89,000 back in October. You’re looking at a lesser amount for 2008 and a lesser scope of services. The 2008 is divided between mandatory training and tool kits and then there is the comprehensive leadership development program, which is training for a smaller number of employees. There is a miscellaneous amount for consulting for HR. You will notice there is no more strategic planning. This dollar amount does include expenses. The dollar amount you saw back in October did not have the expenses mixed in. Carolyn pointed out Exhibit A 2008 contract and explained it was set up as a true release to contract. She explained it as a general explanation of services the contractor would perform. I envision, although it is really up to Ed, that each project the company did there would be a proposal that would include the dollar amount, the people who working on it, the time of performance, the expenses and then Ed as your representative would have authority to approve each of those releases to contract up to \$96,000.00. He would not have to come back to you unless the not-to-exceed figure went over \$96,000.00.

Commissioner Houpt – So what’s outlined in here is what is exempt as you had mentioned earlier from bidding.

Carolyn – This is all training of County employees except for the \$6,000 for the general consultant.

Commissioner Houpt – And training is exempt from the bidding process?

Carolyn – It is in your code; in your procurement manual currently. That’s up to you though.

Commissioner McCown – I make a motion we approve the contract for services with Lundy Professional Development in an amount not to exceed \$96,000.00.

Commissioner Houpt – Second. I really think when we get to this level of expense it needs to go through a bidding process. I know there are many people locally who are doing this. I think the current company we have been contracting with is doing a fine job and may end up on the top of the process anyway. But there is a process for that in place and we do it for smaller jobs and I feel very strongly we should be consistent.

In favor: Houpt – opposed McCown – aye Martin – aye

HUMAN RESOURCES - 2007 RECURRING SERVICES CONTRACT WITH LUNDY PROFESSIONAL DEVELOPMENT RESOURCES, INC.) RATIFICATION OF 2007 EXPENDITURES INTO ONE CONTRACT)

Ed said this is mostly for travel expenses.

Carolyn – All of the training was left out of the document you gave to the Commissioners in October, you had tracked all of the contracts but Lundy and Associates did a number of things for us without contracts. Mostly it was training; also some facilitation on the gravel pit meetings and facilitation out at the airport and these were not included. Also the Commissioner approved some extra work on Strategic Planning and then in November there was another contract with the Lundy Group to finish up the job description project, so it was services as well as expenses with a total not to exceed \$133,057.29.

Commissioner McCown – Do you need authorization to pay the amount not to exceed \$189,000.00? Is that what the amendment does?

Carolyn – No sir, I need \$133,057.29 and these are for services already performed. Even if we don’t have a written contract of course the Lundy Group would have a “quantum meruit” claim, they could go across the street and sue you for services performed and not paid.

Commissioner McCown – So this is just an amendment not-to-exceed \$133,057.29; so moved.

Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

ROAD AND BRIDGE - SATANK BRIDGE – Ed Green

Ed Green – On October 12th when I presented the budget to you I specifically stated that Satank Bridge was not included. I know that both Commissioner Martin and Commissioner Houpt expressed concern about that. We cannot include it in the budget now because you have already approved it however; it can be added in the first supplemental one in 2008.

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Commissioner Martin stated they would have a discussion about that after January so he didn't think they need to discuss it now.

Ed – In talking with Jeff we think we can get about \$200,000.00 out of the state so we will need to pony up \$300,000.00 if indeed we want to.

Don asked what was being proposed, did the Board authorize a contract?

Ed – No I was just explaining why it wasn't in the budget.

Don – On this issue did we pay the funds to Carbondale?

Ed – Yes a long time ago we did. The budget was \$109,000 and I think we paid \$30,000.

Don – They are the project manager and we were going to pay the funds and they were going to manage construction of the project not the County and we still have an agreement with them as far as I know.

Commissioner Martin – I think they turned back the funds.

Jeff Nelson – John Hoffman appeared in front of the Board about eight (8) months ago and it was agreed that the County would take it on as a project because it failed at the other level.

Don – I don't know if Carbondale turned over those funds.

Everyone decided there was some work to do on this to see where this project was at.

Ed – I just wanted to let you know that it is not in the budget. We will miss the April deadline and go into October and we will likely not be able to deal with this until 2009.

COUNTY SHERIFF UPDATE – Lou Vallario

CARE - Discussion of Contract

Lou – We do need to sign a contract to continue services seamlessly into 2008. Basically we are here to get authorization to move forward with the contract. With the current budget funding levels. We will come back again and present different financial options and depending on what the Board chooses we will basically re-do the contract at that point.

Don – My understanding is that the Board has approved \$150,000.00 for a CARE contract. Last year the amount you expended was broken out as to the actual housing for animals a certain amount for spay and neutering and an additional amount for actual personnel costs. In this proposal we needed the Board to give us some direction on that although it was my thought that all \$150,000.00 would be under animal care directly, nothing devoted to a spay and neutering program and nothing for support staff.

Lou – That is correct; it is actually in terms of this years budget about \$6,000.00 less than what we are paying for animal care now. There are no additional criteria, we will come back in January.

Don – The amount of the contract is paid quarterly?

Lou - Yes

Commissioner McCown – I make a motion the Chair be authorized to sign the contract with CARE and for continued service in an amount not to exceed \$150,000.00.

Commissioner Houtp – second.

In favor: Houtp – aye McCown – aye Martin – aye

COUNTY ATTORNEY UPDATE – DON DEFORD

AIRPORT - CONSIDERATION/APPROVAL OF FIRST AMENDMENT TO PURCHASE AGREEMENT WITH PUBLIC SERVICE CO.

Carolyn stated their attorney and I had to work out some language because as you will remember Public Service decided they wanted to retain oil and gas rights. They had already leased out to Antero and we hammered that language out to make sure it did not include surface use. We will have control over the surface for our airport and road purposes. This is a little over four (4) acres; it's our first purchase. Approval of the First Amendment can happen now but it would be good to wait on the other one.

Commissioner McCown – I make a motion we approve the First Amendment to the Purchase Agreement with Public Service on the sale of property.

Commissioner Houtp – Second. In favor: Houtp – aye McCown – aye Martin – aye

AIRPORT - AUTHORIZE CHAIR TO SIGN CLOSING DOCUMENTS – PUBLIC SERVICE COMPANY

Carolyn stated the closing is this Friday morning at Commonwealth Title.

December 17, 2007

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don – I have three items I would like to discuss: the contract for Gas Auditing Services and receive direction from the Board; the Assessor Mr. Gorman is present to participate in that discussion. I need direction from the Board on the severance tax agreement and I need to provide you with an update on a contract concerning the direction I received from the Board on County Road 162A.

A motion was made by Commissioner McCown and seconded by Commissioner Houtp to go into an Executive Session; motion carried.

A motion was made by Commissioner Houtp and seconded by Commissioner McCown to come out of Executive Session; motion carried.

Action Taken: None

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-fund Transfers
- d. Changes to Prior Warrant Lists
- e. Authorize the Chairman to Sign the Resolution of approval and a Special Use Permit for an Accessory Dwelling Unit Located One (1) Mile South of the city of Glenwood Springs on a Parcel Described as Lot 3 of the Prehm Ranch Exemption – Applicant; Roaring Fork Purchase Trust – David Pesnichak
- f. Authorize the Chairman to Sign the Resolution of Approval for the Zone District Amendment of Parcels 2409-2710-; 2409-2710-0076; and 2409-2710-0077 Located Approximately 4.5 Miles West of the Town of Parachute from Agricultural/Residential/Rural Density (ARRD) to Resource Land – Gentle Slopes and Lower Valley Floor (RL-GSLVF) – Applicant; Garfield County Planning Commission – David Pesnichak
- g. Authorize the Chairman to Sign the Acknowledgement of Partial Satisfaction of the Subdivision Improvements Agreement – Applicant; Callicotte Ranch, LLC – Fred Jarman

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- h. 2007 Recurring Services Contract with Lundy Professional Development Resources, Inc.)Ratification of 2007 Expenditures into one contract)
- i. Approval of Board of county Commissioner Minutes for September 4, September 10, September 17, October 1, October 8, October 15, November 5, November 13 and November 19, 2007 – Jean Alberico

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a - i; carried with item g being pulled.

REGULAR AGENDA:

HUMAN SERVICES COMMISSION
PRESENT REQUEST FOR 2ND FUNDING

Total amount requested from 22 applicants:	\$987,600.00	
Total amount to be awarded in 2 nd funding:	\$113,800.00	
Agency Name	Requested	Approved
Advocate Safehouse	\$ 9,900.00	\$ 9,900.00
CMC-Literacy Outreach	9,000.00	8,700.00
CMC-RSVP	700.00	700.00
CMC-Senior Nutrition	5,000.00	5,000.00
CMC-The Traveler	5,000.00	5,000.00
Catholic Charities	10,000.00	10,000.00
Colorado West Counseling	18,000.00	5,000.00
Columbine Home Health	10,000.00	10,000.00
Family Visitor Programs	10,000.00	10,000.00
Feed My Sheep	8,500.00	8,500.00
Habitat for Humanity	2,000.00	2,000.00
Lift-Up	5,000.00	5,000.00
Mountain Valley Development	5,000.00	5,000.00
Rocky Mountain Head Start	50,000.00	10,000.00
Sopris Therapy	25,000.00	15,000.00
Youth Zone	5,000.00	4,000.00
TOTAL	\$178,100.00	\$113,800.00

Kay Vasilakis, Chair of the Grant Committee, Jane McCallor, Citizen Representative on the Human Service Commission and a member of the Grant Committee, Cheryl Caine, representing RSVP were present.

Kay – We tried to give the money to organizations that had lots of basic need.

Commissioner Martin – Do we have a motion to accept and to award \$113,800.00 to these recipients?

Commissioner Houpt – So moved. Commissioner McCown – Second.

In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown – This was in addition to the almost \$500,000.00 that was given out at the first round.

Kay reminded everyone there is a humanitarian awards dinner on January 28th at 6:00 P.M. at the Hotel Colorado.

Jane wanted to make Commissioners aware of the successful event that the Human Service Commission held on the 28th of November; we held an information and sharing day at the Glenwood Springs Community Center and the invitation was conveyed to various human services organizations and over 100 individuals participated.

Cheryl Caine said she was here to speak for the Human Service Commission as a whole. This last year we did our presentations to you in a different way than we had in years past. I’m here to do a little mini survey to check and see if it worked for you? Would you like us to continue with that kind of format or would you like us to go back with what we did? Or do you have a third idea? We want the information we present to be timely and useful.

Commissioner Houpt – I think it was a great approach to the presentations. It certainly kept us engaged with the more dominating issues that you are working on. My hope is that as this process continues we’ll have a better sense of how we can be more responsive to your needs as well. I really appreciate the new format.

Commissioner McCown – Which one works best for you?

Cheryl – The truth is they both work well for us. The second one probably takes more work, which isn’t a bad thing. Our only concern was that we weren’t presenting you with things you didn’t know about.

Commissioner McCown – I think your goal should be educating everyone not just the three of us and I think your right. We are probably more in tune to some of the issues you spoke to because we are involved with them everyday. But is the general public? Probably not, so I think this is a great forum that would give you access to the general public.

BOARD OF HUMAN SERVICES
APPROVAL OF EBT/EFT DISBURSEMENTS FOR NOVEMBER, 2007 – LYNN RENICK

For the month of November, 2007 client and provider disbursements for allocated programs totaled \$236,855.69. Client benefits for Food Assistance and LEAP totaled \$147,826.83. Lynn requested the Board approve the expenditures.

<u>Allocated Programs</u>	
Eligibility	
Aid to Needy Disabled	\$ 4,203.55
Basic Cash Assistance – TANF	13,371.35
Child Care Assistance Program	52,535.50
Home Care Allowance	3,385.10
Old Age Pension	45,788.10
<u>Child Welfare</u>	
Case Services	0.00
Child Welfare Related Child Care	\$ 5,583.65
CORE Services	14,389.17
Out of Home Placements	21,866.02
TRCCF/CHRP	62,518.34
Subsidized Adoptions	<u>13,214.91</u>
	236,855.69
<u>Non-Allocated Programs</u>	

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Food Assistance and Benefits	135,939.02
LEAP	<u>11,887.81</u>
	147,826.83

Commissioner McCown – So moved. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES - CONSIDERATION AND APPROVAL OF GARFIELD COUNTY ATTORNEY CONTRACTS FOR 2008 – LYNN RENICK

The department is requesting approval and signature on the following contracts:

- Agreement between the Board of County Commissioners and Garfield County Attorney for legal services, including representation of actions filed under the Colorado Children’s Code and Colorado Probate Code, to the Garfield County Department of Human Services in the not-to-exceed amount of \$90,000.00.

- Child Support Enforcement Cooperative Reimbursement Agreement between the Garfield County Attorney’s Office and the Board of Commissioners acting on behalf of the Garfield County Department of Human Services for legal services as defined as eligible IVD activities within the Scope of Services. (Each Board member will need to sign this agreement upon approval.

Commissioner McCown – I make a motion we approve the contracts with the Garfield County Attorney, one in the amount of not to exceed \$90,000.00 for the services for Colorado Children’s Code and Colorado Probate Code and the second one for \$45,000 under Child Support.

Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES - CONSIDERATION AND APPROVAL OF OUT-OF-HOME PLACEMENT CONTRACTS – LYNN RENICK

The department is requesting consideration and approval of the following out-of-home placement contracts:

- State ID G301655 – Griffith Centers for Children in the not-to-exceed amount of \$31,598.55

- State ID P526378 – Ariel clinical Services in the not-to-exceed amount of \$17,917.42

Commissioner Houpt – I’d move for approval on the two out of home placement contracts represented.

Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin – aye

HUMAN RESOURCES - APPROVAL AND SIGNATURE OF COLORADO WORKS POLICIES/PLAN – LYNN RENICK

In November, the Department presented a number of Colorado Works policies for the Board’s consideration and approval. The State has requested a few additional policies and adjustments including Individual Development Accounts, Hardship Extension, Domestic and Family Violence Option, Job Readiness and Work Participation Readiness. The State has accepted the additions/changes. The Department is requesting approval and signature on the policies.

Commissioner McCown – So moved.

Commissioner Houpt – second.

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES - DISCUSSION OF THE NATIONAL ASSOCIATION OF COUNTIES’ PRESCRIPTION DRUG PROGRAM AND CONSIDERATION AND APPROVAL OF THE CAREMARKPCS HEALTH, L.P. AND NATIONAL ASSOCIATION OF COUNTIES MANAGED PHARMACY BENEFIT SERVICES AGREEMENT FOR MEMBER COUNTY (GARFIELD) – LYNN RENICK

The department is requesting consideration and approval of a contract between Caremark PCS Health, L.P. and the National Association of Counties (NACo). This will allow Garfield County to participate as a member county of the Prescription Drug Discount Card Program. Other informational material has been included in the Board packet.

This program targets uninsured or underinsured residents. There is no eligibility requirement; and the program assists consumers to save an average of 20 percent on prescription medications anytime their prescriptions are not covered and may be used at any participating retail pharmacy. This is not an insurance program. The program and cards will not be available for 8 to 10 weeks after the signed contract and checklist is received by NACo. This will allow the County time to provide public information about the program and set up protocols regarding the distribution of the cards. Upon Board’s consideration and approval to participate in the program, 20,000 cards will be requested for distribution.

Lynn said this cannot begin until March 15, because it will take eight to ten weeks from the time that the contract would be signed in order for us to implement a program. Many counties, not just in Colorado but also nationwide have signed up for this program. Cards are distributed to residents of the County, there are no eligibility requirements that I have been able to read. We are looking at possibly asking for up to 20,000 cards and participating pharmacies would be able to provide any bearer of a card an average of 20% discount on their prescription medications. I did request that the County Attorney’s office do a legal review of Exhibit C which you would need to sign.

Carolyn – It is important for you to know that this covers all residents of the County. That is the only eligibility requirement is that you be a resident. How one goes about proving that I don’t know. I also want to make sure you understand this is not in addition to our health insurance. This is only for prescriptions that are not covered by our current CAREMARK Plan or by Medicare. So this will be of less use for your employees in general than to the folks who are residents of the County.

Commissioner Houpt – That was the intent not for an employee.

Carolyn – Under Exhibit C that Lynn referred to, as the participating Counties are brought into the original contract which is between NACo as customer and CAREMARK, but there were two things that jumped out at me. First of all this contract only goes until July ’08 so there is going to be a new contract. Whoever gets this up and running will be coming back to you this summer for a new contract. As currently written there is no public funding. You’re not being asked to provide any money. I just need you to know that come July they may be asking you for money; you just need to know that is how the contract is written.

Commissioner Houpt – This has going on for years and there is no cost to the County unless we have an elaborate distribution process. What a lot of counties do is make the cards available and to the participating pharmacies.

Carolyn – The contract says zero now but come July there could be a request for money.

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Dorothea Farris – Representing NACo, on the Board of Directors for NACo for the State of Colorado said we discussed this insurance program which as you said saves about 20% on your prescription bill. It also works for pets. Pitkin County has just signed onto this. There is no cost to counties and counties across the nation do not support a cost. The whole purpose is to provide assistance somehow to those people who do not have an insurance program that pays for drugs. It's working for counties around the country. What you need to do is determine where people can pick up this card and we're doing it through the Human Services office for Pitkin County and at the El Jebel Eagle County Distribution Center. You just show a regular drivers license or whatever you use for residency. Commissioner Martin stated it says there are three forms of identification needed.

Dorothea – You can feel secure they are doing a good job.

Carolyn – The second legal issue is whether or not this is a public benefit under the illegal immigration laws. On first look it would appear to be but because there is no application to be filled out, you just have to show you're a County resident, you get a pass on the State illegal immigration public benefit law.

Commissioner Houpt – You need a motion to move forward? So moved.

Commissioner McCown – Second.

In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES - EXPANSION OF 211 PROGRAM - MESA COUNTY – LYNN RENICK

Lynn – We have started very preliminary conversations around the potential expansion of their information line 211 program. They would be looking at expanding into some of the other Western Slope Counties. I have had some conversations with Dave Norman and need to start some additional conversations if this is something that Garfield County would like to look at. I know that the 211 system is actually started through the United Way but there are lots of other ways we can look at expansion. I'm just throwing it out for direction. Are you alright with me pursuing this?

Commissioner Houpt – I think it would be a great benefit in this County depending on where your discussion goes.

Lynn – I have absolutely no idea what we are talking about from a monetary standpoint or anything else. I think it is something that might be a benefit to the County.

Commissioner Martin – Would we have a central 211 office or would it be the State?

Lynn – No it will not be the State. Different counties or groups of counties have their own 211 system. I don't know the answer to your question. Again this is just for discussions about what it means. I just wanted direction if it was okay for me to continue.

Commissioner Houpt – Has the discussion started as a regional program instead of a County? Mesa County do they want to reach out to the region?

Lynn – They are talking about that and even going up into Routt and some other counties. I know this just because I have had several conversations with Dave Norman the Area Agency on Aging Director who is also a part of this out of Mesa County. I think they haven't had too many discussions regarding this with other counties yet. For the Western Slope the time has come to at least look at it but again costs and how that would work I don't know.

Commissioner McCown – Okay, if you have the time to put forth; keep us in the loop.

HUMAN SERVICES – PROGRAM UPDATES

ADULT PROTECTION TEAM: Senate Bill 07-224 requires a county or a group of counties in which a minimum number of reports of mistreatment or self-neglect of at-risk adults are filed to establish an at-risk adult protection team. The Department is in the process of team development. A representative from the Colorado Department of Human Services Adult and Aging Services is planned for that day. Additional information will be provided to the Board regarding this effort after the first of the year.

BOARD OF HEALTH

PUBLIC HEALTH - REPORT OF GARFIELD COUNTY AMBIENT AIR QUALITY STUDY – JIM RADA

Jim gave a power point presentation along with an executive summary of the Garfield County Ambient Air Quality Study report, a summary of a CDPHE Environmental Technical Note summarizing a chemical speciation analysis of PM10 samples from July, 2005 and January, 2006, an executive summary of a CDPHE screen-level health risk analysis specific to inhalation of VOC based on the data collected during their study period and an executive summary of the Garfield County Public Health 2008 Air Quality Monitoring plan.

Commissioner McCown asked if he got permission to go onto industrial sites, not just personal property. Jim stated he did get permission from EnCana for the source specific sample.

Commissioner Houpt – Will this additional study work well with the continued monitoring you are going to do with the existing quality monitoring?

Jim stated he certainly hoped so. He also stated they have been working with the industry on the grant to identify locations they could go to during their development activity. Being able to monitor will help us to understand dispersion and potential exposure to compounds coming off of sites.

Commissioner Martin felt it should open up another study with the folks actually working in it day after day. None of that has been touched on and he feels we need that involvement.

Commissioner McCown stated he had asked Dr. Koontz to do that.

TREASURER - RENEWAL OF BANKING AGREEMENT – GEORGIA CHAMBERLAIN

The banking agreement is for the upcoming year and none of the terms or anything we had in our previous agreement has been changed.

Commissioner McCown – I make a motion the Chair be authorized to sign the Banking Agreement with Alpine Bank.

Commissioner Houpt – Second In favor: Houpt – aye McCown – aye Martin – aye

TREASURER - CONSIDERATION/APPROVAL OF SOFTWARE LICENSE AND SERVICES

AGREEMENT WITH GOVERNMENT TECHNOLOGY SYSTEMS, LLC – GEORGIA CHAMBERLAIN

This software enables electronic filing (e-filing) of foreclosure documents with the various offices of the Public Trustee within the State of Colorado.

Don DeFord said he had a discussion with Dan Young the attorney for GTS late last week. There are a few minor alterations and he was not able to get those accomplished in time for your agenda. This has been reset for January 7th agenda.

VALLEY VIEW HOSPITAL - REQUEST FOR LEASE AMENDMENT FOR VALLEY VIEW HOSPITAL – GARY BREWER

Gary Brewer and Mike Biles were present.

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Valley View Hospital is requesting that the property lease between Garfield County and the hospital be amended to add a parcel of land to the lease. They submitted Exhibit A and B given to Board showing the location. The hospital believes it is necessary to amend the lease so that Valley View can complete Phase V of its Master Plan. The proposed addition will be used to construct a service court and redesign the loading dock to eliminate the problems associated with trucks accessing the hospital's loading dock and blocking traffic at Blake Avenue and 20th Street. The service court will also provide additional parking and allow the liquid oxygen delivery truck safer access to the hospital's oxygen yard. Currently the liquid oxygen truck must back up between the Mountain View Building and the Child Advocacy Center. The hospital feels the current situation presents a safety hazard to the occupants of the Mountain View Building and the Child Advocacy Center.

It is necessary that a lot line adjustment take place in order for the County and the hospital to amend the lease as requested. The lot line adjustment would take place between the current leased parcel and the neighboring County parcel. The parcels are within city limits and therefore the lot line adjustment needs to occur through Glenwood Springs.

The hospital will have a Lot Boundary Adjustment Map completed by the hospital surveyor if the Board is willing to amend the lease. They will submit the map to the County staff for approval prior to submitting to the City of Glenwood Springs.

Once the lot line adjustment has occurred a lease amendment will need to be executed.

Valley View Hospital requests the County Commissioners consent to the hospital moving forward with the boundary adjustment map and authorize Commissioner Martin to sign the final version of the Lot Boundary Adjustment Map. The hospital further requests the County Commissioners authorize Commissioner Martin to sign the proposed Second Lease Amendment.

Mike Biles – Phase V of the master plan showed that on the South side of the hospital at some time we need additional property to be able to re-work the loading dock area. Basically we are at the Phase V point. We are having a problem with trucks trying to back up off of Blake.

Commissioner Martin – This causes a relocation of the power transformer and tree removal but it does not move the oxygen tank.

Mike - Oxygen tank doesn't move but right now the oxygen tank doesn't meet the current codes. We are going to have to expand the pad and put some tanks out there, re-pipe and that would be part of this work as well.

Commissioner Houpt – It will also re-direct the access to that which will be a great benefit.

Carolyn – I don't know what the plans are if there are any for expansion of the Social Services buildings that are over there and what trouble you might get into with the city for set-backs.

Commissioner Martin and Ed Green explained there was no planned expansion at Mountain View.

Commissioner Houpt asked how much land we're talking about in the corridor.

Mike – It goes to about 30 feet of the Mountain View building.

Commissioner Houpt asked if there was any room to expand.

Commissioner Martin explained they would go toward the hospital and they would still have to move the oxygen. It is a sacrifice but it is a safety issue. There is a big expense moving the transformer.

Carolyn asked Mike whose transformer it was and he stated Glenwood Springs Electric.

Gary – There will be landscaping and we will go back and plant trees. One thing we never put in our phasing, when you look at the six phase project it was basically to rebuild the hospital, and that was an 80 bed hospital. My guess is just with the growth and what we've seen, we were doing 500 babies probably four years ago; we'll do over 800 babies this year. In patient admissions they are up about 11.7% which is really staggering in the health care industry. What we tried to do when we came up with the six phase plan, we said could we put it to maybe a 250 bed hospital on that piece of property. We've got conceptual designs with the architects on how we can grow the hospital in the rear of the facility. The part of the hospital built in '80 and '82, the acute care where the actual inpatients are now, is where the parking will go in that area. My guess is it may be 10 to 20 years before all that will be torn down just because of hospital codes and the way it has to be built. Probably at that point we will go back up into the four story addition. At that point it will probably have to come out another 10 or 20 feet also. We know in the future we will have to have a parking structure. We have enough parking right now and we meet the codes. There are codes on hospitals and we have talked to the city about this. We are trying to come up with a parking code for a hospital and it is very difficult because of in-patient, out-patient services.

Commissioner Martin – In your future plans, and its way out there but I think the original Mountain View building needs to be a historical designation.

Gary - One thing we are going to be doing this year, just as an update, when we built the new portion of the building we shelled in the third and fourth floor so our phasing is a little out of whack anyway. We actually have started and we'll go back to the city this month to get approval to finish out the fourth floor.

Commissioner McCown – Reality of fact is previous Boards and this Board has basically dealt away all of the property that we had around the existing hospital. Anything that we still retain would allow for a very insignificant increase in size to any of our projects. It's already under lease and under agreement so it's gone. I make a motion we approve the lot line adjustment as requested by Valley View Hospital.

Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

Carolyn – There also needs to be authority for Mr. Martin to participate in the city's process and sign the amended plat and also for Mr. Martin to sign the lease amendment.

Commissioner Houpt – So moved. Commissioner McCown – Second.

In favor: Houpt – aye McCown – aye Martin - aye

**PARKS - CONSIDERATION/APPROVAL OF IGA WITH CITY OF GLENWOOD SPRINGS RE:
CONSTRUCTION OF WHITE WATER PARK – CAROLYN DAHLGREN**

Carolyn – This is the 2007 and the 2008 IGA's already signed by the Mayor and we needed to make sure that you remembered that in the 2007 IGA there is not 30 days left in this year. That's why we had to have the 2008 renewal so they can start invoicing you in 2008.

Carolyn Dahlgren, Jeff Haskell City Manager of Glenwood Springs and Andrew McGregor, Community Development were present.

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Jeff – The Mayor has signed agreements and I wanted to extend a huge thank you to the Board of Commissioners for this generous contribution to help make this facility a reality.

Commissioner Houpt – I make a motion we approve the Intergovernmental Agreement concerning construction of the White Water Park with the City of Glenwood Springs and authorize the Chair to sign.

Commissioner McCown – Second

In favor: Houpt – aye McCown – aye Martin – aye

PARKS - CONSIDERATION/APPROVAL OF FIRST AMENDMENT TO IGA WITH CITY OF GLENWOOD SPRINGS RE: CONSTRUCTION OF WHITE WATER PARK – CAROLYN DAHLGREN

Commissioner Houpt – I make a motion we approve the First Amendment to the Intergovernmental Agreement concerning construction of the White Water Park and authorize the Chair to sign.

Commissioner McCown – Second.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - DISCUSSION RE: TRAVELERS HIGHLANDS POTENTIAL IMPROVEMENTS DISTRICT – KARL HANLON, DAVID HICKS AND CAROLYN DAHLGREN

Carolyn – Some land owners at Travelers Highlands have come up with a creative solution to the issue of the access to the State Highway from Travelers Highland Sub-division.

Karl Hanlon – I represent Parachute Commercial LLC. At the last commission meeting the Commissioners made a decision to withhold building inspections and processing the permit applications until something was done at Travelers Highland. There was a long discussion with yourself and CDOT. We were looking at the opportunities we had to provide for public improvements. The State statute have two mechanisms that I think would be available in this instance. That is a local improvement district or a public improvement district. This would require a petition from a sufficient number of landowners which we have. It would also require the election of a sufficient number of landowners which we have. We have the ability to move forward on that improvement district and we feel that depending on what your preference is on whether it's a local or public improvement district, if we have your support, it can provide the financing mechanism we need to complete those improvements. There are a couple of requests in that. In order to do those improvements, if the County is unwilling to participate in being the bank and loaning some money to the improvement district until a TABOR election can be held, we have a delay until we can get a TABOR election which is required to go out and bond anything and create those improvements. I think that is important in that it could create more damages than are currently occurring to the property as a result of the moratorium that the Board put in place at the last meeting. That being the case, one of the requests if the County is interested in doing this, at staff level we have had some pretty positive conversations I think in term of presenting it to the Board. This may be a way out of the box that has been created. We are in a position underneath either statutory provision that we supply the petition to trigger the movement of an improvement district going forward depending on which one you preferred. At this point I probably suggest the public improvement district for a couple of reasons. Primarily this is their ability to assess taxes and also their more long term viability as a mechanism to both maintain the sub-division, internal roadways and to have the ability to continue to fund projects that need to be done in this commercial development. There again we do need some participation from the County to support moving forward on it and I also think there is the potential that we would come to you for a loan prior to the TABOR election taking place. Otherwise these improvements aren't going to happen and I think we are going to end up in a place that none of us want to be which is a very adversary setting. I'd like to see this as the alternative. The other issue we would have is that we would like very much, so that we don't have to continue down that adversary route, is to have you re-consider the decision you made regarding particularly building permits which have been issued which have had some inspections completed on, but you have not moved forward on. I think Chairman Martin spoke fairly eloquently to that issue at the last meeting and I would say it is kind of where we are at in terms of the position we would like to take. Unfortunately there are a lot of property interests; we have a lot of financial pressures on us to perform under prior agreements with less ease that really are not going to leave us with a lot of great options in moving forward. We think with this option, that is moving forward on the improvement district and a revision to the decision that you made, we would certainly be happy not to submit any new building permit applications. But I think those that are in the hopper are fairly critical that they move forward. We are underneath contractual obligations; there was no time frame for when this would be resolved one way or the other. We're looking at a potential that it could be, as the motion was framed, it wasn't that those would be issued in 60 days it was something needed to happen in 60 days. We'd like to move forward with a certain level of certainty. That is the request that the County would support an improvement district is the first line; the second one is if the County could see their way to participate in it financially as the lender until such time as we could bond and third is the reconsideration of the decision you made at the last meeting.

Commissioner Houpt – It is my understanding that we can't lend money, am I wrong on that?

Karl – Let me qualify the lending, because it is an improvement district there are a couple of ways to finance it and I think we can repay you for amounts that the County expended on our behalf. It's not really a loan. You have the ability to self fund it if you would like to and recoup the costs of that self fund.

Carolyn – Even though it is a separate legal entity?

Karl – I believe even underneath the public improvement district the Board of County Commissioners sits as the ex-officio board.

Don DeFord – Actually under the public district it clearly is a separate government entity. We have had local improvement districts formed that actually issued their own debt and financed it through bonds and I don't know why that's not considered as an option rather than the County.

Karl – My concern is trying to get this done in a timely fashion given that there is a TABOR election requirement. That limits us to that sequence of elections and that could be problematic because I understand that the Commissioners want this intersection dealt with.

Commissioner Houpt – So what if the outcome of the election isn't what you anticipate it to be?

Karl – As I read the statute the outcome of the election is something that as a majority landowner we have some certainty as to what the outcome of the election is going to be. With the participation of other property owners, other major holders....

Don – Carolyn suggested the Board may wish to receive legal advise on this issue in executive session, if you don't that's fine.

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Commissioner McCown – The only one I’ve been involved with since I’ve been here is Canyon Creek and they came to us with a very defined plan, a very precise cost of what all of those cost allocations were going to be applied to. On its face without having all of that in place I would not consider that.

Don – That was a local improvement district; Karl referred to that and that same thing could happen under a public improvement district although I agree with Karl, I think I’ve got the right one that the public improvement district in addition to providing for a construction mechanism and an assessment mechanism also provides for a tax that would allow on-going maintenance which I think is a concern of this Board as well. But there are some other issues that their proposal raises that are probably best discussed in executive session. They clearly involve legal advice and there is the potential for adversarial proceedings.

Karl – To clarify also this is in its infancy we would need to present that detailed plan like you said Commissioner McCown.

Commissioner McCown – But you’re wanting the County to commit up front that we’ll take care of this until we see that.

Karl – I wasn’t asking for you to commit up front to take care of it, I was asking for your potential participation as the financier.

David Hicks– Part of what we are wanting is a reprieve, 30 day or whatever to look at this option but not stopping the economic issues that are on going daily. So we are not asking you to say yes guaranteed you’re gong to do this in 30 days when we present you the information. It’s let’s take the big issue that is sitting between us right now, set it aside for 30 days while we present you with a piece of paper that shows you exactly what we would like to do.

Carolyn – How many building permits are you talking about that are ready to go to CO?

David Hicks– We have two that are pretty much ready for a CO inspection and we have two permits that are in for review. There are a couple of septic permits that go along with it.

Carolyn – Mr. Martin could we hear from our Chief Building Official because Andy and I haven’t had a chance to talk about this?

Andy Schwaller – I did a quick review last week and I show five active permits out there. I don’t have a list of pending permits for review. I believe there might be a few septic permits and there might be a grading permit or two also pending.

Commissioner McCown – I would like a brief executive session for some advice from the County Attorney on this matter before we proceed. Commissioner Houpt - Second

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown I make a motion to come out of executive session. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – After the legal advise I’m going to make a motion and I’m not sure what permits are currently in the mix at Garfield County Building Department but I’m going to make a motion to allow those building permits that have been submitted to go forward. That no other building permits will be accepted or land use activity to take place at Travelers Highlands until a legal access has been developed with CDOT; and including in that motion the funding for those improvements will be done by the landowners and the formation of the public or local improvement district would repay themselves for the funds expended to improve that intersection to whatever level C-DOT requires. Commissioner Houpt – second.

In favor: Houpt – aye McCown – aye Martin – aye

TRAILS AND TRANSPORTATION - IGA FOR CRYSTAL TRAILS – DALE WILL

Dale Will and Dorthea Farris were present

Dorthea – Thank you for signing the legacy grant that includes the trail. The IGA is late and was approved. We also have an invoice for you.

Commissioner Houpt – I’ll make a motion we approve the Intergovernmental Agreement concerning the trails planning grant to Pitkin County and accept the invoice for the 2007 funds.

Commissioner McCown – second.

In favor: Houpt – aye McCown – aye Martin – aye

CLERK AND RECORDER – LIQUOR LICENSE - REQUEST FOR TEMPORARY LIQUOR LICENSE FOR BEAU JO’S GLENWOOD SPRINGS LLC D/B/A BUFFALO VALLEY INN – JEAN ALBERICO

Jean – this is a public meeting as all they are asking for today is for a temporary permit that is issued at the County level not the State level. We received this request last Wednesday and according to the code you have to within five days accept or deny. I have received the application and it is complete for the transfer of ownership and it is not required by statute to have a hearing on transfer of ownership but I understand that’s normally up to this Board to decide to do a public hearing. We will set up that up for the first meeting in January. It is my understanding we have to publish and notify ten days before the meeting. What we are asking for today is that John be allowed to sign the temporary liquor license. I believe that is taking effect the first of the year, January 3rd.

Commissioner McCown – How many days does the temporary entail and is it date specific or does it run until you get your permanent?

Jean – It’s either 60 or 90 days but we should have the temporary in place and it can be extended.

Randy the manager for Beau Jo’s introduced himself.

Commissioner McCown – I make a motion we approve the request for temporary liquor license for Beau Jo’s d/b/a Buffalo Valley Inn.

Commissioner Houpt – second.

In favor: Houpt – aye McCown – aye Martin – aye

FINANCE - DISCUSSION OF 8TH SUPPLEMENT TO THE 2007 APPROVED BUDGET AND THE 8TH AMENDED APPROPRIATION OF FUNDS – CATHLEEN VAN ROEKEL

Don DeFord – Informed this was noticed and everything was proper to proceed.

Cathleen – Exhibit A – Supplement that increases the existing budget. There are increase in both revenue and expense. The second part is a contingency transfer request based on par forms for new hires, transfers and promotions.

Commissioner McCown – questioned the livestock option fund. The explanation is that the payouts exceeded budgeted amounts?

Patsy Hernandez – that portion of the budget supplement I actually prepared and gave to Cathleen. We estimated what we thought the livestock sales amounts would be and they came in higher.

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Commissioner McCown – Close public hearing

Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make motion we approve the 8th Supplement to the 2007 Budget and the 8th Amended Appropriation of Funds and the Chair be authorized to sign. Commissioner Houpt – second

In favor: Houpt – aye McCown – aye Martin – aye

AIRPORT - EXEMPTION FROM DEFINITION OF SUBDIVISION – PUBLIC SERVICE COMPANY OF COLORADO – BRIAN CONDIE AND CAROLYN DALGHREN – FRED JARMAN

Brian Condie answered all questions

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate.

She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Planner Fred Jarman submitted the following exhibits: Exhibit A – Proof of Publication; Exhibit B - Mail Receipts; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – The County Sub-Division Regulations of 1984; Exhibit E – Comprehensive Plan of 2000 as Amended; Exhibit F – Application materials and Exhibit G – Staff memorandum.

Chairman Martin entered Exhibits A – G into the record.

Planner Fred Jarman explained and showed a map with all areas concerned. They want the County to absorb a piece of property a little over four acres into the airport to accommodate the runway re-location. It will also have the affect by doing this of accommodating re-location of County Road 346, 319 and the re-location of Dry Creek. This hinges on a rather large FAA grant. Purchase for this property, should you approve this is about \$135,000.00. I know that the County legal staff has worked on contract to make that happen. This process that you are going through is somewhat different than the normal exemption processes that you do. In this authority you are not operating under Section 8 of the sub-division regulations. You’re actually operating under a certain statute. By resolution you can have the authority to exempt properties for a public purpose. It is very rare that we do these. In doing that there aren’t any standards however; we took all of the standards you would have used under Section 8 which is access to water, waste water, zoning set-backs, and access to the parcel; all of those have been satisfied. In this action you are simply absorbing a four acre piece of ground into the larger property of the airport. There is no need for water, no need for sewer, and access is provided by way of 319 Road. Public services comment in the application talks about zero impact. With that staff does recommend you do exempt this 4.03 acre property. Commissioner McCown – Pointed out a map in front of the packet. There clearly is a miss alignment of the easement that goes across at an angle. Didn’t know if it was a misprint or if it is something folks should be concerned about.

Fred – I don’t have an answer for you.

Commissioner McCown stated he knew in concept what we were doing but didn’t want to get caught in a conflict if an easement was running across the corner of the parcel infringing on the airport property.

Fred – The legal description, the deed should show what deeds fall upon that property. If there is an easement that burdens that corner it should show.

Carolyn – It will show and that is what I am still working out with the seller and it will be resolved by Friday morning.

Commissioner McCown – Move to close public hearing. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown I make a motion we approve the exemption from sub-division creating the 4.03 with the two recommendations of staff as presented in the staff packet. Commissioner Houpt – second.

In favor: Houpt – aye McCown – aye Martin – aye

Fred – Second request is to authorize the Chairman to sign a resolution.

Commissioner Houpt – so moved. Commissioner McCown – Second.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – And also I think we left an item in limbo on the purchase agreement?

Carolyn – At closing on Friday we need John to sign.

Commissioner McCown – and I would make a motion that the Chair be authorized to sign the purchase agreement with Excel Energy Public Service Company of Colorado for the sale of the property.

Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

TREASURER - ABATEMENT OF TAX LIEN SALE CERTIFICATE 2004-0132 FOR GARY AND KAREN HILL, INVESTOR, LINDA MARY VAUGHAN, PROPERTY OWNER OF SCHEDULE #R231128 – GEORGIA CHAMBERLAIN

Georgia – Notification was accomplished to owner and the investor. The property described on the schedule, that we took to tax sale, is for severed minerals that had been in production since 2002. Since the oil company is being assessed on the production taxing of these minerals it resulted in double assessment. This all came out when we did a title search on the property.

Commissioner Martin – Read the abatements – 2003 - \$13.02; 2004 - \$11.68; 2005 - \$10.26; 2006 - \$10.24.

Commissioner McCown – Do they still own the mineral rights that they purchased at the tax sale.

Georgia – No, the owner of the mineral right is Linda Mary Vaughan. Gary and Karen Hill purchased the tax lien on that property. What we are saying is I should not have taken that property to sale.

Don DeFord – In other words the taxes were already paid so we should not have sold it for taxes.

Commissioner Houpt – so moved to close public hearing.

Commissioner McCown – second.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner Houpt – I make a motion we approve the resolution concerned with abating tax lien sale 2004-0132 on Schedule R231128 assessed to Linda Mary Vaughan, Gary and Karen Hill certificate holder.

Commissioner McCown – second.

In favor: Houpt – aye McCown – aye Martin – aye

EXECUTIVE SESSION

Don DeFord – would like to proceed with Severance taxes and 162A.

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Commissioner McCown – I would like legal advice regarding the first item on our 1:15 PM agenda item; motion to go into executive session.

Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

COMMENTS FROM CITIZENS

JESSE SMITH – RETIRING FROM THE COUNTY

Jessie Smith – Express sincere thanks to Garfield County and to the Commissioners over the last eight years. This is my last official Board meeting as I am retiring on the 28th. I wanted to publicly acknowledge the work the three of you do for this County. I don't think very many citizens are knowledgeable of the amount of time and effort that Commissioners make on behalf of the citizens.

BUILDING AND PLANNING - CONSIDER AN ANNEXATION IMPACT REPORT FOR THE SUMMIT MINISTRIES INC. RIFLE ANNEXATION – CRAIG RICHARDSON

No one from the Ministries attended.

Staff has the following comments regarding the aforementioned annexation:

1. Municipalities are required to submit an annexation impact report or request that the Board of County Commissioners waive this requirement for all annexations greater than ten (10) acres in size pursuant to CRS §31-12-108.5
2. It appears that the subject property is accessed from county right-of-way. Garfield County Requests that the portion of County Road 265 (Prefontaine Road) adjacent to the subject property be included with this annexation proposal.

Commissioner McCown – Since we are asking that they annex Prefontaine, apparently it is not a city street at this time, can you go back to the initial map? This property does not intersect city property at this time. There is an easement, deeded easement that goes through there and intersects with Prefontaine. How are they annexing? There is clearly a deeded right-of-way that comes out by Seventh Street.

Craig – Spoke with Marvin and they mentioned that parts of Prefontaine have been annexed but I can't testify to what parts if any.

Commissioner Martin – Needs to be clarified before we take action.

Commissioner McCown – I make a motion we wave the annexation impact report

Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

SPECIAL DISTRICTS - CONSIDER A SITE APPLICATION FOR ROARING FORK WATER AND SANITATION DISTRICT – CRAIG RICHARDSON

Craig Richardson and Chris Lehrman, District Engineer were present

Planner Craig Richardson explained:

SUMMARY OR REQUEST

Roaring Fork Water and Sanitation District (RFWSD) was created in 1994 to provide water and sanitation services to Aspen Glen Planned Unit Development and surrounding developments. The existing facility currently treats 0.107 million gallons per day (MGD). The Waste Water Treatment Facility was master planned to be constructed in three phases of 0.107 MGD with a maximum build out of 0.321 MGD.

Due to the growth RFWSD is experiencing the District has decided to build the last two (2) phases concurrently. This is consistent with the service plan approved by Garfield County. The current facility is experiencing flows at approximately 55% of capacity and is meeting the required discharge limits.

Service area and Population

The District's service area includes Aspen Glen, Coryell Ranch, Midland Point and Ironbridge. Projected service area includes the area on the east side of the Roaring Fork River from the north one the east side of Highway 82 at the Colorado Mountain College intersection to the south on the east side of Highway 82 at the Cattle Creek Intersection.

Description of Selected Alternative

Roaring Fork Water and Sanitation District is the Regional Wastewater Treatment Facility, consolidation was not considered.

RECOMMENDATION

Staff recommends that the Garfield County Commissioners recommend **APPROVAL** of the site application for the expansion of the Roaring Fork Water and Sanitation Districts Wastewater Treatment Facility.

Chris – We will need a full build out of this plant due to growth. It would have enough capacity for all the approved developments you have already approved. Any additional developments you approve will have to have an expansion to this plant.

Commissioner McCown – I make a motion we approve the site application for the expansion of the Roaring Fork Water and Sanitation District Waster Water Treatment Facility. Commissioner Houpt – Second

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A CONDITIONAL USE PERMIT TO ALLOW A WAREHOUSE FACILITY AND STAGING AREA – APPLICANT: BERRY PETROLEUM COMPANY – CRAIG RICHARDSON

Amy Stoodt and Doug Dennison were present. Doug answered all questions pertaining to noticing.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate.

Carolyn – Two issues here; one the applicant didn't check the Assessor's records for at least six months, I can't make a judgment about how much land or minerals may have been transferred. The second is that for the practical description instead of a description of the land there is a description of the project. Saying construction and operation of warehouse facilities and staging areas rather than this project will be built X miles from blah..... to make the legal description make a little more sense to the general public. So those could be considered problems with the notice but otherwise the testimony and the documents are in compliance. Carolyn read the description for the Boards review.

Commissioner McCown – Given the remote location it's not practically accessible. I have no problem with notice.

Commissioner Houpt – I hesitate and I hope that next time you will go through the records more often than once a year.

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Doug – This was originally submitted with a different use identified and the staff said that wasn't the appropriate use. The application had to be re-written and re-submitted with the warehouse facility staging area use and there were only a few months that transpired in there while the application was re-writing and re-submitted. Commissioner Martin – The legal description has also been publicized numerous times on many applications of land use. We will accept and put into the record notification.

Chairman Martin swore in the speakers.

Planner Craig Richardson submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Application materials; Exhibit E – Staff memorandum; Exhibit F – Memo from Garfield County Road and Bridge Department dated November 1, 2007; Exhibit G – E-mail from Garfield County Vegetation Management dated November 19, 2008; Exhibit H – Letter from Mountain Cross Engineering, Inc. dated November 16, 2007; Exhibit I – Letter from the Town of Parachute dated November 9, 2007 and Exhibit J – E-mail from Garfield County Environmental Health Department dated November 12, 2007.

Chairman Martin entered exhibits A – J into the record.

Planner Craig Richardson explained:

REQUEST

The Applicant requests that the Board of County Commissioners (the BOCC) approve a Conditional Use Permit (CUP) to allow a "Warehouse Facility/Staging Area" on a property located approximately seventeen (17) miles northwest of the Town of Parachute, Colorado. Specifically, the Applicant intends to allow Marathon Oil to construct and operate a "lay down yard".

The proposed facility will consist of approximately twelve (12) acres of graded surface to be covered with a crushed rock surface utilized to store material and equipment associated with Marathon's natural gas activities in the area.

The proposed site will include outdoor storage areas (Pad A and B) and a warehouse as indicated in the site plan submitted by the Applicant. This facility as proposed will be available to Marathon personnel and contactors twenty-four (24) hours a day.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners approve the requested Conditional Use Permit to allow a "Warehouse Facility and Staging Area" on Parcel No. 213532100009:

- a. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board;
- b. The Applicant shall provide Garfield County with a re-vegetation security in the amount of \$48,000;
- c. Volume and Sound generated shall comply with the standards set forth in the Colorado Revised Statute at all times;
- d. The Applicant shall comply with all performance standards identified in §5.03.08 of the Garfield County Zoning Resolution as amended;
- e. The Applicant shall construct a paved driveway access apron prior to the issuance of the Special Use Permit;
- f. All improvements shall comply with Garfield County Zoning Resolution of 1978, as amended;
- g. The Applicant shall implement erosion control and storm water management facilities before large scale site disturbance begins to prevent the transfer of sediment off-site;
- h. All lighting associated with the proposed use shall be directed downward and away from adjacent properties;
- i. A stop sign shall be installed at the entrance to County Road 215, the stop sign shall be as required in the Manual on Uniform Traffic Control Devices;
- j. All vehicles shall comply with Garfield County oversize/overweight requirements;
- k. As represented in the application un-surfaced areas shall be treated to control dust emissions;
- l. The Applicant shall remove all un-friendly wildlife fencing;
- m. All food waste shall be stored in bear proof containers and disposed of appropriately;
- n. The access road leading to this facility shall be maintained and cleared of snow for accessibility year round to allow for maintenance of the portable toilets;

Discussion:

Commissioner McCown – I'm having a little problem with number two, this property is owned by a property that has similar interests to the applicant and is developing this property. Are we forcing the removal of this at some point in time when the original owner may not prefer that to happen and create a reclamation process and then require or the need for the owner of this property to build a similar project next door? Is that in our best interest to have two disturbed and re-vegetated areas or leave that kind of a decision up to the land owner? Seems like we are entering into areas that may not be in the best interest of the landowner but we're from the government, we're here to help.

Craig – This is what we require for re-vegetation, it runs with the land.

Commissioner McCown – We're imposing a regulation that may not be in the best interest of the landowner while the lessee is creating this facility on his property he may say that is an asset.

Fred – I don't disagree, I think the immediate reaction is that we don't know what the landowner wants to do.

That's not the application in front of you. The only one we get to review, the only one you have to review is this specific one. We have to plan for what's in front of us now.

Commissioner McCown – I'm just afraid going down the trail we are going may have a whole bunch of little accounts with reclamation funds and 20 years from now, somebody is not going to have any idea where the Berry lease was. I don't think we are doing anyone any favors on this. Maybe the surface use agreements that occur

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between the operator and the landowner have to contain some of these issues that I'm bringing to light. If they would prefer it not be done could they just insert that in the application and this become a permanent facility?

Carolyn – To my knowledge we didn't get a copy of that surface use agreement. As long as the future use is consistent with this CUP we don't know, somebody may come in later and say we don't want that use and give us a new SUP and forgive this re-vegetation. But it does run with the land with the owner.

Commissioner Houpt – I think we need to remain really serious about reclamation and re-vegetation and I certainly wouldn't disagree that if the property owner had long term plans for what's being approved that's one thing. But to put the staff in the position of having to guess, maybe we should put something in.

Commissioner McCown – The applicant didn't raise that questions I did. I agree with reclamation and re-vegetation but I'd like to do it only one time. If Berry Petroleum is going to build a similar site for this and have to re-vegetate and do reclamation what are we gaining?

Carolyn – They would never have to do it until the use stopped. If Berry takes over this yard then the obligation is with Berry to re-seed in the future when they quit using it.

Commissioner McCown – And somebody 80 years from now is going to know where that \$48,000.00 is to reclaim.

Craig – I believe the applicant will be coming in for future applications on this specific site. We just need one re-vegetation security from them should they come in for other items on this pad site.

Amy – I was going to question the bond and provide some additional information. This property is one that came in with Berry as the owner because there are still on going negotiations on this property. But Marathon is actually going to be a 50/50 owner. That deed is actually being processed as we speak. The second item is that there are two pads on this facility as you see in the drawing. One of them will actually be constructed for Berry and one for Marathon. We are co-owning and co-constructing facilities to minimize the footprint on the mountain. With regard to Exhibit F, and it appears most of this language with regards to County Road 215, this site is obviously 17 miles up the mountain, the paved driveway access apron is part of the Garden Gulch Road and not a Marathon thing and there is already a stop sign at that intersection. The other issue was with regard to the wildlife fence there is old fencing there from the ranchers. It isn't wildlife friendly and that is what the staff report notes. The actual application shows we will be putting a specifically designed wildlife fence around this facility.

Commissioner McCown – Do you have any leasing or grazing taking place on top now; that unfriendly wildlife fence has been there for 40 years?

Amy – We are agreeing to breaking rights on the property with the formal owners.

Commissioner McCown – How will that affect that if you take those fences down since Colorado is a fence out state?

Amy – Most of that fence has holes in it any way so by taking it down there is probably minimal impact is my best response.

Craig – I would like to add to condition number 6, all improvements shall comply with Garfield County Zoning Resolution of 1978 as amended and building code just because it will be a warehouse and a facility.

Commissioner McCown – Do you feel comfortable striking number 9?

Craig – It has been testified there is a stop sign there so yes sir.

Commissioner Martin – Do I have a motion to close public hearing?

Commissioner McCown – So moved.

Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the conditional use permit to allow for a warehouse facility and staging area with the thirteen (13) conditions striking number 9.

Commissioner Houpt – second.

Commissioner McCown – I am really struggling with some of our conditions we are putting on these. In any kind of use other than what we are seeing here today the removal of unfriendly wildlife fencing would not have been an issue. That fence has been in place up there for years. It is a cattle fence and I don't think we need to be telling these folks that are crying for some other type of use to take down their entire perimeter cattle fence. And who deems it wildlife unfriendly? They have been running through it or crossing it ever since it's been up.

Commissioner Martin – This is the process to go ahead and either eliminate those particular items or discuss them fully so they will or will not be within the application.

Commissioner Houpt – They are in his motion.

Commissioner McCown – I left it in there, I'm just making comment, and I don't appreciate it.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR TEMPORARY EMPLOYEE HOUSING LOCATED APPROXIMATELY 10 MILES NORTH OF THE TOWN OF PARACHUTE AND OPERATED BY WILLIAMS PRODUCTION RMT, CO. – APPLICANT; EXXON MOBILE OIL COMPANY – DAVID PESNICHAK

David Pesnichak, Carolyn Dahlgren, Tracy Opp, Dave Cesark and Blake Roush were present

Tracy Opp answered questions on notification.

Carolyn – The warranty deed you provided shows a number of placer miner claims and I take it that is an old name for Exxon. Has Exxon changed its name? Tracy stated that was what he understood. Carolyn stated her real problem is that this gives a series of unpatented placer mining claims and you're asking for a surface use which an unpatented placer mining claim doesn't allow. Do you have any clue if Exxon ever patented these placer miner claims so that they have the right and thus you have the right to use the surface?

Tracy stated he did not know if they patented them.

Carolyn – That is a basic ownership question. It is clear from the record that you own 13, 14, 15 placer mining claims, but I can't tell if they have the alleged owner, Exxon Mobile, has the right to use the surface.

Tracy – The only thing I can use as verification is a letter written from Exxon Mobile stating that they are the surface owner of the property in question with regard to the special use permit.

Carolyn – Is that our usual authorization letter? Does it specifically say we are the owner?

Tracy – We actually have two authorization letters. One for the gas well proposed and also a letter specific for this special use application.

Carolyn – Is the authorization letter just part of the application? Tracy is absolutely right; this says Exxon Mobile Oil Corporation is a surface owner of the above referenced land. I would ask as we go forward with this application

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that a condition of approval be that Exxon prove up that they do own. What they have given us doesn't show that they own the surface.

Commissioner McCown – Would that be attainable at the Assessor's records?

Carolyn – No, legal title would not be attainable at the Assessor's office. What they have given us is a general warranty deed showing mining claims. My experience in general with oil and gas companies is they do patent these so that they get full use of the surface. They just haven't given that to us. Exxon Mobile's operations manager has testified by letter that they do own surface; assuming Exxon owns the surface and not just placer mining claims.

Carolyn went on with the noticing requirements. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Planner David Pesnichak submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff memorandum; Exhibit E – Application; Exhibit F – Letter from Chris Hale, PE of Mountain Cross Engineering dated December 4, 2007; Exhibit G – Letter from Jake Mall of the Garfield County Road and Bridge Department dated November 14, 2007; Exhibit H – Memorandum from Steve Anthony of the Garfield County Vegetation Management Department dated December 2, 2007; Exhibit I – Letter from Roy McClung of the Town of Parachute dated November 26, 2007; Exhibit J – E-mail from Jim Rada of the Garfield County Public Health Department dated November 6, 2007; Exhibit K – Letter from Rob Ferguson, Deputy Fire Chief of the Grand Valley Fire Protection District dated November 16, 2007; Exhibit L – Letter from David Fox, PE of Fox Engineering Solutions, LLC dated December 4, 2007; Exhibit M – ISDS Site Re-Habilitation Plan for ISDS Permit #4378; Exhibit N – E-mail from Steve Anthony of the Garfield County Vegetation Management Department dated December 7, 2007; Exhibit O – E-mail from Jim Rada of the Garfield County Public Health Department dated December 4, 2007 and Exhibit P – E-mail from Tracy Opp of Williams Production RMT Co. dated December 4, 2007. Exhibit Q – Request for special use permit and Exhibit R – E-mail from Michael Gardner dated December 14, 2007

Chairman Martin entered exhibits A – Q into the record.

Planner David Pesnichak explained:

DESCRIPTION OF THE PROPOSAL

The Building and Planning Department received a Special Use Permit (SUP) application for one "Temporary Employee Housing" facility on property owned by Exxon Mobile Oil Company and located on an approximately 9,640 acre property located approximately 10 miles North of the Town of Parachute. The facility is to be located on the approved "AP 22-24-696" COGCC well pad operated by Williams Production RMT Co.

More specifically, the Applicant requests approval for one Temporary Employee Housing facility to house personnel for the purpose of natural gas drilling operations. The site is located on Williams Production RMT Co.'s AP 22-24-696 well pad located off Wheeler Gulch Road. The Temporary Employee Housing facility will be in use year round to accommodate those considered to be "essential personnel" to the drilling operations and may be at location for more than one year with annual renewal as outlined in Section 5.02.21. The average occupancy of the facility is proposed to be 24 while the maximum number of people to be housed at a facility could reach 54. However, the application represents that the facility will have a total of 40 beds.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, and 3) that the Temporary Employee Housing facility meets the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing in the Resource Lands (RL) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
4. Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.
6. All Special Use Permits for Temporary Employee Housing are subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
7. Water and wastewater systems proposed to service Temporary Employee Housing must comply with all applicable state and local laws and regulations.
8. Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. For facilities serving twenty-four (24) people or less, the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.
9. In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface.
10. The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year. However, for good cause shown the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or

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the Board of County Commissioners.

11. Inhabitants of the temporary housing shall be applicant's employees, contractors and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.
12. Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.
13. Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff's office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid or electrical fires (Class A, Class B and Class C), carbon dioxide or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher.
14. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.
15. The Applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.
16. The Applicant shall notify the County when site development begins for each facility. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.
17. No animals shall be allowed at temporary employee housing sites.
18. The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Housing is forty (40).
19. Sewage systems shall to be installed and maintained in accordance with the Garfield County ISDS regulations with all pipes and connections water tight and lids kept securely in place at all times except during normal cleaning operations. In addition, the Applicant shall submit and be approved for an ISDS Permit through the Garfield County Building Department which is capable of processing wastewater for 40 people at a rate of 75 gallons per person per day. Any new ISDS Permit should take into account the comments from the Garfield County Public Health Department outlined in Exhibit J. In addition, the Applicant shall obtain a CDPHE Site Approval and Discharge Permit for the ISDS if required and/or submit an addendum to the site rehabilitation and reclamation plan if the disturbed "green" area is increased over the represented acreage (0.23 acres) due to a larger system or due to the addition of a second system. This plan shall be reviewed and approved by the Garfield County Vegetation Management Department and the Garfield County Public Health Department. Further, if determined necessary by the Garfield County Vegetation Management Department, the Applicant shall provide Garfield County with a re-vegetation security. The security shall be held by Garfield County until vegetation has been successfully reestablished according to the Reclamation Standards in the Garfield County Weed Management Plan. It is the responsibility of the Applicant to contact the County, upon successful re-vegetation establishment, to request an inspection for bond release consideration. The Special Use Permit shall not be issued until the aforementioned issues with the ISDS are resolved to the satisfaction of the Garfield County Planning Department Director or designee.
20. In order to maintain a ten (10) day supply of potable water for the facility, a minimum total capacity of 30,000 gallons of potable water storage shall be provided. The 30,000 gallon potable water tank(s) are to be refilled at least every ten days.
21. Wildlife-proof refuse containers must be provided for trash. At least one thirty (30) gallon (4 cubic foot) container shall be provided for each unit or the equivalent in a central trash collection facility. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids. Refuse shall be disposed of not less than once weekly.
22. The Applicant shall provide documentation stamped by a Colorado Registered Professional Engineer indicating that the requirements of the Garfield County Road and Bridge Department (paved apron the width of the existing access, 20-feet into the access and a minimum of 4-inches in depth at the entrance to CR 215; a stop sign at the entrance to CR 215 installed in accordance with the MUTCD) are completed prior to issuance of the Special Use Permit.
23. The Applicant shall install a minimum of one 2500 gallon water storage tank stored onsite and dedicated to initial fire suppression (wild land and/or structure fire). This tank shall be separate from all other water storage at the site and remain full to capacity at all times.

Discussion:

Tracy Opp, Williams Energy presented a hand out to the Commissioners. The ISDS we currently have was approved October 16, 2007. All wells have been approved on October 11, 2007. The housing facility itself, we made application to the State on August 2, 2007 and the plans were approved by the CDH August 17, 2007. They had some minor modifications and they have been completed including the fire suppression system. Colorado Department of Housing has sealed this on November 28, 2007 which includes Colorado Department of Housing and

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State Fire Marshal inspections. Permits submitted for the building permit were made on November 13, 2007. Still have some minor issues on some wet stamp drawings. We will need a County inspection for certificate of occupancy. The facility has been installed but has never been occupied. One recommendation that I would like to make is that this special use permit be approve for 24 people rather than the 40 people recommended by staff. We do not anticipate utilizing that facility for more than 24 people. If we do at a future point, I don't see any problems with increasing the ISDS, reapplying for the ISDS and asking for an increase in numbers. I just want to stress that the special use permit, building permit and certificate of occupancy are imperative to the health, welfare and safety of numerous workers presently facing dangerous winter conditions on a daily basis.

Dave Cesark– I believe it will have no problem meeting the requirements of 24 person occupancy in terms of ISDS design and water supply.

Tracy – Item 15 which regards the Garfield County Sheriffs Office Fire Protection District, I just want to let you know that part of the application was a certified letter sent to Garfield County Sheriff Office and Emergency Operations to the attention of Chris Bornholdt. I had a conversation with him and he recommended that I send the letter to his attention along with maps and camp specifics. That notification has been made and was actually made back in September. Staff recommendation No. 18, again I would ask to go to 24 people verses the 40 which it follows along with No.19. Again if we increase the capacity of that camp that we go through the proper channels to increase that number. Item No.20 which represents fresh water, potable water, should we go to 24 people I would ask that number be decreased to 15,000 or 18,000 gallons versus the 30,000. Item 22 it has been verified that both a stop sign and that an apron has been completed. We are in process today of finalizing that Colorado Engineering stamp drawing. Photos Chairman Martin entered the photographs as an exhibit.

Commissioner McCown – I think by reducing the occupancy rate and drawing down on that amount would also negate the use or need for the CDPHE permit and it would also allow 1,800 gallon of waste water which is within the limits of the 2,000 trigger.

Commissioner Martin – But you're still willing to put 2,500 gallon tank for fire suppression on site?

Tracy - absolutely

A motion was made by Commissioner McCown and seconded by Commissioner Houpt

to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown – I make a motion we approve the special use permit for a temporary employee housing facility associated with the COGCC approved well pad with the conditions of staff making the changes starting with number 18 to note 24 people occupancy. Making the necessary changes to 19 so that it will not require a second ISDS system. Changing number 20 to read 18,000 gallon storage for a ten day supply and noting the applicants testimony on number 22 that those improvements have been made. Proof of surface ownership be supplied, number 24. Commissioner Houpt - Second

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER AN AMENDMENT TO THE TEXT OF THE LOS AMIGOS RANCH PUD, MULTI-FAMILY ZONE DISTRICT (LOTS 1 AND 2) – APPLICANT; HAYDEN RADER – DAVID PESNICHAK

David McConnahey was present and answered questions.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Commissioner Martin swore in the speakers.

Planner David Pesnichak submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff memorandum and Exhibit E - Application

Chairman Martin entered Exhibits A – E into the record.

Planner David Pesnichak explained:

BACKGROUND

David McConaughy of Garfield and Hecht, P.C. has submitted an application for an amendment to the text of the Los Amigos Ranch PUD. The land owner, Hayden Rader, currently owns Lot 1 of Los Amigos Ranch PUD which is zoned Multi-Family. Lots 1 and 2 are the only lots zoned Multi-Family within the Los Amigos Ranch PUD.

This requested PUD text amendment is in response to condition of approval #3 from the September 13, 2007 Planning Commission meeting in regards to Eagle Ridge Town Homes. As background, the Applicant would like to develop the existing 7.315 acre property to accommodate town home style development which includes the sale of the land under the town home. In order to facilitate the sale of the land under the associated town homes, the Applicant is proposing to reduce the minimum lot size from 40,000 square feet to 600 square feet for town homes and condominiums. Single-family and two-family development is to maintain the existing maximum lot coverage, setbacks, maximum building height and maximum F.A.R relative to each designated single-family or two-family lot.

This application was heard by the Planning Commission on November 28, 2007. At this meeting the Planning Commission recommended that the Board of County Commissioners approve the requested text amendment by a vote of 6-0.

STAFF RECOMMENDATION & SUGGESTED FINDINGS TO THE BOARD OF COUNTY COMMISSIONERS

Staff recommends that the Board of County Commissioners **APPROVE** the proposed amendment to the text of the Multi-Family zone district (Lots 1 and 2) within the Los Amigos Ranch PUD as proposed.

Discussion:

Commissioner Houpt – It appears there was thought put into the original decision to make amends, so I was just wondering if the housing authority had been a part of that discussion previously?

Craig – They haven't been party to this amendment.

Carolyn – I did check my zoning code and Mr. McConnahey is right and only publication was needed.

David McConnahey– I want to clarify one thing, Mr. Rader owns lot 1. There are only two parcels that are subject to this zone text. The other is the adjacent lot 2 where the current existing apartment buildings are, but we did include in our application a letter of intent from the owners of that parcel, the Gibsons. Everyone has consented who is in this zone district. Basically the current zoning says that multi-family town home and condominium are all uses by right. The way staff has interrupted that in connection with the minimum lot size is that we could actually do

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condos or air space units today without a zone text amendment. So in response to Tresi's question, current zoning doesn't actually limit it to rental only. It just says you couldn't sell pieces of dirt of less than 40,000. You could actually sell air space as condos. So the whole point of this is simply that a townhome where you own the dirt under your unit is a little more appealing to owners from a marketing standpoint, you have a little more equity there. Might be easier to get a loan. We'd like to do it that way. If you were not to approve this we would build exactly the same project and just do it as air space.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the proposed amendment to the text for a multi-family zone district lots one and two within Los Amigos Ranch proposed with the five conditions established.

Commissioner Houpt – second. In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A ZONE DISTRICT AMENDMENT FROM OPEN SPACE (OS) TO AGRICULTURAL/RESIDENTIAL/RURAL DENSITY (ARRD) FOR A 13.78 ACRE PARCEL LOCATED SOUTH OF THE CITY OF GLENWOOD SPRINGS AND DESCRIBED AS 13 LAIRD LANE – APPLICANT; CHARLOTTE ZILM – DAVID PESNICHAK

David Pesnichak, Carolyn Dahlgren, Eric McCafferty and Charlotte Zilm present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate.

She advised the Board they were entitled to proceed.

Planner David Pesnichak submitted the following exhibits: Exhibit A – Garfield County Zoning Regulations of 1978 as amended; Exhibit B - Garfield County Comprehensive Plan of 2000; Exhibit C – Staff memorandum; Exhibit D – Application and Exhibit E – Letter from Charlotte Zilm dated December 17, 2007.

Chairman Martin entered Exhibits A – E into the record.

Planner David Pesnichak explained the request.

The Applicant, Charlotte Zilm, requests to rezone an approximately 13.78 acre parcel located 3 miles south of the City of Glenwood Springs on Laird Lane, accessed to Four Mile Road. The property is currently zoned Open Space (OS) and is proposed to be rezoned to Agricultural/Residential/Rural Density (ARRD). This request for rezone is accompanied by a Special Use Permit for the development of an Accessory Dwelling Unit.

The Planning Commissioner heard this application on November 28, 2007. At this meeting the Planning Commission recommended that the Board of County Commissioners approve the requested rezone by a vote of 6-0.

Discussion:

Commissioner Houpt – ARRD makes perfect sense with what has been presented to us in terms of the intent. So when you were making these recommendations you were just strictly looking at language within the Comprehensive Plan? There is a lot of ARRD out there too and I'm not quite sure since it butts up to ARRD why it wouldn't be appropriate in your mind.

Craig – It is appropriate in that sense of the requirements of the State, the dealer needs to be compliant with the Comprehensive Plan or the area needs to change significantly or there has been an error in zoning.

Eric – I was made aware of this issue about 9:00 AM this morning so I tried very hard to address some of these questions. We have gone from a staff recommendation of approval to a planning commission recommendation of approval which is actually the recommendation you have in front of you. And now we are back to a staff recommendation of denial based on I guess a misunderstanding of the application of the Comprehensive Plan. With that in mind I'll take you through some of the history of this and why I think the ARRD or Rural Zoning with the new zoning resolution is completely appropriate. I think what is most important relevant to rezoning of this parcel is the recognition that open space zoning is only for governmental lands. Section 309 of your Zoning Resolution states quote "the open space district shall include all land owned by the US Government or the State of Colorado in unincorporated area of the County and not included in any other zone district". Hence when the zones received the patent of Bureau of Land Management in 1980, the parcel can no longer be zoned open space. In fact I think the County understood this and reclassified informally the property as ARRD but did not memorialize this fact with a recorded resolution. I point to two decisions made on the property in the past; the first is the issuance of a building permit for the garage back in 1997. In 1997 there were two reviews for all building permits. Building Department reviewed the building plans and zoning department reviewed zoning to ensure that the structure being proposed could be built and would conform the underlying zoning. In fact in one of the applications the building permit is in there and it shows the zoning officer signed off on the permit. If the County considered the property to be zoned open space then they would not have issued the permit. Second is the GIS zoning map which shows the property is entirely within an ARRD zone district. That conflicts with the original zoning map from 1970 or '71 when it was open space because it had yet to be issued by the BLM. In making this application I conducted a title search and I found no recorded resolution that formally zoned the property after the issuance of the patent and hence the 10 acres have been essentially un-zoned since 1980. That is a pretty rare case. I think most parcels here in the County are zoned and they stay zoned. The parcel has to be zoned something because it can no longer be within the open space classification. Also this was just briefly mentioned but I think it's very valid in this case that according to state statutes referencing the staff report, there are standards for rezoning the property. The most applicable standard in this case is that an error was made in establishing the current zoning. Private lands cannot possibly be within the open space classification.

Elaine Roth – When Sunlight View II was first up for approval by you we were told this area would not be developed and that it was not zoned to be developed and it's one of the reasons we did not fight strongly against it.

Eric – At no time during the Sunlight View PUD hearing was this property part of the application nor was any reference made that this parcel would remain with some type of open space. (Passed out letter from Charlotte Zilm.) Commissioner Houpt – To Elaine Roth, was that representation made in a neighborhood meeting or was that during the public?

Elaine – inaudible response.

Eric – I don't know specifically what exchange may have happened but this property is directly adjacent to the open space property of the Sunlight View II PUD, so there may be some confusion as to what was in the plan and out of the plan.

Commissioner Houpt – So there is open space land on the side.....

Eric – it is directly to the west of the property in question.

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Commissioner Martin – This is an out parcel which was never part of the sub-division. It was ten acres at that time; it's grown just a little in some way. This was a large subject of discussion because it was right next to the open space but never included in the application.

Eric – Read letter from Charlotte Zilm.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing.

In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown – I make a motion we approve the re-zoning of the Zilm parcel from open space to ARRD.

Commissioner Houpt – second. In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT LOCATED ON A 13.78 ACRE PARCEL SOUTH OF THE CITY OF GLENWOOD SPRINGS AND DESCRIBED AS 13 LAIRD LANE – APPLICANT; CHARLOTTE ZILM – DAVID PESNICHAK

Eric McCafferty and Charlotte Zilm were still present

Notification was already done previously with the last application.

Planner David Pesnichak submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Comprehensive Plan of 2000; Exhibit E – Staff memorandum; Exhibit F -Application materials; Exhibit G – Letter from Ron Biggers, Deputy Fire Marshal for the Glenwood Springs Fire Department dated December 6, 2007.

Chairman Martin entered Exhibits A – G into the record.

Planner David Pesnichak explained the **RECOMMENDATION:**

Staff recommends **APPROVAL** of this application with the following conditions:

- 1) All representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
- 2) All lighting associated with the ADU shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
- 3) The Applicant shall obtain any applicable Garfield County building permits, grading permits and access permits.
- 4) The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended, and shall meet all building code requirements.
- 5) The gross floor area of the accessory dwelling unit shall not exceed 1,500 square feet.
- 6) The accessory dwelling unit shall not be conveyed as a separate interest but may be leased.
- 7) That the zone district amendment changing the zoning for the aforementioned parcel from Open Space (OS) to Agricultural/Residential/Rural Density (ARRD) be approved prior to issuance of the Special Use Permit.
- 8) The address for the ADU shall be posted in a visible location at the entrance of the driveway to the building. The numbers and or letters on the address signage shall be of reflective material and be a minimum of 2 ½ inches tall, 3/8 inch stroke on a contrasting back ground.

Discussion:

Eric – One matter of clarification the area above garage is presently 844 square feet. Mr. Zilm has talked to some building officials and it may have to be increase slightly to allow for an additional aggress or egress but it will not exceed the 1,500 square feet allowed by the code.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing.

In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion we approve the special use permit for an ADU with the seven conditions of staff striking number 7. Commissioner Houpt – Second.

In favor: Houpt – aye McCown – aye Martin – aye

BUILDING AND PLANNING - CONSIDER A CONDITIONAL USE PERMIT REQUEST FOR EXTRACTION, PROCESSING, STORAGE AND MATERIAL HANDLING OF NATURAL RESOURCES FOR A CONSTRUCTION MATERIALS MINE ON A PROPERTY OWNED BY BERRY PETROLEUM COMPANY – APPLICANT; MARATHON OIL COMPANY – FRED JARMAN

Amy Stoodt and Doug Dennison were present. Doug answered all questions

Carolyn – The legal description has parcel number that ends in 0027. The underlying deeds that were provided to us refer to tax parcel ending in 0000's. There is no way for me to know if maybe the land has been, or assigned a new tax number over the years. I can't tell that but the deed is from 2006 and you wouldn't think so. The second issue is that the deed on the exception exhibit reserve all minerals together with the right to prospect for mining and remove the same as reserved by Redd Ranches and a certain warranty deed. And then there is a conveyance to Ruth Latham of an undivided ½ interest to all minerals owned by Latham Ranches. There are two deeds here because the land was owned and undivided halves but I assume they are brothers, Thomas Latham and Charles Latham. Both deeds have the same reservation on them. So by the documents provided to us for review of ownership it appears that Berry does not own the gravel. Because under Colorado law a reservation of all minerals includes all minerals, however; Ms. Stoodt has a verbal representation from her attorneys, for Marathon not Berry. I of course am not comfortable with a verbal representation from the tenant/operator/lessee. Berry, the underlying owner, needs to prove up that they have a right to remove the gravel before their tenant can do so. Then there are some notice issues regarding what was actually put in the newspaper. List of people who were notified were not the same as in the application. That may have to do with the different parcel numbers. My concern is that the earlier application which was a surface application may be the same information, just got placed in here when this is not the same. There are three different parcels in the deeds and the minerals are being taken out of one of the three. I'm afraid that's what happened when the applications were put together; we go to the surface but not the mineral information and we got information for the wrong parcel for this application. But if you Commissioners feel you can get past whether or not Berry owns the gravel on the verbal representation of Marathon's lawyer second hand then we'll go into the noticing issues. But we have a significant ownership question.

Commissioner Houpt – I think it's always better to have everything in place before you move forward so there is no question once the decisions been made.

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Carolyn – I told both Amy and Doug that were there a challenge we would have to fold our tents.

Amy – This was brought to our attention when I was about 5 minutes from the hearing and it is nearly impossible to respond to something like this if you don't have prior notice and I would offer that as some continuous improvement opportunities so it's not wasting everybody's time.

Commissioner McCown – I don't think we can go forward on this.

Commissioner Martin – We will allow you to do re-notification, authentication of owner and start from there Doug.

Carolyn offered her services to speak with the lawyers with Berry via telephone with Doug.

WATER - IN-STREAM FLOW RECOMMENDATIONS – COLORADO WATER CONSERVANCY BOARD – ROY SMITH, BLM

Mark (In Stream Flow - Program Coordinator for Colorado Division of Wildlife), Roy Smith (Water Rights & In Stream Water Coordinator for BLM), Jeff Basler (Assistant Section Chief with Colorado Water Conservation Board, and Owen Williams were present.

Roy – We would like to talk to you today about some in-stream flow recommendations that the BLM has made to the Colorado Water Conservation Board. The BLM submitted these recommendations in the draft format to the Board last February and in January the staff at the Water Conservation Board will be asking the Board itself after a regularly scheduled January meeting to go ahead and make an initial appropriation on these streams. One of the things that we would like to do before we ask the Board to take that step is to talk with interested local governments and interested stakeholders to get their perspective on any issues that may need to be addressed before those appropriations proceed. What we would like to do today is to make our conversation with you interactive and responsive to your needs. I don't know how familiar this Board of Commissioners is with the in-stream flow program but we thought what we would do is have Jeff Basler who works on new in-stream flow appropriations talk very briefly about what the program is about, what it does and doesn't do and then follow that conversation with an overview of the specific creeks and locations in Garfield County that we are recommending to the Board. But if that doesn't work.....

Commissioner Hout – It would have been really nice to receive some information ahead of time. There wasn't any information brought forth to us so there is the possibility we'll need more discussion time. I won't, after just having something just presented to me, be able to identify all of my potential concerns in this one setting. What is the timing on this again?

Roy – The Board is being asked to make its appropriation in I believe it's January 23rd and 24th. After that there is the public comment period. From the Board meeting up through March 31st we're still in the public comment period.

Jeff – Gave a power point presentation and passed out material to the Board. Colorado Water Conservancy Board was created in 1937. The Board is a citizen appointed Board. There is a member from seven water basins plus there is a representative from the City and County of Denver and also a representative from the North Platte. Your representative from the Colorado Basin is John Redifer. He gave names of people who sat on the Board. Within the Colorado Water Conservation Board there are basically seven different areas and we are one of the program areas. We are the Stream and Lake Protection Section. He gave an explanation of the purpose and talked about senior water rights and junior water rights. We are the States largest appropriator of water rights. He showed maps which gave an overview of where in-stream water flow rights are. Notice it is in the higher elevations of Colorado Mountain areas. Primary reason is historically the indicator of a nature environment for an in-stream appropriation that a natural environment exists has been a cold water fishery. Showed where other appropriations were. Went over the process of what happens with an in-stream flow. Explained how recommending entities come in and make recommendations. Board has to make three determinations: 1.) A natural environment exists; 2.) Water is available for appropriation; and 3.) No material injury will occur to water rights. Two other programs; New Appropriations, what we are here for today and protect appropriations against other appropriators. Jeff went into detail on these. Have five appropriations in front of the Board now. Continued to show map. Gave an overview of how they do water availability. Showed a map that showed land use, the BLM is making recommendations because the water runs through BLM property.

Commissioner McCown – Do you have any reservoirs planned that would allow you storage so you could control this in-stream flowage when the weather fluctuations take precedence and senior water rights?

Jeff – No that's not part of the in-stream flow program. When we look at donated water rights sometimes we'll look at reservoirs and the ability of reservoirs to possibly supply water to an in-stream flow or to reach that. Donation programs are a little bit different than the appropriation program in that we can improve the natural environment. Having a reservoir sometimes is an asset above a ranch.

Commissioner McCown – I guess the obvious question and not being from an area that had a lot of water issues, I'm still trying to learn this, how would you propose these in-stream water regulations with junior rights?

Roy – If I understand your question, they work within Colorado's priority system.

Commissioner McCown – Right, so basically it's a wish. With your junior rights you don't have a lot of horse power behind you. The senior water rights have precedence.

Roy – That is correct. If someone wants to change a senior water right that would injure the in-stream flow water right, then the water conservation board would have standing. This is not the first time that BLM has made in-stream flow recommendations in Garfield County.

Jeff – the reason why you probably haven't seen us before, you may have years ago is that our Board has asked us to do more of an outreach and education with the public.

Commissioner Martin – I noticed that 99% is all on the Western Slope. Unfortunately with all of the new direction in federal lands and if it's created on federal lands therefore it belongs to the federal government water right. The other one is access to take care of what Larry was talking about and that is the diminishing capacity of the privately owned or water reserves or impounds that have been there before the forest service was even thought of and access is being denied therefore actually losing the capacity for the senior water rights. The junior rights are now taking over because there is just not enough water for the senior rights. Water is our life blood and we are losing it.

Jeff – One of the things we are trying to do in working with the federal agencies is service BLM and others; we actually have some memorandums of agreement that these agencies will use the in-stream flow program as it needs to meet some of their management goals rather than coming in and trying to have reserved water rights or using some of the other tools they may have in order to meet their objectives.

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Roy – One of the things it does, I guess to decrease the controversy of these recommendations, is it ends up that the State of Colorado holds the water right and not the federal government. And so that gives some people some assurance although sometimes we’re all just lumped together as the government.

Roy – I have one question for the Commissioners, based on what you heard so far do you believe there are any other parties in the County that should be made aware of what’s going on that may have concerns, questions, and issues because that is the whole purpose of our hour.

Commissioner Martin – One of them is the NRCS, the soil conservation folks.

Jeff – We have been working with Sharon Clark, we actually cooperated with them on the stream gage on the Crystal River.

Commissioner Martin – We partnered also with the Colorado River Conservation District, the Federal Government BLM etc. on the Colorado River putting gauges within them and paying for those to make sure it is monitored. Have to protect senior water rights.

**FOREST SERVICE - LETTER REGARDING HYDRO SPRING GRAVEL AND STOCK PILE FACILITY
– LARRY MCCOWN**

Commissioner McCown – I have one thing regarding a comment on a proposed hydro spring gravel and stock pile facility. I would like to see us recommend to move forward on Forest Service Land. The gravel is mined and stock piled on the Forest Service Land and it is used to maintain Forest Service roads, namely the Buford New Castle Road and spurs off of that. I would like for a letter to go out under the Chair’s signature supporting that to the Forest Service.

Commissioner Martin – We will get that done and get it to them.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

**DECEMBER 20, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

The Special meeting of the Board of County Commissioners began at 10:00 A.M. on Friday, December 20, 2007 with Chairman John Martin and Commissioners Tresi Houpt, present and Larry McCown via telephone. Also present were County Attorney Don DeFord, Jessie Smith, John Gorman Assessor and Marian Clayton Deputy Clerk to the Board.

CALL TO ORDER

Chairman Martin called the meeting to order.

Commissioner Martin swore in the speakers

ASSESSOR - CERTIFICATION OF LEVIES AND REVENUE

John Gorman presented a Certification of Levies and Revenue and confirmed all levies are in. He has checked all levies and found some errors on the part of our submitters and the Assessor.

Don DeFord – Received actual copy of the notice of publication. It is timely and adequate and you’re entitled to proceed.

John Gorman – Item presented is a detail of taxing authority including the County.

Commissioner Martin – This is based upon the certified assessed evaluation of \$2,859,519,340.00 which is the total revenue through the mill levies and assessed taxes is \$130,180,688.00.

Don – Under the supervision of Section 39.111 the Board is required before the 22nd of December of every year to certify the levies to the Assessor. The Assessor has given you the forms and the calculations on which you can do that. The levy taxes on various taxing districts within the County as requested and are set forth in the Assessor’s documents. This is to transmit your actions to the Assessor, the Administrator of the Department of Local Affairs, the Division of Local Government and the Department of Education.

Commissioner Martin asked if any questions, there were none and he asked for a motion to close public hearing

Commissioner Houpt – So moved.

Commissioner McCown – Second – Without being able to look at the document is it safe to assume none of the mill levies increased?

John Gorman – They have not increased. There is at least one new taxing authority, the Garfield County Public Library which instituted a 1 mill levy.

Don – I think there was a vote supporting that.

Commissioner Houpt – There was. In favor: Houpt – aye McCown – aye Martin – aye

Commissioner Houpt – I make a motion that we certify the levies and revenue as presented by the Garfield County Assessor. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin - aye

EXECUTIVE SESSION

Don – I would like to request that the Board conduct an Executive Session. There are three topics I would like to discuss. I need to discuss the potential for administrative litigation concerning a potential or an existing application permit to drill by Laramie Drilling Company. Jesse would like to discuss the Board’s contract negotiations on the severance tax agreement and receive direction on that on going contract negotiation issue. And John Gorman and I need a brief discussion with the Board to finalize contract negotiations for the gas audit.

Commissioner Houpt – I make a motion that we go into Executive Session to discuss the items mentioned by the County Attorney. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin - aye

Commissioner Houpt – I make a motion to come out of Executive Session. Commissioner McCown – Second.

In favor: Houpt – aye McCown – aye Martin - aye

Action Taken:

OIL AND GAS – LETTER – RESCHEDULE PUBLIC HEARING AFTER THE HOLIDAYS

**PROCEEDINGS OF THE GARFIELD COUNTY COMMISSIONERS
MINUTES OF MEETING
2007**

Commissioner McCown – I would like to request a letter to the Colorado Oil and Gas Conservation Commission regarding the schedule date for a public hearing meeting to be held January 3rd in Parachute regarding the new rule making that will be taking place prior to July on the two new pieces of legislation. I think it is a premature date; it is in the middle of the Christmas Holiday season and I would ask them to extend to a later date.

Commissioner Houpt – Second. I agree this meeting is a very important community input meeting and so many people are gone on vacation that first week in January. I agree it would be important for the COGGC staff to reschedule. This meeting is the meeting that is scheduled by the Colorado Oil and Gas Commission as part of the rule making process to receive input from elected officials, community members, various groups and whoever is interested in giving input on the new oil and gas rules for Colorado. So I want to put a plug in for people to attend this meeting hopefully when it is rescheduled.

Commissioner Martin – A motion and a second would also direct the County Attorney to draft such a letter under my signature and we will send it out hopefully today.

In favor: Houpt – aye McCown – aye Martin - aye

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

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